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VOLUME THREE

BRIGHT-COMMENTATORS

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University of Chicago

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CAMBON, PIERRE JOSEPH	*Marcel Marion*
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CAMDEN, WILLIAM	*Roland G. Usher*
CAMERALISM	*Louise Sommer*
CAMERON, ANDREW CARR	*Cara Cook*
CAMORRA	*Walter Littlefield*
CAMPAIGN, POLITICAL	*Edward McChesney Sait*
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CAMPBELL, JOHN	*Arthur Goodhart*
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CAMPING	*Henry M. Busch*
CAMPOMANES, PEDRO RODRIGUEZ	*Fernando de los Ríos*
CANALEJAS Y MENDEZ, JOSÉ	*Fernando de los Ríos*
CANALS	*See* WATERWAYS, INLAND; INTERNATIONAL WATERWAYS
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CANDY AND CONFECTIONERY	*See* FOOD INDUSTRIES

CANGA ARGUELLES, JOSÉ	*Fernando de los Ríos*
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CANNING, STRATFORD	*R. B. Mowat*
CANNING INDUSTRY	*Faith M. Williams*
CANNON, JOSEPH GURNEY	*Lindsay Rogers*
CANON LAW	*H. D. Hazeltine*
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CANTILLON, RICHARD	*G. Weulersse*
CANTOS Y BENITEZ, PEDRO DE	*Earl J. Hamilton*
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CAPITALISM	*Werner Sombart*
CAPITALIZATION	*M. G. Glaeser*
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CARBONARI	*Georges Bourgin*
CÁRDENAS, FRANCISCO DE	*Fernando de los Ríos*
CARDOZO, JACOB NEWTON	*Broadus Mitchell*
CARDUCCI, GIOSUÈ	*Benedetto Croce*
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CAREY, HENRY CHARLES	*Paul T. Homan*
CAREY, MATHEW	*A. D. H. Kaplan*
CARLE, GIUSEPPE	*G. Solari*
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CARLI, GIAN RINALDO	*Roberto Michels*
CARLILE, RICHARD	*Norman E. Himes*
CARLYLE, THOMAS	*Crane Brinton*
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CASE METHOD	*K. N. Llewellyn*
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CATHOLIC EMANCIPATION	*Denis Gwynn*
CATHOLIC PARTIES	*Ludwig Bergsträsser*
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CATTANEO, CARLO	*Alessandro Levi*
CATTLE INDUSTRY	*See* LIVESTOCK INDUSTRY
CATTLE LOANS	*J. Franklin Ebersole*
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CAUER, MINNA	*Else Lüders*
CAUWES, PAUL LOUIS	*William Oualid*
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CELIBACY	*Walton H. Hamilton*
CELTIC LAW	*See* LAW
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CENTRAL BANKING	*H. Parker Willis*
CENTRAL LABOR UNIONS	*See* TRADE UNIONS
CENTRALIZATION	*W. J. Shepard*
CERCLES DE FERMIERS	*See* FARMERS' ORGANIZATIONS
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CERTIORARI	*John Dickinson*
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CHAIN GANG	*See* PRISON LABOR
CHAIN STORES	*See* RETAIL TRADE
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CHANCERY	*See* EQUITY
CHANG CHIH-TUNG	*William James Hail*
CHANG HSÜEH-CH'ENG	*Arthur W. Hummel*
CHANGE, SOCIAL	*William F. Ogburn*
CHANNING, WILLIAM ELLERY	*Granville Hicks*
CHANNING, WILLIAM HENRY	*Granville Hicks*
CHAPTAL, JEAN ANTOINE	*Henri Sée*
CHARACTER	*A. A. Roback*
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CHASTITY	*Robert Briffault*
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CHATHAM, EARL OF	*See* PITT, WILLIAM
CHAUTAUQUA	*John S. Noffsinger*
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CHAYKOVSKY, NIKOLAY VASSILIEVICH	*V. Miakotin*
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CHILD WELFARE LEGISLATION — *Elsie Glück*

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CITY-COUNTY CONSOLIDATION — *See* COUNTY-CITY CONSOLIDATION

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See EQUAL PROTECTION OF THE LAWS
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S. K. Ratcliffe
Crane Brinton
William M. Leiserson
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Crane Brinton
Joseph McGoldrick
Joseph H. Beale and *Maurice Capitant*
Georges Goyau

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Frederic A. Ogg
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CLARKSON, THOMAS

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CLERMONT-GANNEAU, CHARLES

CLEVELAND, STEPHEN GROVER

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COBB, FRANK IRVING

COBBETT, WILLIAM

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COCCEJI, HEINRICH VON — *Erik Wolf*
COCCEJI, SAMUEL VON — *Erik Wolf*
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COLLETT, CAMILLA — *Hanna Astrup Larsen*
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COLWELL, STEPHEN — *A. D. H. Kaplan*
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COMBINATIONS, INDUSTRIAL — *Kurt Wiedenfeld*
COMENIUS, JOHN AMOS — *I. L. Kandel*
COMITADJI — *Albert Sonnichsen*
COMITY — *Edwin D. Dickinson*
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COMMENDATION — *See* FEUDALISM
COMMENTATORS — *H. D. Hazeltine*

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BRIGHT, JOHN (1811–89), English politician. He was, with Richard Cobden, leader of the Anti-Corn Law League and the chief representative of the politically emerging manufacturing class. Bright had little formal schooling and entered his father's cotton manufacturing business at the age of fifteen. His interest in public questions grew out of his business experience. He became an important member of the Manchester school of economists and rose to great eminence as an orator in Parliament and on the public platform in the interests of the liberal reforms of his age.

John Bright's chief work was as headmaster of Cobden's "peripatetic political university," which aimed to align the force of public opinion behind the middle class demand for the repeal of the Corn Laws. His speeches bearing on this issue, commonly phrased in terms of ideal justice, appealed emotionally to various class and social interests. Bright himself saw the Anti-Corn Law movement as one of "the commercial and industrial classes against the lords and great proprietors of the soil," and as such it has come down in history.

Bright also supported the movement against land monopoly that was taking form in the same social situation. He argued that the land laws of England and Ireland were expressly designed to make the land a monopoly in the hands of the few and to maintain the prestige of the governing aristocracy. As late as 1870 he still blamed the landlords for the greater part of pauperism. Bright argued here, as his fundamental economic beliefs caused him to argue in other situations, for such a change in the law as would "bring the truths of political economy and the law of justice within reach of all." Specifically he urged the abolition of the law of primogeniture and entails and the establishment of freedom in the transfer of land. He also viewed as necessary the disestablishment of the church in Ireland.

In his attitude toward the labor problems of the time Bright was limited by the preconceptions of his class and by an economic creed which distrusted governmental interference in the labor contract. He opposed factory legislation for men, although he thought there was a special case for women and children. On the other hand he was a leader in general humanitarian legislation, spoke in defense of better government of India and of religious equality and protested against the game laws, slavery and capital punishment. He was a leader in promoting parliamentary reform and political rights for working men, partly, no doubt, because working class support was necessary for further attacks by the middle class upon the privileges of the aristocracy. In 1877 Bright proudly recalled the Reform Bill of the previous decade and reminded his audience what a terrible thing it had been in prospect—"how many people said we were going to Americanize our institutions."

In international affairs Bright was a liberal, an opponent of war and a Little Englander. He looked to free trade, "the international law of the Almighty," to break down the barriers between nations. He continuously opposed the foreign policy of England and once characterized it as "neither more nor less than a gigantic system of out-door relief for the aristocracy of Great Britain."

A religious and conscientious person, a member of the Society of Friends, Bright maintained a keen interest in all those thrifty virtues which promoted the well-being of individuals. He was a model employer and kept a children's school, an adults' school and a reading room for his workers. He was interested in the temperance movement, in a cheap press and was a great admirer of the public schools of the United States. During the American Civil War, despite the widespread middle class preference for the free trade, cotton growing South, Bright urged the importance of a Union victory for the further progress of democracy in England. Appealing to religious and moral rather than economic considerations Bright threw his weight with the North and did much to restrain English intervention.

GUSTAV PECK

Consult: Public Addresses of John Bright, ed. by J. E.

Thorold Rogers (London 1879); Trevelyan, G. M., *Life of John Bright* (2nd ed. London 1925); Robertson, William, *Life and Times of John Bright* (London 1883).

BRINKERHOFF, ROELIFF (1828–1911), one of the outstanding figures in social service in the United States during the last quarter of the nineteenth century. As an active politician he had swung from the Democratic party to the Republican on the slave issue and back again on free trade. In 1873 he established a savings bank, retired from his other activities and devoted the rest of his active life to banking and to the still later interest of social service, particularly of penology. All of his life he rode hobbies—well and thoroughly. Social service "for the love of God and humanity," as he was wont to express it, was his last and greatest hobby. In 1878 he was appointed to the Ohio Board of State Charities and remained a member until his death. He succeeded ex-President Hayes as president of the National Prison Association and was vice president of the International Prison Congress which met in Paris in 1895. General Brinkerhoff was a prolific writer and speaker for prison reform and for reformed methods of care of state wards in general. The proceedings of the National Conference of Social Work and of the American Prison Association for a period of more than twenty years are eloquent of his interest. His *Recollections of a Lifetime* (Cincinnati 1900) tells the story of a versatile and active career. He was one of a hardy group of pioneers in the pre-professional days of social work and enriched the social service of his time by wide experience, mature judgment and boundless energy.

JOSEPH P. BYERS

Consult: National Conference of Charities and Corrections, *Proceedings*, vol. xxxviii (1911) 478–79.

BRINTON, DANIEL GARRISON (1837–99), American anthropologist. After preparing for the practise of medicine Brinton rendered distinguished service as a surgeon in the Civil War. His interest in medicine continued and in 1874 he became editor of the *Medical and Surgical Reporter*, which rose under his hand to a place of leadership in medical science. In 1887, however, he retired to devote himself to anthropology.

Even at the beginning of his medical career the anthropology of the New World had been a rival interest; it became the field which ultimately claimed his entire attention. To it he devoted years of teaching, and from the publication of his first book, *Notes on the Floridian Peninsula* (Philadelphia 1859), to his death he contributed a series of writings totaling twenty-three books and more than two hundred articles. Brinton was one of the early academic figures in American anthropology, being appointed in 1886 to a professorship in linguistics and archaeology at the University of Pennsylvania, the second American university to create a chair in anthropology. He was, with Gallatin and Morgan, one of the founders of the ethnological study of the American Indians. In the field of linguistics he showed a remarkable ability for mastering and classifying Indian languages and displayed considerable polemic power in contesting the theory of the Asiatic origin of American Indian civilizations. He sought to prove, on the basis of monographic studies of peculiar morphological traits, that the American Indian languages constituted one of the great speech families of the world. His *The American Race: a Linguistic Classification and Ethnographic Description of the Native Tribes of North and South America* (New York 1891) was a pioneer work.

But Brinton's most important contribution lay in the field of religion and mythology. He diligently collected and translated aboriginal materials for the *Library of Aboriginal American Literature* (1882–87), which provided the native text of Indian mythology and folklore with translation and notes by the editors. Brinton himself edited most of the volumes in this series, among them a publication of the first importance, *The Maya Chronicles*. In addition to this gathering of source materials Brinton carried through analyses and synthetic interpretations, starting with *The Myths of the New World: a Treatise on the Symbolism and Mythology of the Red Race in America* (New York 1868) and ending with his *Religions of Primitive People* (New York 1897). The postulate of the psychic unity of mankind underlies all his work in the field of comparative religion and caused him to argue for the spontaneous origin of religious parallelisms.

Brinton's work was almost entirely based on research rather than field work. He was, however, exacting in method and dynamic in treatment. Abroad as well as at home he was recognized as the leading American anthropologist of his generation.

CLARK WISSLER

Consult: "The Brinton Memorial Meeting" in American Philosophical Society, *Proceedings*, memorial vol. (1900) 210–72, which contains a complete

bibliography of Brinton's writings; Chamberlain, H. F., in *Journal of American Folk-Lore*, vol. xii (1899) 215–25; Boas, F., in *Globus*, vol. lxxvi (1899) 165–66.

BRINZ, ALOIS VON (1820–87), German jurist. Brinz was professor of law at Erlangen, Prague, Tübingen and Munich. Beginning with classical philology, he soon turned to jurisprudence. He intended at first to study Roman law sources only by way of preparation for later Germanistic studies but they attracted him to such an extent that he remained a Romanist. In this field he wrote his most important work, the *Lehrbuch der Pandekten* (2 vols., Erlangen 1857–71; 2nd ed., 4 vols., 1873–92). He is known particularly for his theory of juristic persons, regarding them as fictitious and existing only for the furtherance of definite objects. His doctrine of debt and liability appeared in modified form in Amira's work (disapproved, however, by Brinz himself); it was acclaimed in the Germanistic school and then surprisingly was also accepted by investigators of ancient law. Today it is recognized as fundamental. Brinz also has to his credit numerous dogmatic and historical essays such as his studies of *obligatio* and *compensatio*. His positivist, critical contributions to the *Kritische Vierteljahrschrift für Gesetzgebung und Rechtswissenschaft* founded the reputation of that journal. His celebrated review of Ihering's doctrine of juristic construction is particularly worth reading in the present period of disputes over method.

During his sojourn at Prague (1857–66) Brinz was also active politically. Although of Austrian origin and sympathies he worked for a united Germany.

FRANZ SOMMER

Consult: Lotmar, P., in *Allgemeine deutsche Biographie*, vol. xlvii (1903) 241–59; Stintzing, R. von, and Landsberg, E., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880–1910) vol. iii, pt. 2, p. 842–47.

BRISBANE, ALBERT (1809–90), American social theorist. Of wealthy parentage, Brisbane as a young man traveled widely through Europe and Asiatic Turkey, observing social institutions and establishing intimate personal contacts with contemporary intellectual and social movements. He met Fourier, became his ardent disciple and upon his return to America in 1834 began a most successful campaign to disseminate Fourier's ideas. Brisbane's *Social Destiny of Man* (Philadelphia 1840) impressed Horace Greeley, who joined him in founding and editing Fourierist journals and finally turned over to him a column in the New York *Tribune* (1842–44) to be devoted to the cause. Brisbane was the leading spirit in the establishment of several phalanxes, notably the North American Phalanx (1842), and succeeded in converting many of the Brook Farm group to the idea. Although the failure of most of these experiments in the fifties led to the cessation of Brisbane's active participation in the movement, he did not admit the failure of the underlying principles, which he restated in his *General Introduction to Social Science* (New York 1876). The remainder of his life was devoted largely to the invention of several mechanical devices.

Brisbane has been called the first American socialist. Nevertheless he despised political action, refusing to see any essential distinction between the American republic and the despotism of the sultan of Turkey, and considered the class struggle futile and destructive. He was no exponent of a new system of ethics, justice or human rights, but subordinated all these to the "efficiency" principle, which he opposed to the principle of competition. In Brisbane's plan as in Fourier's, the capitalist would continue to share in the returns because of his ownership of the capital; but production would be so much increased that the three twelfths given to the capitalist would not be missed by the workers. This staggering increase in economic productivity would be brought about by an organization of both production and consumption under a cooperative phalanstery.

SELIG PERLMAN

Consult: Brisbane, Albert, *A Mental Biography* (Boston 1893); Ware, Norman, *The Industrial Worker, 1840–60* (Boston 1924) p. 164–74; Commons, J. R., and associates, *History of Labour in the United States*, 2 vols. (New York 1918) vol. i, p. 497–506.

BRISSAUD, JEAN BAPTISTE (1854–1904), French social and legal historian. Brissaud held professorships on the law faculties of Berne, Montpellier and Toulouse. He translated into French several volumes of Mommsen and Marquardt's manual of Roman antiquities, was from 1880 until his death an editor of the *Revue générale du droit* (Paris) and a frequent contributor to other scientific journals. He compiled important bibliographies of the customs of southern France, published in the *Kritischer Jahresbericht über die Fortschritte der romanischen Philologie* (vol. v, pt. iii, 1898, p. 60–76).

Brissaud's study of the work of Claude Joly constitutes an important contribution to the

history of the casuist school of international law. His *Manuel d'histoire du droit français* (2 vols., Paris 1898–1904, 2nd ed. 1908; pts. ii and iii tr. in vols. ix and iii of Continental Legal History series, Boston 1915 and 1912) is Brissaud's most extensive treatise. Critical and erudite, it recalls in method and value the German *Lehrbücher*, especially the work of Richard Schroeder. Brissaud combines the comparative and the historical methods in this study of French law. His treatment is not formal but organic; he seeks the economic, social and political causes of legal growth and tries to portray the environment in which constitutional institutions developed. In showing the evolution of French law from Roman down to modern times he makes constant use of foreign sources. The four hundred pages of source material in the work constitute a complete documentary exposition of ancient law.

JOSEPH DELPECH

Consult: Roschach, E., in Académie des Sciences, Inscriptions et Belles-Lettres de Toulouse, *Mémoires*, 10th ser., vol. v (1905) 315–48, including a bibliography of Brissaud's works; Caillemer, R., and Delpech, J., in *Revue du droit public et de la science politique*, vol. xxii (1905) 454–60.

BRISSOT DE WARVILLE, JACQUES-PIERRE (1754–93), French journalist, social reformer and revolutionary leader. He was educated at Chartres and at fifteen began to study law but soon abandoned it. His great humanitarian zeal found a ready outlet in journalism, which he aimed to make a medium of enlightenment and social reform. His interest in the abolition of slavery led him to organize in 1788 the Société des Amis des Noirs, which under Brissot's direction later exercised a considerable influence on revolutionary colonial policy. He also gave momentum to the penal reform movement. In *Recherches philosophiques sur le droit de propriété et de vol* (Chartres 1780) he based his argument against the death penalty for larceny on the principle that the institution of property in modern society is a violation of natural law. It was in this work that the phrase later made by Proudhon, "La propriété, c'est le vol," first appeared. Fundamentally, however, Brissot believed in the protection of property and went no farther in his social program than to demand work for all.

Brissot evinced a strong interest in the United States and both through the Gallo-American Society, which he founded, and through his *De la France et des États-Unis* (London 1787, new ed. Paris 1791; tr. into English as *Considerations on the Relative Situation of France and the United States*, London 1788, and as *Commerce of America with Europe*, London 1794), in which he collaborated with Clavière, he advocated the fostering of commercial relations between France and America. After traveling in the United States on behalf of a group of French financiers to gather information for speculation in the American debt and western lands he wrote his well known *Nouveau voyage dans les États-Unis de l'Amérique septentrionale, fait en 1788* (published with *De la France et des États-Unis*, 3 vols., Paris 1791; tr. into English, 2 vols., 2nd ed. London 1794), in which he expressed his admiration for the simplicity of American life. The enthusiasm he thus displayed was thought by his political opponents during the revolution to add weight to their grave charge that Brissot desired to model the French constitution on the American.

Shortly after the revolution began Brissot launched a daily newspaper, *Le patriote français*, which was to become the chief organ of the Girondists. He soon made his influence felt in revolutionary circles; and in the Legislative Assembly and later in the Convention he became one of the recognized leaders of the Girondists, who were also called Brissotins. He was particularly influential in the precipitation of the foreign wars, through which he hoped that revolutionary doctrine would be disseminated. After the victory of the Mountain in May, 1793, Brissot was proscribed with the other leaders of his party and on October 31 he mounted the scaffold.

ELLIOTT M. GRANT

Consult: Brissot's *Mémoires*, containing critical essay and notes, ed. by Cl. Perroud, 2 vols. (Paris 1911); Ellery, Eloise, *Brissot de Warville, a Study in the History of the French Revolution* (New York 1915); Davis, J. S., *Essays in the Earlier History of American Corporations*, 2 vols. (Cambridge, Mass. 1917) vol. i, p. 151–66; Faÿ, Bernard, *L'esprit révolutionnaire en France et aux États-Unis à la fin du XVIIIe siècle* (Paris 1925), tr. into English by Ramon Guthrie (New York 1927) p. 237–46; Goetz-Bernstein, H. A., *La politique extérieure de Brissot et des girondins* (Paris 1912); Lichtenberger, André, *Le socialisme au XVIIIe siècle* (Paris 1895) p. 413–19.

BROADHURST, HENRY (1840–1911), English trade union leader and Liberal-Labor politician. After achieving prominence as an officer of the conservative and powerful stonemasons' union he was in 1875 appointed secretary of the

Parliamentary Committee of the Trades Union Congress. By 1875 trade unionism had won its severest parliamentary battles so that except for the important Employers' Liability Act, the passage of which Broadhurst greatly facilitated, his program was limited to minor, though useful, reforms. Both in his middle class philosophy and in his emphasis upon legislation as a means of raising the status of trade unions Broadhurst continued the tradition established by Applegarth and other members of the "Junta." In 1880 he entered the House of Commons as a Liberal and rendered such service to his party that in 1885 he was named under-secretary of state to the Home Department, the first working class appointment to the ministry. Thus his career exemplifies the alliance of labor with liberalism under Gladstone. Broadhurst's influence within the unions began to wane about 1885 with the rise of a new school of thought which had grown out of socialist doctrines and changed economic conditions. Against the demands of these new leaders for independent political action and a legal eight-hour day Broadhurst continued to defend the traditional policy. Although within the limits of his program he showed great skill and industry his policy was condemned by the Trades Union Congress and in 1890 he resigned from the secretaryship. He remained in Parliament until 1906 as a member of the radical wing of the Liberal party.

FRANCES E. GILLESPIE

Consult: Broadhurst's autobiography, *Henry Broadhurst, M. P.: The Story of his life from a Stonemason's Bench to the Treasury Bench* (2nd ed. London 1901); Davis, W. J., *The British Trades Union Congress* (London 1910); Webb, S. and B., *The History of Trade-Unionism* (rev. ed. London 1920).

BROCA, PIERRE-PAUL (1824–80), French anthropologist. After studying medicine and specializing in anatomy Broca became lecturer at the University of Paris and in 1867 professor of anatomy. His interest in comparative anatomy was focused by the contemporary controversy, stirred up by Darwin's writings, as to the monogenetic or polygenetic origin of man. Refusing to compromise as did those who attempted to soften their scientific position as to man's relationship to the apes, Broca showed that the anthropoids are to be regarded not as quadrupeds but as bipeds and thus closely identified with man. His later detailed studies on the brain bore out his position. From 1861 to 1865 he specialized in research in the localization of function in the brain, and marked the place of speech control as resting in the third frontal convolution, which has been named the "convolution of Broca."

Broca was always interested, however, in the larger aspects of the study of the human form and was ever alive to the importance of the recognition of its close relationship to the study of human culture. He founded in 1859 the Société d'Anthropologie and after attaining his professorship he started the Institut d'Anthropologie. Here in the laboratory he inaugurated research on the comparative anatomy of primates and also gave large consideration to the task of perfecting instruments which would enable more accurate anthropometric and craniometric measurements to be made. His *Instructions générales pour les recherches anthropologiques à faire sur les vivants* (Paris 1865, 2nd ed. 1879) and his *Instructions craniologiques et craniométriques* (Paris 1875) did much to crystallize anthropometric method at a crucial time. After the war of 1870, in which he served as physician, he founded the *Revue d'anthropologie* in January, 1872, and remained its editor until his death. In 1876 he founded the École d'Anthropologie, which was finally combined with the anthropological society and laboratory to form the Institut Anthropologique. In later years Broca gave much attention to the problem of cerebral morphology.

MELVILLE J. HERSKOVITS

Important works: Broca's more important anthropological writings were collected as *Mémoires d'anthropologie*, 5 vols. (Paris 1871–88).

Consult: Pozzi, S., in *Revue d'anthropologie*, 2nd ser., vol. iii (1880) 577–608, containing a bibliography of Broca's writings; Dally, E., in Société d'Anthropologie de Paris, *Bulletins*, 3rd ser., vol. vii (1884) 921–36; Brabrook, E. W., in *Journal of the Anthropological Institute*, vol. x (1881) 242–61.

BROCKWAY, ZEBULON REED (1827–1920), American penologist. After several years of service as a prison official he became in 1861 head of the House of Correction in Detroit. Brockway was the first to incorporate the indeterminate sentence in American statutes. In 1869 he drafted a Michigan law embodying this principle but it was soon practically nullified by the courts. Of far greater importance in this connection was Brockway's drafting of legislation concerning the treatment of inmates at the recently opened New York State Reformatory at Elmira and directing that male first offenders between sixteen and thirty be sent to that institu-

tion under an indeterminate sentence. As a reluctant concession to the courts and the public Brockway incorporated in this legislation the provision that the term should not exceed the maximum specified by law for the crime committed. The success which Brockway's experiment was to meet has been partly responsible for the fact that today most states have indeterminate sentence laws applying to varying numbers of persons committed to reformatories and prisons.

Elmira was the first state reformatory for male adults in the United States. As its first superintendent (1876–1900) Brockway put into effect the provisions specified in the law—a system of marks and classifications as an incentive to good behavior, parole and the indeterminate sentence—and further elaborated his program of reform by introducing physical and military training, general education and trade instruction. Brockway's methods, known as the "Elmira system," have attracted attention in many countries. Elmira remains one of the most progressive reformatories in the United States.

WINTHROP D. LANE

Consult: Brockway, Zebulon, *Fifty Years of Prison Service* (New York 1912); Russell Sage Foundation, *Prison Reform; Criminal Law in the United States*, and *Penal and Reformatory Institutions*, ed. by C. R. Henderson (New York 1910); Wines, F. H., *Punishment and Reformation* (rev. ed. by W. D. Lane, New York 1919) ch. x.

BROGGIA, CARLO ANTONIO (1683–1763), Italian merchant and writer on public finance. At Naples he came under the influence of Bartolomeo Intieri and Marchese Rinuccini who, according to Galiani, interested him in economic study. His principal achievement was to outline with far more insight than the cameralists and his other contemporaries a system of taxation. As described in the *Trattato dei tributi; delle monete e del governo politico della sanità* (Naples 1743; reprinted with his other works in the Custodi collection, first part, vols. iv and v, Milan 1804) this plan combined direct and indirect taxation with a view to distributing the burden in proportion to ability to pay. Direct taxes were to be not personal but impersonal, and were to be levied against fixed returns from land and capital, not excluding loans to the state or community. Industrial profits and personal property were to be reached indirectly by means of import and export duties, sufficiently low not to restrict trade, and by other types of consumption taxes. Broggia also insisted upon greater simplicity and less arbitrariness in the assessment and collection of taxes. He was exiled to Palermo as a result of a later pamphlet, *Memoria ad oggetto di varie politiche ed economiche ragioni* (Naples 1754), in which he criticized the Neapolitan ministry and maintained, against the jurists of the old school, the right of the state to redeem tax farm concessions granted its creditors, at any time and at the current price.

AUGUSTO GRAZIANI

Consult: Ricca-Salerno, G., *Storia delle dottrine finanziarie in Italia* (2nd ed. Palermo 1896) p. 227–35 and 396–98.

BROGLIE, ACHILLE VICTOR, DUC DE (1785–1870), French statesman and diplomat, son of Prince Victor Claude Broglie. His education in the republican schools after the Terror and the influence of Mme. de Staël and other liberal aristocrats made him deeply devoted to "new France." Entering public life at an early age he served Napoleon as auditor in the Council of State and as attaché on various diplomatic missions. Under the Restoration he voted with the governmental opposition in the Chamber of Peers and used his influence somewhat unsuccessfully to liberalize the policy of the Bourbons. When the July Monarchy was established Broglie, who had been acting in concert with the *doctrinaires* since 1827, joined the government; in 1832 he was made minister of foreign affairs and in 1835 leader of the ministry. His attitude toward the Mehemet Ali affair, the Carlist revolt in Spain and other international crises was dominated by the desire to preserve the friendship of England, already won by Talleyrand, and if possible to thwart Russia. Convinced that Louis Philippe guaranteed to the French nation an important place in foreign affairs as well as a certain measure of internal freedom, Broglie vigorously opposed the efforts of republicans to overthrow the regime and sponsored the laws of 1835 aimed at judicial repression and intimidation of the press. His powerful influence, radiating through his wife's salon, helped to create the illusion that the July Monarchy was destined to remain. During these years he also directed his influence against the slave trade and was responsible for the measure of 1845 providing for the gradual abolition of slaves in French colonies. When the Revolution of 1848 came he made a fruitless effort in the National Assembly to restore the constitutional monarchy. For the rest of his life he pursued in

retirement a policy of bitter opposition to the Second Empire.

ÉMILE BOURGEOIS

Works: *Souvenirs*, 4 vols. (Paris 1886); *Écrits et discours*, 3 vols. (Paris 1863); *Le libre échange et l'impôt* (Paris 1879); *Vues sur le gouvernement de la France* (Paris 1870).

Consult: Guizot, F. P. G., *Le duc de Broglie* (Paris 1872); Mignet, F., *Nouveaux éloges historiques* (Paris 1877) p. 285–323; Thureau-Dangin, P. M. P., *Histoire de la monarchie de juillet*, 7 vols. (Paris 1884–92); Bourgeois, Émile, *Manuel historique de politique étrangère*, 4 vols. (Paris 1892–1926) vol. iii (7th ed. 1925) chs. i–viii.

BROKER. A broker is an intermediary who negotiates a sales contract between two parties. Although the broker is in some ways similar to an agent and to a commission merchant or factor, at law he is clearly distinguished from both. The agent, while acting within the scope of his general authority, may bind his principal; the commission merchant who is actually possessed of his principal's goods may make a sale which is binding upon his principal; but the broker acts only in individual transactions, has no general authority and discloses the names of the principals, who confirm the arrangements.

When acting strictly within a broker's capacity he is the most highly specialized of middlemen. The broker carries no stock, takes no market risks, finances no operation, transfers no title. He assumes such functions only if he becomes something more than a broker. His commission is earned when a contract to sell is made, whether or not the contract is satisfactorily executed.

In actual practise the activities of brokers, commission men, sales agents and even merchants at times shade into one another to such an extent that they become almost indistinguishable. The United States census of 1920 lists the following classes and numbers of "brokers": bankers and bank officials, 82,375; commercial brokers and commission men, 27,552; loan brokers, loan company officials and pawnbrokers, 5,473; stock brokers, 29,609; promoters and brokers not specified, 16,604. This list includes many who are brokers in name rather than in fact.

The broker is most important in establishing trade connections in industries of large volume made up of many producers competing for a wide market, such as soft coal, fresh fruit and vegetables, and grain. In such industries a corps of alert brokers located in strategic cities, aware of one another and actively in touch with trade needs in their localities, may perform without organization almost all the functions of the highly organized exchanges. Their intercommunication plays an important part in determining prices, routing goods and guiding production.

The broker is also significant in negotiating trades in property rights that do not directly affect production. Such activity is well illustrated by the stock broker and the real estate broker. Although not usually described as a broker the employment agent should properly be so classed, as it is he who brings together those who have labor to sell and those who wish to buy it.

Classed as they are designated in business, the following types of brokers are important: merchandise brokers, insurance brokers, real estate brokers, ship brokers, bill brokers, stock brokers. The merchandise broker is as a rule concerned with arranging sales between manufacturers and wholesalers and between producers and users of raw material, although he sometimes brings manufacturers together or creates contacts with retailers. The employment of brokers as a substitute for a sales force is a particular economy to small concerns.

Insurance brokers bring together the agents of insurance companies and those who desire insurance. The insurance broker best serves those in need of several types of protection and those whose risks are so large that they must be divided.

A real estate broker consummates both sales and leases, handling farms, domestic dwellings and commercial and factory property. With real estate brokerage he commonly combines brokerage in insurance for his clients and in money to meet the needs of purchasers.

The functions of the broker in organizing trade relationships are nowhere better illustrated than in the work of ship brokers, whose task it is to keep informed of the movements of vessels, the cargo space available and the rates for shipment and, in turn, to apprise prospective shippers of opportunities for shipping. As the so-called "lines" have their own agents for this work, the ship broker serves chiefly the tramp carriers. In addition to his other services he sometimes serves as port agent, settling the bills for stores and supplies, pays the crew's wages and secures insurance for vessel and cargo. Ship brokers also negotiate sales of ships.

In the organized markets, such as the grain and stock exchanges, the broker has various

forms of activity. In the larger organized markets the volume of brokerage business, in the strict sense of the term, is small, and the greater part of the transactions consists of commission or straight merchandising. It is at points where there is no active exchange and in trade between cities, however, that the grain broker is most profitably active. In arranging shipments between markets the grain broker acts as other merchandise brokers do. Working at the request of either buyer or seller, he asks for offers or bids from brokers or buyers in other cities. These offers are confirmed if satisfactory and the broker receives his commission from his original correspondent.

Members of organized stock exchanges are often indiscriminately referred to as brokers, although most of them do no brokerage business. Aside from members who trade on their own account, the bulk of the business is carried on by members who function as commission merchants, take full responsibility for the execution of trades and do not report the names of their principals. There is, however, a group of members, known in the New York Stock Exchange as "two-dollar brokers," who conduct actual brokerage transactions. These men do the active floor work for representatives of commission houses, taking no responsibility for the solicitation of business, the delivery of stock, payment or collections.

In the money market there is very little brokerage. In England the term "bill broker," which served as a fairly accurate designation in the first half of the nineteenth century, is now loosely applied to dealers who buy and sell notes and acceptances and are more properly called discount houses. In America the term "note broker" is sometimes applied to dealers who buy promissory notes from business men and sell them to banks; this business is properly known at present as that of the commercial paper house, while traders in acceptances and foreign bills are known in America as acceptance dealers.

Among those frequently misnamed "brokers" there are also the customs broker and the pawnbroker. The former is an agent acting for importers in estimating duties and in clearing goods, rather than a broker, while the latter is a sort of private money lender.

LEVERETT S. LYON
CHARLES O. HARDY

See: MARKET; MARKETING; MIDDLEMAN; COMMODITY EXCHANGES; STOCK EXCHANGE; REAL ESTATE; INSURANCE; SHIPPING; AGENCY.

Consult: Converse, Paul, *Marketing Methods and Policies* (2nd ed. New York 1924) p. 109–14, 154–77; United States, Federal Trade Commission, *The Grain Trade*, 7 vols. (Washington 1920–26) vol. iii, ch. vi; Litman, Simon, *Essentials of International Trade* (2nd ed. New York 1927) p. 243–44, 329–30, 370–71; Johnson, E. R., and Huebner, G. G., *Principles of Ocean Transportation* (New York 1919) p. 153–55; Dice, C. A., *The Stock Market* (Chicago 1927) p. 192–93; Riegel, R., and Loman, H. J., *Insurance Principles and Practices* (2nd ed. New York 1929) p. 60.

BROKERS' LOANS, as the term is popularly understood, are the borrowings made by members of the New York Stock Exchange to enable them to carry securities purchased for their customers on margin; the term applies of course to similar borrowings by members of other stock exchanges in the United States. When a broker's customers buy stocks without paying for them in full the title to these securities remains with the broker. He must pay for them, however, immediately upon delivery. Since he seldom has sufficient capital to pay the difference between the customer's margin and the cost of the securities he is forced to borrow a portion of this difference. He does this by turning over to a bank, or to some other lender, an amount of securities sufficient to guarantee the necessary loan. The securities deposited with the lender are commonly known as collateral; and the loan secured by them is called a broker's loan.

Such loans are either time loans, which may run for thirty, sixty or ninety days, or demand loans, popularly known as "call loans." Usually call loans exceed the amount of time loans, but the relation of the totals of these two categories varies widely from time to time. Although the statistics for brokers' loans in New York City are available only for the period beginning with the year 1926, they disclose a considerable range of fluctuation. Thus on September 30, 1929, which marks the highest point attained by brokers' loans, more than 91 percent was represented by demand loans, while at the end of March, 1926, demand loans amounted to only 67 percent of the total. The broker naturally chooses the form of loan and the duration which in his judgment provide the funds at the lowest cost. When rates on time money are very high, as they were in the autumn of 1929, a broker may borrow on demand, even though call rates are higher than time rates. If he expects the stringency to be of short duration the broker prefers to pay the high call rate for a few weeks

rather than to borrow money on a time loan extending over a period of ninety days.

Funds for brokers' loans are supplied by banks in the city of New York, banks in the United States outside of New York and foreign banking institutions. In addition a very large portion of these loans is supplied by corporations and individuals with surplus funds who find the rates and the conditions under which they may demand repayment attractive. These surplus funds are not bank credit but moneys which their owners might otherwise have invested in stocks and bonds did they not consider it more advantageous at the time to lend them to others for investment purposes.

It is impossible to ascertain the exact proportion of brokers' loans made by banks as distinguished from other lenders. Statistics regarding brokers' loans in New York are compiled by two independent agencies. The New York Stock Exchange has published since January, 1926, monthly statements showing its members' net borrowings on collateral as of the close of the month. Although these statements give separate figures for borrowings from New York banks or trust companies and from other sources they furnish no clue to the amount of funds which were loaned by banks out of their own resources, since the banks also act as agents for others in making these loans. Beginning with the early part of 1926 the Federal Reserve Board in Washington has published weekly statements of total loans granted to brokers and dealers on security of stocks and bonds by member banks in New York City. These statements appear on Friday morning and show the figures as of the close of business on Wednesday. They classify loans by New York member banks into three groups: those made for their own account, for account of out of town banks and for account of others. The statement as of April 2, 1930, reports a total of $3,968,000,000 in brokers' loans, $2,651,000,000 of which was for account of New York and out of town banks. This figure may be taken as fairly representative of the amount of credit extended to brokers by banks in the United States. It is true that the amounts loaned for out of town banks include some small sums furnished by the customers of those banks; but these are probably offset by a few loans made by domestic banks which are not members of the reserve system, not through New York banks as agents, but directly to brokers. Of the total amount borrowed by brokers at the end of March, 1930, ($4,656,302,339 as reported by the New York Stock Exchange for March 31, 1930), only 57 percent, therefore, was furnished by domestic banks. The remainder was loaned by individuals, corporations and foreign banking institutions.

It should be observed in passing that loans to brokers do not represent all the credit which banks extend to borrowers on stocks and bonds as collateral. The quarterly reports which the member banks make to the Federal Reserve Board show that their security loans amount at present to almost ten billion dollars. This figure includes loans to brokers. During the three years for which statistics are available loans to brokers amounted to between 25 and 30 percent of the total loans on securities made by members of the Federal Reserve system. They constitute on the average about 10 percent of the total loans of these banks and 8 percent of their total loans and investments.

During the last few years the subject of stock exchange borrowings has been given unusual prominence in financial discussion. This is largely due to the facts that on January 30, 1926, the loans were found to total about 3513 million dollars, which was 1000 million in excess of the private estimates that had previously been current, and that after declining to about 2767 million at the end of May, 1926, these loans began a renewed rise which continued with minor interruptions until they reached a maximum figure of approximately 8549 million on September 30, 1929. This rise in brokers' loans brought forth several lines of criticism. The first of these was that the expansion was producing a dangerous inflation of bank credit. The second was that the expansion of loans to the stock exchange represented a diversion of credit from industry. It was also charged that the flow of credit into the security markets was unduly large and was fostering a speculative mania which was driving the prices of stocks to unwarranted heights.

These criticisms raised some fundamental questions as to the effect of brokers' loans upon the credit structure and upon interest rates. The assertion that the expansion of these loans brought about an equal expansion of bank credit did not take into account the fact that almost the entire increase in brokers' loans consisted not of bank loans but of loans by other creditors. At the end of January, 1926, when the figures were first reported, 2488 million dollars represented loans by domestic banks, while slightly over 1000 million came from the others. By May of

the same year, when the low point was reached, bank loans totaled 1905 million dollars and other loans 862 million. When the maximum was reached at the end of September, 1929, bank loans stood at 2897 million while other loans amounted to 5652 million. The increase from the beginning of the publication of these statistics to the maximum point may be attributed almost entirely to these other loans.

It is clear that the loans by other creditors in no wise expanded the bank credit outstanding in this country and that they did not, therefore, contribute to any credit strain during the period when brokers' loans were rising. The funds which are loaned by individuals and corporations consist either of savings which they have on deposit at a bank or of money which they have received for the sale of securities through a broker. In the former case the capitalists are merely lending credit already outstanding in the form of bank deposits, which is quite different from direct lending by banks. While every bank loan creates a deposit and while an increase in the total loans made by all banks must of necessity increase the total bank deposits and consequently the total credit outstanding, a depositor's loan to a broker or to anyone else creates no new deposit; there is merely a transfer of a deposit which was already in existence. In the second case, when the individuals and corporations are not lending deposits already in existence but are placing with the broker funds which they have received by selling stocks or bonds through some brokerage house, the transaction is in no way related to bank credit since neither bank loan nor bank deposit is involved.

An argument which recurred even more persistently was the assertion that the increase in brokers' loans constituted a diversion of credit from industry and thus caused an increase in the cost of capital for legitimate business purposes. It would be unprofitable to discuss at this point the question whether it is proper to employ bank credit in order to purchase industrial securities and thus to finance the long time needs of industry. This question bears on the total amount of security loans made by banks; of these brokers' loans comprise, as has been shown above, only one fourth. With reference to the diversion of credit from industry it can be demonstrated that practically all of the additional bank credit created through brokers' loans by banks went ultimately to purchase securities from some corporation. Brokers do not borrow money in order to carry deposit balances at the bank or to get currency for payrolls; they borrow because their customers have purchased securities from someone. If they have purchased these from corporations which issued rights to their stockholders to subscribe for new stock then clearly the proceeds of brokers' loans are paid to the corporations which gave the rights, and the credit created by the loan stands as a deposit in the name of that company. This credit has flowed into industry, but it was borrowed by the stockholders rather than by the corporation directly. If the funds derived from brokers' loans are used to purchase securities from previous owners these owners will in turn buy other securities sooner or later. Ultimately the funds will be expended for the purchase of stocks and bonds from some corporation which has issued them and which needs the credit for its industry. This does not prejudge the question as to the efficiency of financing industry by such indirect methods. While they reach industry ultimately these funds probably do not in their entirety reach the particular branches of industry the securities of which were purchased with the aid of brokers' loans. Some part of the funds remains in the hands of speculators, who invest it directly, or indirectly through increased consumption, in industries other than those on the securities of which they may have realized handsome profits.

One of the reasons why brokers' loans have increased so rapidly in recent years is that they had shrunk to an abnormally low volume during the war and the post-war depression. Statistics compiled for confidential use by the New York Stock Exchange for the period October, 1918, to December, 1922, (published in New York Stock Exchange, *Report of the President, May 1, 1926–May 1, 1927*, New York 1927, p. 69–70), which are more complete than the figures collected by the New York Federal Reserve Bank on the loans made by banks reporting daily in that city subsequent to October, 1917, show that in February and March, 1919, and again in the autumn of 1921, the total borrowings by the members of the New York Stock Exchange had fallen to less than one billion dollars. There were several reasons for this temporary decline. Prior to the war and the establishment of the Federal Reserve system bankers were accustomed to look upon call loans made to brokers as their principal secondary reserve, assuming that the funds so invested could always be obtained on short notice. Consequently a large supply of funds at low rates was available for collateral

call loans. This attitude of the banks and of other lenders was greatly modified through the closing of the New York Stock Exchange at the outbreak of the war in 1914, as a result of which it became practically impossible to realize on call loans. Thus a prejudice was created against dependence upon call loans as secondary reserves. Moreover the creation of the Federal Reserve system gave the member banks a new reservoir of funds to which they could resort when necessary. Call loans were reduced also because supplies of money which normally came from foreign banks were for a considerable length of time rendered unavailable by the war and post-war currency disorganization.

With the restoration of normal conditions after the war call loans have once more become liquid; in times of stress the Federal Reserve has helped to make them so. Europe has recovered financially to such an extent that when rates are attractive it has large sums available for the New York money market. Consequently brokers' loans have had a phenomenal rise, corresponding to the expansion of American industry, and there is every reason to believe that they will remain permanently upon a much higher level than that prevailing during the period 1914–21.

Loans to brokers in European financial centers are not as large in volume or as important a factor in the money market as brokers' loans in the United States. Here brokers' loans are significant in that they make possible security speculation for people of average means, who would neither wish to borrow on security collateral directly from the banks nor be in a position to do so. The reason for the lesser importance of brokers' loans in Europe is therefore to be found in the fact that security speculation abroad is not so popular as it has been in America particularly since the close of the war. Moreover since a great majority of stock exchange transactions in Europe are settled fortnightly or monthly and not daily as in New York, brokers handling term transactions need to borrow only for a period of two weeks or a month in order to finance those of their clients who wish to carry over their securities until the next settlement date. In London such loans are made by the joint stock banks and the merchant bankers. In Paris brokers receive most of their loans from the wealthy private banking firms, the *banques d'affaires* (investment banks) and some railway and industrial companies. In emergencies brokers may make fifteen and thirty-day loans to the full market value of their collateral from the Caisse Commune, a common fund established by the *parquet* of the Paris Bourse. Brokers' loans are not important in Germany, where most of the security transactions are handled for their customers directly by the larger banks.

DAVID FRIDAY

See: STOCK EXCHANGE; CALL MONEY; MONEY MARKET; SPECULATION.

Consult: Westerfield, R. B., *Banking Principles and Practice* (New York 1924) p. 551–69; Dice, C. A., *The Stock Market* (Chicago 1926); Meeker, J. E., *The Work of the Stock Exchange* (New York 1922) chs. iv, viii–xii; Griffiss, Bartow, *The New York Call Money Market* (New York 1925); Rogers, J. H., *Stock Speculation and the Money Market* (Columbia, Mo. 1927); Anderson, B. M., "Brokers' Loans and Bank Credit: The Liquidation of Loans versus the Liquidation of Securities" in *The Chase Economic Bulletin*, vol. viii (1928) no. 4; U. S. Senate, 70th Cong., 1st Sess., Committee on Banking and Currency, *Hearings*, vol. ii (1928); Streit, S. F., *Term Settlements* (New York 1920); Parker, William, *The Paris Bourse and French Finance, with Reference to Organized Speculation in New York*, Columbia University Studies in History, Economics and Public Law, vol. lxxxix, no. 3 (New York 1920).

BROOK FARM (1841–46), an experiment in communal living at West Roxbury, Massachusetts, nine miles from Boston. It was founded as a joint stock company under the name of the "Brook Farm Institute of Agriculture and Education," but in January, 1844, it was reorganized as the "Brook Farm Phalanx of Agriculture, Domestic Industry, and the Mechanic Arts."

Of the numerous cooperative and communistic ventures that marked the middle years of the nineteenth century in America, Brook Farm by virtue of its distinguished intellectual and literary associations is much the best known. Although closely associated in the public mind with Transcendentalism it was rather a by-product of the many sided reform movements of the New England renaissance that synchronized with the rise of industrialism. The originator and directing mind was George Ripley (1802–80), a Unitarian minister and member of the Transcendental Club of Boston. He enlisted the interest of a notable group of writers including Emerson, Theodore Parker, Bronson Alcott, Orestes Brownson, William Henry Channing, Margaret Fuller, Elizabeth Peabody, Christopher Cranch, Nathaniel Hawthorne, Charles A. Dana and John S. Dwight. Of this list only Hawthorne, who used it as a setting for his somewhat critical *Blithedale*

Romance (Boston 1852), Dana and Dwight took up residence at the farm. The experiment had its inception in the dissatisfaction of these radical intellectuals with existing social conditions and the objective proposed was the substitution of cooperative for competitive labor. Primarily agricultural and educational in its first phase it later introduced the crafts of carpentry, cobbling and printing and engaged in manufacturing in a small way.

Its origins would seem to have been distinctly native and homely. The communistic theories of Saint-Simon, Owen and Fourier had no part in the original plan. Before 1840 there are few discoverable influences of such theories in New England. But with the appearance on the scene of Albert Brisbane, who while in Europe had become a disciple of Fourier, agitation began for a reorganization in accordance with the latter's unitary principles. Brisbane's *Social Destiny of Man* (Philadelphia 1840) seems to have exerted wide influence and under his guidance early in 1844 the community adopted a modified form of Fourieristic communism. The *Harbinger* (1845–49), a weekly magazine devoted to "social and political progress," was established to succeed the *Phalanx* (1843–45), and an adequate phalanstery to house the families was begun. Unfortunately the latter burned to the ground when nearly completed. The blow was heavy; after meeting its obligations the phalanx disbanded and the *Harbinger* was transferred to New York.

Neither socially nor financially had the venture been the heavy loss that is often supposed. By common testimony life at Brook Farm was a stimulating experience, and the school in particular was a notable success.

VERNON LOUIS PARRINGTON

See: COMMUNISTIC SETTLEMENTS.

Consult: Swift, Lindsay, *Brook Farm: its Members, Scholars, and Visitors* (New York 1900), containing an adequate bibliography; Codman, J. T., *Brook Farm: Historic and Personal Memoirs* (Boston 1894); Curtis, G. W., *Early Letters . . . to John S. Dwight, Brook Farm and Concord* (New York 1898); Sears, John V. D. Z., *My Friends at Brook Farm* (New York 1912).

BROOKE, JAMES (1806–68), British empire builder. Brooke came of a family which had prospered from East Indian activities, and his early life included service under the East India Company. In 1838 he sailed to explore the Malay Archipelago and establish trading relations. He had become convinced that Dutch rule had been oppressive and would crumble before a liberal government and a conciliatory policy in any part of the East Indies. During a civil war in Borneo, Brooke aided the Sultan of Brunei against a rebellious vassal in Sarawak and was ultimately confirmed by the sultan as rajah of that territory. He aided British naval officers in the suppression of piracy, worked for the annexation to Great Britain of the island of Labuan (1846), of which he became governor, and was made British consul general for Borneo. In 1863 the British recognized Rajah Brooke of Sarawak as an independent sovereign.

His policy toward the Sarawak natives was chiefly that of non-exploitation. He abandoned the bulk of the revenues which had formerly belonged to the rajahship, ultimately even the head tax, and retained only a monopoly of antimony. In order to protect his native subjects from forced labor he tried to prevent the encroachments of independent European mercantile establishments. Although he abolished head hunting and piracy Brooke administered the bulk of native customs and law as he found them. His motives were misconstrued and violently attacked in England. But Brooke's rule in Sarawak was successful as an experiment in native administration rather than as a commercial venture. His policies stimulated ideals of colonial administration which have had wider application in portions of British West Africa.

LELAND H. JENKS

Consult: Brooke, James, *Narrative of Events in Borneo and Celebes down to the Occupation of Labuan*, ed. by Rodney Mundy, 2 vols. (London 1848), and *Private Letters, Narrating the Events of His Life*, ed. by J. C. Templer, 3 vols. (London 1853); Saint John, S. B., *Rajah Brooke* (London 1899); Baring-Gould, S., and Bampfylde, C. A., *History of Sarawak under its Two White Rajahs, 1839–1908* (London 1909).

BROSSES, CHARLES DE. *See* DE BROSSES, CHARLES.

BROUGHAM, LORD, HENRY PETER BROUGHAM (1778–1868), British parliamentarian and social reformer. Brougham was graduated from the University of Edinburgh and was called to the English bar in 1808. He had already made a reputation as one of the earliest and most prolific contributors to the *Edinburgh Review* when the Whigs gave him a seat in the House of Commons in 1810. For the next twenty years, except for the period 1812–15, he was one of the unofficial leaders of the opposition. After his eloquent

defense of Queen Caroline in 1820 his power and popularity increased enormously until he left the Commons to become lord chancellor in the reform ministry of 1830. His *Life and Times* (3 vols., Edinburgh 1871) grossly exaggerates the importance of his own activities in the passage of the Reform Act. At the time of the struggle he was unable to swallow his objections to wholesale disfranchisement of close boroughs; and in any case his colleagues had learned to distrust his judgment and to disregard his advice. In 1835 Lord Melbourne condemned him to political extinction by leaving him out of his cabinet.

A political careerist, Brougham nevertheless accomplished much as a social reformer and his influence in molding public opinion is as important as his actual achievements. Concentrating his attention on non-party objects he perceived—as the aristocratic Whigs did not—the importance of appealing to the middle class electorate and the value of the press. In 1811 he secured the enactment of a law making possible the first effective prohibition of the slave trade, and after 1830 he took a great interest in the complete abolition of slavery. As a law reformer he was instrumental in the creation of the Judicial Committee of the Privy Council; he also labored hard to humanize the penal code, to simplify the laws and improve the administration of justice. He was one of the founders of the University of London. As a pioneer in popular education he partially fulfilled the program of his *Practical Observations upon the Education of the People* (London 1825) by founding mechanics' institutes and the Society for the Diffusion of Useful Knowledge (1827–44), which published under his auspices a *Penny Cyclopedia* (London 1833–43). His economic views persistently wavered. The *Inquiry into the Colonial Policy of the European Powers* (2 vols., Edinburgh 1803) was a moderate defense of the colonial system; but later Brougham intermittently advocated the repeal of the navigation laws. In 1812 he secured the repeal of the Orders in Council. Although he did not completely abandon agricultural protection until 1845 he was of some assistance in furthering the cause of free trade.

ARTHUR ASPINALL

Consult: Aspinall, Arthur, *Lord Brougham and the Whig Party*, University of Manchester Publications, Historical series, no. xlvii (Manchester 1927).

BROUSSE, PAUL (1844–1912), French socialist. Brousse, who was a physician, took part in socialist propaganda at an early age. Self-exiled after the events of 1871, he sojourned successively in Spain, Switzerland and England. In Switzerland he met Bakunin, adopted his doctrines and worked with the Federation of the Jura. Upon his return to France after the amnesty Brousse became involved in the internal struggles of French socialism. At first he was a follower of Guesde and Lafargue, but he broke with them in 1882 at the Congress of St. Étienne and became one of the leaders of the Fédération des Travailleurs Socialistes, known as the "possibilist" group. This in turn was split into two factions in 1890, Brousse continuing as head of the federation and the more radical wing beginning a separate existence under the leadership of Allemane. The Broussist federation had considerable strength in some districts of Paris and in the west.

The "possibilist" program, as expounded by Brousse in his pamphlet *La propriété collective et les services publics* (Paris 1883) and in the weekly *Le prolétaire*, assumed that there are numerous stages in the advance toward the ultimate goal of socialism and accordingly called for a limitation at the outset to a series of practicable reforms. Brousse's interpretation of historical evolution, by which he buttressed this program, envisaged competition, the dominating and inevitable characteristic of the early phases of capitalism, giving way, with the victory of the better equipped producers over their rivals, to combination and monopoly. At this stage the state would step in, take possession of the monopolized industry and manage it as a public service. Just as the army, schools, highway maintenance and postal service had passed from private hands into public, so in the future would mines, railroads and eventually other industries. The active participation of Brousse and his followers in municipal, provincial and national politics was the logical corollary of this program.

PAUL LOUIS

Consult: Weill, Georges, *Histoire du mouvement social en France 1852–1910* (2nd ed. Paris 1911); Humbert, S., *Les possibilistes* (Paris 1911).

BROWN, GEORGE (1818–80), Canadian journalist and statesman, one of the "Fathers of Confederation." After working with his father in sectarian journalism he founded in 1844 the Toronto *Globe*, which from the fifties to the eighties exercised a more powerful influence in molding public opinion than any other Canadian paper has ever possessed. Brown entered

public life in 1851 and became leader of the Upper Canada Reformers, or "Clear Grits," who in the fifties and sixties were essentially the radical agrarian party of what was then western Canada.

Representing "the intelligent yeomanry of Upper Canada" the *Globe* fought high tariffs, the undue influence of the Grand Trunk Railway and that working alliance between the French Catholic church and the business interests centering in Montreal which dominated Canadian politics. By his methods of controversy Brown did much to inflame sectional and religious feeling, especially in his successful campaign for the secularization of the clergy reserves and in his unsuccessful opposition to separate schools. On the other hand the *Globe's* constant summons to Canadians to rise to their opportunities did much to create that incipient national feeling which made possible the Dominion of 1867. Brown was one of the first Canadians to catch the vision of the West. From 1857 the *Globe* preached incessantly that Canada must absorb the Hudson's Bay Territory and become a great nation like the United States.

After his failure to procure "representation by population" as a solution of the relations of Canada East and Canada West, his generous action in joining his political opponents in the coalition government of 1864 insured the acceptance of confederation almost without opposition in Upper Canada. Defeated in the first Dominion election he was appointed to the senate a few years later. In his editorial capacity he remained until his death the real leader of the Reformers. The bitterness of its leader, who seemed destined to be found always on the side of political opposition, infected the party, which did not become really successful until it came under the more genial guidance of Laurier.

FRANK H. UNDERHILL

Consult: Mackenzie, A., *The Life and Speeches of Hon. George Brown* (Toronto 1882); Lewis, J., *George Brown* (anniversary ed. Toronto 1906); Underhill, F. H., "Some Aspects of the Upper Canadian Radical Opinion in the Decade before Confederation" in Canadian Historical Association, *Report* of annual meeting for 1927 (Ottawa 1927) p. 46–61, and "Canada's Relations with the Empire as seen by the Toronto *Globe*, 1857–1867" in *Canadian Historical Review*, vol. x (1929) 106–28.

BROWNE, ROBERT (1550–1633), English clergyman, recognized during the past fifty years as the founder of Congregationalism in England and America. Browne's personal direction was withdrawn from the movement in 1586 when he apparently conformed to the established church. After this time one must look to Browne's writings for his share of the influence which, according to Borgeaud's suggestion, radical Puritan ideas exerted on the development of early seventeenth century English and American political democracy. *A Booke which sheweth the life and manners of all True Christians* (Middelburgh 1582), containing the clearest statement of his ideas, is so far as is now known the first book written by an Englishman defending a full measure of religious liberty. He was also the first to maintain unequivocally that the separation of church and state is as necessary for the church as for the state. He taught that all authority is wholly dependent upon the will of the people, a term in which he included all classes of society.

ROLAND G. USHER

Consult: Burrage, C., *The True Story of Robert Browne* (Oxford 1906); Dexter, H. M., *Congregationalism* (New York 1880) p. 61–128; Walker, Williston, *A History of the Congregational Churches in the United States*, American Church History series, vol. iii (New York 1894) p. 31–55; Gooch, G. P., *English Democratic Ideas in the Seventeenth Century* (2nd ed. with notes and appendices by H. J. Laski, Cambridge, Eng. 1927) p. 42–45; Borgeaud, Charles, "Premiers programmes de la démocratie moderne en Angleterre (1647–1649)" in L'École Libre des Sciences Politiques, *Annales*, vol. v (1890) 290–325, tr. by B. Hill as part of *Rise of Democracy in Old and New England* (London 1894).

BROWNSON, ORESTES AUGUSTUS (1803–76), American theologian and publicist. He had a remarkable religious and intellectual career which may be briefly summarized as follows: 1822, Presbyterian; 1826, Universalist minister and (1829) editor of the *Gospel Advocate*; 1830, freethinker and associate of Robert Dale Owen and Fanny Wright, lecturing in the interests of the Workingmen's party and contributing to the *Free Enquirer*; 1831, Unitarian minister and editor of the *Philanthropist*; 1836, organizer of "The Society for Christian Union and Progress," which was composed of working men and held its meetings in the Masonic Temple of Boston (he was a Freemason); 1838, founder and editor of the *Boston Quarterly Review* devoted to transcendental philosophy, Democratic politics and social reform (including the abolition of hereditary property); 1844, a convert to the Catholic church. From then on he devoted most of his energies to an aggressive

propaganda for Catholicism combined with American patriotism, publishing in addition to numerous books a large number of articles in *Brownson's Quarterly Review*, the *Catholic World*, the New York *Tablet* and the *American Catholic Quarterly Review*.

His early enthusiasm for radical reform was chilled by his failure to enlist the support of the working classes to his rationalistic humanitarianism. He therefore conceived "Christianity as a principle of reform" and, influenced by Benjamin Constant, the Saint-Simonians and Victor Cousin, he worked for "the religion of the future." He then came to the conviction that religion must be not the means but the end of social life and that "the church already is the new creation." At this point in his career he was much influenced by the philosophy of Gioberti and by the general enthusiasm among liberal Catholics for "popular liberty" under "Divine Sovereignty." He carried his theological liberalism to the point of attacking neoscholasticism and even of attempting to introduce his former Universalistic leanings into Catholicism. Opposition on the part of the clergy, followed by the Papal Syllabus of Errors, induced him to quit his theological polemics and confine himself to "public affairs." Accordingly he took an active part in political debate. He abandoned his southern Democratic friends on the secession issue and developed his theory of the "territorial sovereignty under God" of "the states collectively" as a platform for an uncompromising defense of the union combined with a liberal reconstruction policy and a decentralized government (see his *The American Republic*, New York 1866). His political fortunes and his *Review* suffered severely from his support of Fremont in 1864 against Lincoln as well as from his philosophic insistence on combining religious and political issues.

HERBERT W. SCHNEIDER

Works: *The Works of Orestes A. Brownson*, ed. by Henry F. Brownson, 20 vols. (Detroit 1882–1907).

Consult: Brownson, Henry F., *Orestes A. Brownson's . . . Life*, 3 vols. (Detroit 1898–1900).

BRUCE, HENRY AUSTIN, BARON ABERDARE (1815–95), British statesman and educationist. He was born at Duffryn, Wales. In 1852 he entered the House of Commons as a Liberal and sat in the House for twenty years, holding many high political offices. His greatest parliamentary effort was the passing of the Licensing Bill of 1872. The vehement opposition of the vested interests concerned largely contributed to the Liberal rout at the succeeding election. He was made a peer in 1873, and withdrawing from party politics he devoted himself to social reform.

He was an opponent of radical political or economic changes and held that prosperity and education were the surest allies of progressive civilization. Anticipating the coming of great social dislocations he advocated the material and moral elevation of the masses. He served as chairman of the Royal Commission on the Aged Poor (1893) and on other public commissions concerned with reformatory and industrial schools, mines and education, and was one of the founders of the Social Science Congress. To him are chiefly due the reorganization of Welsh intermediate education and the establishment of a Welsh university. He was chairman of the Niger Company for many years and it was mainly because of his foresight and energy that a vast West African territory was added to the British Empire.

W. H. DAWSON

Consult: *Life and Letters of Henry Austin Bruce* (p. p. Oxford 1912); Bruce, Henry Austin, *Lectures and Addresses* (London 1917).

BRUCK, KARL LUDWIG VON, BARON (1798–1860), Austrian statesman and fiscal reformer. A native of Elberfeld in the Rhineland, he moved to Trieste in 1821 and there established the Austrian Lloyd shipping company. He was a member of the Frankfort National Assembly of 1848–49, representing the Austrian "greater Germany" party of unionists. As minister of commerce and public works (1848–51) he cooperated in passing the constitution of March 4, 1849, and carried out a bold program of reforms. He reorganized the consular service as well as the post and telegraph services, introduced chambers of commerce and industry on the German model, built railways, improved the road and river transport system and codified the Austrian commercial and maritime law.

His great work, however, lay in the field of customs reform. He abolished many of the duties which retarded the development of national industry and established Austria and Hungary as a single customs territory with a uniform tariff. His further design of securing Austria's admission into the German customs union and of converting the latter into a Central European union which was to include Italy

and the Balkan peninsula was defeated by Prussian opposition, and Bruck had to be satisfied with favorable commercial treaty arrangements.

Bruck was raised to the nobility and in 1855 took over the portfolio of finance, but further reforms upon which his mind was set were frustrated by the Italian war. Accused by his enemies of complicity in army malversations he was dismissed in disgrace and committed suicide. A little later, however, the falsity of the charges was proved and officially proclaimed.

W. H. DAWSON

Consult: Bruck, K. F., *Memoiren aus der Zeit des Krimkriegs*, ed. by Isidor Heller (Vienna 1887); Charmatz, Richard, *Minister Freiherr von Bruck* (Leipsic 1916); Buchheim, Karl, "Das Vermächtnis Bruck's" in *Die Grenzboten*, vol. lxxvi, no. 12 (1917) 364–79.

BRUIJN KOPS, JACOB LEONARD DE (1822–87), Dutch economist and statistician. After serving with the ministries of finance and of the interior he occupied for ten years (1864–73) the chair of economics and administrative law in the polytechnicum at Delft. From 1868 until his death he was a member of the lower house, where he frequently influenced government policies on economic and financial questions. Bruijn Kops was also active as author and editor. In 1850 he published *Beginselen van staathuishoudkunde* (5th ed. Amsterdam 1873), the first Dutch manual of economic principles, which enjoyed unusual popularity. He was the editor of *De economist*, a monthly concerned with practical economic problems, which was founded by him in 1852 and is still being published. After 1850 he was on the editorial board of the statistical yearbooks established by Bosch Kemper, and with the other members of the board he organized the Dutch statistical society in 1857. In the same year he published a statistical review of Dutch foreign trade from 1846 to 1855.

A liberal free trader, Bruijn Kops was essentially a practical economist. He advocated the abolition of import duties as economically harmful and of export bounties as an unjust privilege. He was opposed to taxation for social purposes and advised extreme caution in the use of public loans, which should be confined to the financing of permanent improvements. He conducted a vigorous campaign against consumption taxes, particularly those on necessaries, and advocated the concentration of tax collection in the hands of the national government.

F. PH. BICHON VAN IJSSELMONDE

Consult: Beaujon, A., in Institut International de Statistique, *Bulletin*, vol. iii, no. i (1888) 218–20.

BRUNETIÈRE, FERDINAND (1849–1906), French literary critic and social philosopher. Brunetière was professor at the École Normale, later editor-in-chief of the *Revue des deux mondes* and member of the French Academy. In *Le roman naturaliste* (Paris 1882) he made his debut as a critic in an attack on Zola and his naturalist school. A traditionalist and a classicist, he fought the impressionism and skepticism of Jules Lemaître and Anatole France. Underlying his work was a conviction that the prevailing individualism and the absence of tradition and morality in the latter part of the nineteenth century were socially dangerous. In his *Histoire et littérature* (3 vols., Paris 1884–86), his *Études critiques* (8 vols., Paris 1880–1907) and in other critical works he set himself to the construction of a comprehensive system of criticism which would embody an integrated view of society. What he sought in society was unity and order, which he felt the science and the rationalism of his age were too bankrupt to provide. For Taine's system he substituted his *critique évolutionniste*, based on Darwinism, to explain the course of literary history; but as Irving Babbitt has aptly said, "in spite of his attempt at literary Darwinism Brunetière is not a scientist but a logician with a brilliant oratorical gift and a keen sense of historical development." Brunetière avoided the inconsistency of his rejection of science and his acceptance of an evolutionary theory of literature by ascribing to unknown causes the variations that took place (see *Discours de combat*, 3 vols., Paris 1900–07, and *Sur les chemins de la croyance*, Paris 1904). Comte had revealed to him not only the idea of a social organization of science and the humanitarian problem of the relation of man to man, but also the function and social importance of a church ("L'utilisation du positivisme" in *Sur les chemins*). What positivism failed to supply—a permanent and absolute foundation for society—Brunetière discovered at Rome in 1894. His famous article, "Après une visite au Vatican" (*Revue des deux mondes*, vol. cxxvii, 1895, p. 97–118), shows how Roman Catholicism offered him the basis on which the social hierarchy and order might rest. Brunetière found his refuge and his citadel in faith, of which he main-

tained that logic and dialectic must be the servants.

ANDRÉ MORIZE

Consult: Giraud, V., *Les maîtres de l'heure*, 2 vols. (Paris 1911) vol. i, p. 59–137, and *Maîtres d'autrefois et d'aujourd'hui* (Paris 1913) p. 193–256; Parodi, D., *Traditionalisme et démocratie* (2nd ed. Paris 1924) p. 31–71; Laski, H. J., *Authority in the Modern State* (New Haven 1919) p. 171–77; Babbitt, I., *Masters of Modern French Criticism* (Boston 1912) ch. x; Belis, A., *Critique française à la fin du xix^e siècle* (Paris 1926) ch. i.

BRUNI, LEONARDO (*c.* 1374–1444), Italian humanist. Bruni is the most important representative of the early Italian trend which may be designated as the civic humanism of Florence. He was born in Arezzo, was in his earlier years secretary of the Curia, but lived in Florence continuously from 1415, received the rights of citizenship and was chancellor of the republic from 1427 until his death. Bruni's humanism was distinguished by his devoted study of the Greek city-state and of the ancient Roman Republic. The former he admired as the political model of the Florentine city-state of the Renaissance; the latter he felt to be the source of Italian civilization and imbued with that republican spirit on which was also founded the greatness of Florence. In the first book of his *Historiarum Florentini populi* (12 books, completed in 1439) the Renaissance city-state is portrayed as heir to the Roman Republic, the Roman Empire as the period of Italian decline and the German mediaeval empire as an alien, barbarian rule. In his *De militia* (written 1421), confronted with the decline of the knightly class, he advocated the replacement of the usual Italian mercenaries by an arms-bearing citizenry modeled on that of the ancient republic.

His description of the government of Florence (*περὶ τῆς πολιτείας τῶν φλωρεντίνων*) is written entirely in Greek. Bruni's translations from the Greek, which include some of Plato's dialogues, many of the orations of Demosthenes and above all Aristotle's *Ethics* and *Politics* and the pseudo-Aristotelian *Economics*, were widely read during the fifteenth century. The Aristotelian writings constituted the Greek sources of Bruni's political theory. He was the first to translate Aristotle with philological accuracy, and his *Isagogicon moralis disciplinae* (written 1421–24) defends the Aristotelian against the stoic ethics which had previously dominated humanism. In the field of education Bruni's widely read work, *De studiis et litteris* (written 1422–29), was one of the first to develop a program of non-professional education which was based exclusively on the humanities and which was identical for both sexes.

HANS BARON

Consult: Woodward, W. H., *Vittorino da Feltre and Other Humanist Educators* (Cambridge, Eng. 1897) p. 119–23; Beck, Franz, *Studien zu Lionardo Bruni*, Abhandlungen zur mittleren und neueren Geschichte series, vol. xxxvi (Berlin 1912); *Leonardo Bruni Aretino, humanistisch-philosophische Schriften*, ed. by Hans Baron (Leipsic 1928), containing a chronology of his works and letters.

BRUNNER, HEINRICH (1840–1915), German legal historian. He was an Austrian by birth and studied jurisprudence and history at Vienna, at the Institut für Österreichische Geschichtsforschung. As a pupil of Unger, Waitz and Sickel he laid the foundations for his subsequent method which, by linking the history of law with the auxiliary historical sciences and by evolving a new technique of research, profoundly influenced the science of German legal history. Brunner was the focus of legal historical research not only in Germany but throughout Europe. Although he taught first at the University of Vienna and later at the higher schools of Lemberg, Prague and Strasbourg, his influence was primarily felt in Berlin where he was active for over forty years and where at the academy he carried on the work of Eichhorn and Homeyer. As a director of cooperative scholarly publications he was prominently identified with all the more comprehensive projects of his time in the field of legal history, as for example, the *Deutsches Rechtswörterbuch* and the *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*. After the death of Waitz he took over in 1887 the *Leges* section of *Monumenta Germaniae historica*.

Brunner's main interest was the so-called Frankish period and the history of Germanic law in the earliest centuries. His success in demonstrating the Frankish origin of the Anglo-Norman jury trial established his reputation. Vassalage as the root of infeudation he traced back to the institution of the German *comitatus*. His crowning work, however, was his two volumes of a history of Germanic law, which unfortunately he did not complete. In the course of his investigation into the connection between early Germanic and late Roman law he came upon the so-called common law of the Roman provinces. This led him to the study of the survival of Germanic legal institutions in Italian, French,

Dutch and Anglo-Norman law. At the same time with rare intuition he traced certain legal ideas back into prehistoric times, e.g. inheritance and the representation of decedents.

EBERHARD VON KÜNSSBERG

Important works: "Zeugen- und Inquisitionsbeweis im deutschen Gerichtsverfahren karolingischer Zeit" in Kaiserliche Akademie der Wissenschaften, Philosophisch-Historische Classe, *Proceedings*, vol. li (Vienna 1866) p. 343–505; *Die Entstehung der Schwurgerichte* (Berlin 1872); *Das französische Inhaberpapier des Mittelalters* (Berlin 1879); *Zur Rechtsgeschichte der römischen und germanischen Urkunde* (Berlin 1880); *Deutsche Rechtsgeschichte*, 2 vols. (Leipsic 1887–92, 2nd ed. 1906–28); *Forschungen zur Geschichte des deutschen und französischen Rechts* (Stuttgart 1894); *Grundzüge der deutschen Rechtsgeschichte* (Leipsic 1901, 7th ed. 1927); *Geschichte der englischen Rechtsquellen im Grundriss* (Leipsic 1909).

Consult: Amira, K. von, in Bayerische Akademie der Wissenschaften, *Jahrbuch* (1916) 161–66; Stutz, Ulrich, in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*, vol. xxxvi (1915) ix–lv; Seckel, E., in Gesellschaft für ältere deutsche Geschichtskunde, *Neues Archiv*, vol. xl (1916) 807–18; Stintzing, R. von, and Landsberg, E., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880–1910) vol. iii, pt. ii, p. 908–12.

BRUNO, GIORDANO (1548–1600), Italian philosopher. Accused of faults of discipline Bruno was forced to flee from the Dominican order. He wandered from city to city, first in Italy, then in northern Europe and England, arousing theological and philosophical hostility wherever he went. Bruno was the first to recognize that the fixed stars were other suns distributed through endless space, centers of solar systems inhabited by beings "perhaps better perhaps worse than we are." In three Italian dialogues purporting to have been published in Paris in 1584 Bruno presents these views with their philosophical consequences as an inevitable development from the "Copernican Revolution," which had occurred about four decades before, but a development so vast as to deserve the name of a "new philosophy." The astronomical theory involved in Bruno's system was absorbed, through Galileo, Kepler, Descartes and others, into the science of the seventeenth century and remains the foundation of all later world views.

By his new presentation of nature Bruno laid himself open to bitter opposition from every religious faith of his time, all of which were based on the conception of a single finite universe wherein two regions, heaven and earth, stood in complete contrast. In an effort to reconcile his astronomy with Christianity Bruno evolved a pantheistic philosophy which, however, seemed to his day only an old heresy in a new guise. In 1592 he was denounced to the Venetian inquisition and later extradited to Rome, where he was burned on the Campo dei Fiori in 1600. Although the influence of his world view seems plainly traceable in the great seventeenth century systems of Spinoza and Leibnitz it was not until the end of the eighteenth century that the writings of Lessing and Jacobi brought a belated acknowledgment of his living service. In spite of his recantation at Venice, which he later retracted, his name, regarded as one of the foremost in the martyrology of intellectual freedom, has become a symbol for steadfastness in defense of truth.

EDGAR A. SINGER, JR.

Consult: Berti, D., *Giordano Bruno da Nola* (2nd ed. Turin 1889), containing all documents and a bibliography of Bruno's works; McIntyre, J. L., *Giordano Bruno* (London 1903), containing bibliography; Gentile, G., *Giordano Bruno e il pensiero del rinascimento* (Florence 1920).

BRUNS, KARL GEORG (1816–80), German jurist, pandectist and legal historian. Bruns was from the beginning an advocate of the movement for codification and strongly drawn toward modernism. He consequently sought to turn the existing historical school in a more contemporary direction in his very first major work, *Das Recht des Besitzes im Mittelalter und in der Gegenwart* (Tübingen 1848). He insisted that attempts to understand the pure Roman law must include the study of its modifications in mediaeval and modern times, thus establishing the so-called mediaevistic trend in Roman law studies. Later, however, Bruns turned more toward the study of the ancient Roman law. His editing of the *Fontes juris romani antiqui* (Tübingen 1860), the successive issues of which show the influence of Mommsen's critical method, testifies to the fact that he had already shifted his interest, a shift which is evident also in the two essays on the history of Roman law which Bruns wrote for Holtzendorff's *Encyklopädie der Rechtswissenschaft* (3 vols., Leipsic 1870): *Geschichte und Quellen des römischen Rechts* and *Das heutige römische Recht*. The change came about as a result of his dissatisfaction with Ihering's theory of possession, which he believed was not justified by the pure Roman law. Bruns upheld his view in his *Die Besitzklagen des römischen und heutigen Rechts* (Weimar 1874). He also wrote numerous essays, of

which one on Greek testamentary law shows his expanded range of interest in all ancient law. This is manifested more fully in his *Syrisch-römisches Rechtsbuch aus dem 5ten Jahrhundert* (Leipsic 1880), published in conjunction with the orientalist, Eduard Sachau. It was this work which provided the impetus toward subsequent research in Roman provincial law.

FRANZ SOMMER

Consult: Stintzing, R. von, and Landsberg, E., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880–1910) vol. iii, pt. ii, p. 751–56; Smith, Munroe, *A General View of European Legal History* (New York 1927) ch. iv.

BRUNSWICK, TERÉZ, GRÓFNÖ (1775–1861), Hungarian educator and philanthropist. The beginnings of Countess Brunswick's liberalism may be traced to her father, a Hungarian nobleman, who taught her to admire Washington and Franklin. Perhaps the fact that she herself had not been subjected to the crushing influence of a school left her mind flexible for her educational work. The problem of bringing up the children of a widowed sister led her to seek out Pestalozzi in 1808. She became the lifelong devotee of the material and spiritual welfare of the children of the poorer classes, upon whom she felt the future of nations, particularly of Hungary, depended. Under the influence of Pestalozzi and Wilderspin she took advantage of the opportunity created by the Hungarian liberal movement led by Count Széchenyi to establish in Buda one of the first infant schools on the continent (1828). Other schools were soon founded and infant education in Hungary has its origin in her activities. Her pedagogical studies convinced her of the necessity for the spiritual and technical training of future teachers. Through her varied educational activities she played one of the most important roles in the diffusion of popular education in the nineteenth century. She also founded asylums of all kinds, among them workingmen's homes in Hungary, Austria and Bavaria, and participated in the establishment of a European women's general welfare association which studied far reaching problems such as coeducation and eugenics. Her niece, Blanche Teleki, who attempted to continue her work, was involved in the Revolution of 1848. Countess Brunswick has been identified by some writers as the "immortal beloved" of Beethoven.

ADOLPHE FERRIÈRE

Consult: Rapos, J., *Brunswick Teréz grófhölgy-nek élete és müve* (The life and work of Countess Thérèse Brunswick) (Pest 1868); Lipsius, I. M. (La Mara), *Beethovens unsterbliche Geliebte* (Leipsic 1908); Czeke, M., "Une grande amie de Beethoven: La Comtesse Thérèse Brunsvik de Korompa" in *Revue des études hongroises*, vol. vi (1928) 207–19.

BRUUN, CHRISTOPHER ARNT (1839–1920), Norwegian educator. Bruun, a clergyman, was from early youth interested in religious and ethical problems. He denounced modern culture for its moral slackness, accused the Lutheran state church of mental sluggishness and narrowness and condemned the quality of contemporary religious life. Although a rather paradoxical idealism sometimes cut him off from vital contacts with values other than his own, it was just this idealism which deeply impressed Ibsen and Björnson, contemporary politicians, teachers and national leaders and, above all, Norwegian youth.

Inspired by Grundtvig in Denmark, in 1867 Bruun dedicated himself to an ambitious plan for folk high schools (*Folkehöiskoler*), similar to the one established three years earlier at Sagatun. These schools, one of which Bruun founded at Wonheim and directed for many years, were for peasants of eighteen and upwards. They aimed to awaken latent intellectual powers, to stimulate the national culture and to develop a free and rounded conception of life. Teaching was mostly through discussion and was aimed at neither examinations nor economic advancement.

The schools met strong opposition from orthodox religious leaders, pietists and rationalists and for long failed to obtain state support. Consequently the movement had difficulty in competing with the more utilitarian county schools, which obtained government subsidies. Bruun carried on a determined campaign, however, and by 1876 won some support from the state. After his death the schools Bruun had fostered were granted larger governmental appropriations than the county institutions and for the first time exceeded them in number.

LILLY HEBER

Important works: *Folkelige grundtanker* (Popular basic ideas) (Christiania 1870, 4th ed. 1920); *Indlaeg i striden om folkehöjskolesagen* (Plea in the struggle for folk high schools) (Christiania 1879).

Consult: Uhrskov, Anders, *Christopher Bruun* (Copenhagen 1916); *Kristendom og norskdom, festskrift til Christopher Bruun* (Oslo 1919); Friberg, M., *Entstehung und Entwickelung der Volkshochschulen in den nordischen Ländern* (Bern 1897); Thornton, J. S., *Schools Public and Private in the North of Europe*, Great Britain, Board of Education, Special Reports on Educational Subjects, vol. xvii (London 1907).

BRYAN, WILLIAM JENNINGS (1860–1925), American political figure. His early training was intensely religious and his formal education was of an oratorical and moralistic nature, scientific training being conspicuously absent. He was trained for the law but was never successful at it, and the quest of a law practise brought him from Illinois to Lincoln, Nebraska, where he took active part in local politics. In his youth he had come into contact with agrarian discontent and in his early campaigns in Nebraska he designedly and by inclination made more of an appeal to the farmers than to the city workers and the townsmen. He had a Jeffersonian certainty that the farming classes were the backbone of the nation, but there is no evidence that he ever understood the difficulties of the urban factory workers. His firm belief in the unique importance of the farming class led him to accept their own remedies for their difficulties as true and adequate solutions. He became thus the greatest political exponent of American agrarian discontent, predicating his entire political career upon it and introducing agrarianism into the Democratic party. As congressman (1890–94) he came into national notice as an advocate of free trade and free silver, both measures being designed to benefit the farmers. His failure to receive the nomination for a third term in Congress released him for a skilfully managed propaganda in favor of the coinage of silver at the ratio of sixteen to one which resulted in his nomination for the presidency on the Democratic ticket in 1896.

The campaign that followed brought out the personal bases of his immense popularity, his unusual capacity for emotional oratory and his ability to cover enormous distances without apparent fatigue. He was the outstanding leader of the Democratic party from 1896 to 1915 and its candidate for the presidency in 1896, 1900 and 1908. He never achieved the presidential office, largely because he did not appeal to the urban voters, who felt that their interests were better served by the plutocracy or by other leaders. But despite his formal failure he was of real significance as the champion of the masses and as an advocate of the staple measures of political liberalism of his day. In his speeches and in his journal, the *Commoner*, which he conducted from 1901 to 1923, he advocated free trade, free silver, an income tax, prohibition, trust control, eventual government ownership of railways, woman's suffrage, abstention from imperialism, and international arbitration. His social creed was "the man against the dollar," and such an attitude made him an implacable enemy of concentrated wealth as symbolized by Wall Street. His influence on national legislation, through the Democratic senators and representatives in Republican administrations and his own part in the Wilson administration, was considerable. He even forced the dominant Republican party to deal with many of the issues he raised. In the Wilson cabinet Bryan became secretary of state, serving from March 4, 1913, to June 9, 1915, and resigning because he felt Wilson was moving toward participation in the World War.

Bryan's strength lay in a sensitivity to the aspirations of the disinherited, which, while it furnished the emotional drive for his political liberalism, led him also to an unmitigated belief that "the voice of the people is the voice of God." In economics, social morals or religion he rejected the intellectual formulations of his day and preferred the emotional common sense and tradition of the ordinary citizen to the analysis of the expert. After the war years and as he grew older his moral and religious interests gained the upper hand, and his closing years were made vivid by his campaign against the teaching of the doctrine of evolution in publicly supported schools, a campaign which reached a climax in the Dayton trial of 1925.

C. HARTLEY GRATTAN

Consult: Bryan, W. J. and M. B., *The Memoirs of William Jennings Bryan* (Philadelphia 1925), incomplete and on some matters inaccurate; Hibben, P., and Grattan, C. H., *The Peerless Leader: William Jennings Bryan* (New York 1929); Merriam, C. E., *Four American Party Leaders* (New York 1926) p. 63–84; *The American Secretaries of State and their Diplomacy*, ed. by Samuel Flagg Bemis, 10 vols. (New York 1927–29) vol. x, p. 3–44.

BRYANT, WILLIAM CULLEN (1794–1878), American journalist and poet. He was born of cultivated Puritan stock at Cummington in a part of western Massachusetts which retained many frontier characteristics. In 1810 he entered Williams College where, disappointed by the meager instruction, he remained less than a year. Law study, admission to the bar, discontented efforts to practise in Great Barrington, verse writing and marriage followed. He found the law "shabby," but within a few years made a national reputation by his poetry. He took up magazine work in New York in 1825, became assistant editor of the *Evening Post* in 1826 and

in 1829 succeeded William Coleman as editor, a position which he held until his death. He did much to elevate journalism and gave the *Evening Post* an influence out of all proportion to its slender circulation.

Bryant was early involved in the Jacksonian movement, which became strong not only on the frontier but among urban workingmen, and in his editorial capacity he gave vigorous support to the principal doctrines of Jacksonian democracy. In his radical position on the relations between government and corporations, in his hostility to Chief Justice Marshall and other centralizing leaders and in his slashing support of labor unions against hostile courts he was much influenced by William Leggett. During the period 1835–37 Bryant assailed the inflation and speculation of the time; he also attacked all infringements on free speech, free mails and free publishing, especially as regarded abolitionists. His association with the Democratic party lasted till 1844 when his opposition to slavery brought about a growing divergence; in 1848 he was a leader in forming and supporting the Free Soil party. In the decade before the Civil War he and his associate John Bigelow were among the most fiery antagonists of the expansion of slavery and advocates of Republican doctrine. During the war he took a "radical" stand, urging emancipation and other aggressive measures, but after its close he stood for a mild reconstruction policy and in 1872 supported the Liberal Republican movement until the nomination of Greeley disgusted him. In later years he showed equal zeal for tariff and civil service reform.

ALLAN NEVINS

Consult: Godwin, Parke, *A Biography of William Cullen Bryant*, 2 vols. (New York 1883); Bigelow, John, *William Cullen Bryant* (New York 1890); Wilson, J. G., *Bryant and his Friends* (New York 1886); Nevins, Allan, *The Evening Post: A Century of Journalism* (New York 1922) chs. v–x; Parrington, Vernon L., *Main Currents in American Thought*, 2 vols. (New York 1927) vol. ii, p 238–46.

BRYCE, JAMES (1838–1922), English historian, political theorist and statesman. He was a shrewd and tireless observer of life who sought, through a varied experience of his own, through conversation and inquiry and through constant travel, to understand fully the world in which he lived. He was always an indefatigable traveler—in the Caucasus, in South America, in South Africa and all the British dominions. Of him, as of the mediaeval Emperor Frederick II, it may almost be said that he was *universalis in omnibus rebus*.

As a historian of political institutions he must stand by his book on the *Holy Roman Empire* (London 1864, new ed. New York 1904), which is a permanent work of interpretative insight. As a commentator on modern democracy he has left the classical work on *The American Commonwealth* (2 vols., London 1888; new ed. New York 1910) and two volumes on *Modern Democracies* (2 vols., New York 1921). They show a rich descriptive gift; they contain the fruits of constant research conducted less in the study or by investigation of documents than by first hand inquiry and actual observation of the working of institutions. In his sociological method he went straight to the human factors which interested a deeply political mind—the quality of the human material in parliaments and assemblies, the methods of party organization and action, the character of a country's press, the influence of money in its politics. In one sense he was not systematic—he ranged freely from topic to topic; but the nature of his varied discourse had its analogy with the multiplicity of life itself. The work of Bryce as a jurist, represented by his two volumes of *Studies in History and Jurisprudence* (Oxford 1901), did much in a descriptive and analytic way to develop the concepts of comparative jurisprudence to which Sir Henry Maine had given such an impetus. In general his range as a writer was catholic: he could compare the Roman Empire with the British, and Roman law with English, at the same time that he could discourse on primitive Iceland or analyze the constitutions of the Boer republics in South Africa. He was always shrewd; he was generally just and accurate; but he tended to be diffuse, and the volume of his influence might perhaps have been greater if his work had been less voluminous.

As a Liberal politician and statesman he served for long years in Parliament and sat in cabinets. He belonged to a constellation (Morley, Haldane, Asquith, Grey) which was remarkable in the annals of British politics. His affinities were with Morley and Haldane; and like them both he combined (as Balfour on the Conservative side has also combined) the life of the scholar and the life of the politician. Less philosophic and less deductive than Morley or Haldane he had a richer grasp of facts and probably a deeper understanding of the people at large and the real world outside the study. Yet perhaps he lacked, as they lacked, construc-

tive political imagination and popular appeal. In the world of diplomacy and of international relations he played a part by which he will not least be remembered. The master who had written *The American Commonwealth*, the ready talker and eager inquirer, the great repository of knowledge, he was naturally a great ambassador to the American people; and his work in interpreting this people and the English people to one another was a basis for a new era of mutual understanding. In his latter days he interested himself deeply in the problems of international peace; he followed both the American and the British plans for the solution of those problems, corresponding particularly with friends in America; and he may be counted among those whose labors helped to produce the new international spirit of our days.

ERNEST BARKER

Consult: Fisher, H. A. L., *James Bryce*, 2 vols. (New York 1927); Barker, Ernest, "Lord Bryce" in *English Historical Review*, vol. xxxvii (1922) 219–24; Gooch, G. P., "Lord Bryce" in *Contemporary Review*, vol. cxxi (1922) 304–13; Becker, Carl, "Lord Bryce on Modern Democracies" in *Political Science Quarterly*, vol. xxxvi (1921) 663–75; Pollock, Sir Frederick, "James Bryce" in *Quarterly Review*, vol. ccxxxvii (1922) 400–14; Shaw, Albert, "James Bryce as we knew him in America" in *Review of Reviews*, vol. lxv (1922) 277–84; Rockow, Lewis, *Contemporary Political Thought in England* (London 1925) ch. ix; Murray, R. H., *Studies in the English Social and Political Thinkers of the Nineteenth Century*, 2 vols. (London 1929) vol. ii, ch. viii.

BUBBLES, SPECULATIVE. The term bubble came into use early in the eighteenth century as descriptive of the more highly speculative joint stock undertakings of the period. Blackstone narrowly defines as bubbles "all unwarrantable undertakings by unlawful subscription." But the term has since acquired a more general application, and is used with reference to any situation in which the cumulative effect of widespread speculation has been to enhance prices to a point having no apparent relation to the object of the speculation.

The three outstanding bubbles in history are the tulip mania in Holland, the Mississippi scheme in France and the South Sea bubble in England. All three came before any considerable development of organized speculation. They were made possible in large measure by general ignorance concerning economic phenomena, particularly the little understood but rapidly expanding field of credit.

The tulip mania in Holland reached its height in 1636 and 1637 toward the end of a prolonged period of prosperity. The culture of tulips began to assume importance in Holland early in the seventeenth century, and until the beginning of 1634 trading was limited to professional growers and experts. In 1634 the public entered the market. All classes of the population joined in the excitement; in fact the speculation was carried on chiefly by persons quite outside the ordinary tulip trade. The mania spread to some extent to London and Paris. Starting in the middle of 1635 prices advanced with increasing rapidity. A pound Witte Croonen, for example, which cost $50, was sold for $1440. The markets underwent a rapid evolution. During the boom period in 1636 neither payment nor delivery was made at the time of closing the transaction. By the middle of 1636 most transactions took place without basis on either side. The seller sold bulbs which he did not possess for a promise of money which the purchaser did not possess. Paper profits were therefore tremendous and contributed greatly toward heightening the mania. Speculation degenerated into sheer craze during the autumn of 1636, and the crisis came suddenly on February 3, 1637. Prices collapsed. The government endeavored unsuccessfully to straighten out the resulting chaos of broken agreements and canceled contracts. The situation was only gradually cleared as various cities took steps of one kind or another. While the crisis was a shock to the economic structure, it did not have serious after effects. Few important merchants or large companies had been involved. It had been built up largely on a credit basis among individuals, and the collapse of the structure resulted more in psychological than in economic anguish.

The Mississippi scheme is perhaps the greatest speculation in a single company that has ever occurred. Its creator, John Law, was a Scot who gained considerable prestige in French financial circles owing to the success of his Banque Générale, founded in 1716, which in addition to other banking operations engaged in the issue of banknotes. In 1717 Law founded the Compagnie de la Louisiane ou d'Occident, which took over the grant for Mississippi trade held by Antoine Crozat, as well as the Compagnie du Canada. Its capital was subscribed one fourth in coin and three fourths in *billet d'état*, the depreciated government paper of the time. At first the depreciation of government paper and the determined opposition of power-

ful enemies drove down the value of the new company's shares, and for about one year the 500 livre shares sold for about 300. In September, 1718, however, the Compagnie d'Occident acquired the monopoly of tobacco from the crown. Furthermore, Law's Banque Générale was transformed into the Banque Royale, with Law as director and the king guaranteeing its notes. During 1719 other companies with special grants for foreign trade were absorbed and the company obtained control of the mint, undertook the payment of the national debt and received the grant to collect taxes. This expansion required additional capital. Law adopted a plan similar to the modern method of stock rights, in which every holder of four original shares (*mères*) could purchase one of the new shares (*filles*) at a premium. Payments were spread over a twenty-month period. The first issue early in 1719 was made with a premium charge of 50 livres per 500 livre share. The price of shares rose to 750. The second issue in the summer required a premium of 500 livres, and the price advanced again. In October the third issue, made at a premium of 4500 livres, was oversubscribed, and the shares sold at 8000. Paris had become the center of speculation for the entire world. It is estimated that over 300,000 persons came to the city during September and October, 1719. The increased population and the general recklessness in money matters which usually accompanies these bubbles led to great activity in trade and industry. On January 5, 1720, Law became controller general of the finances, and individual shares in the Compagnie d'Occident reached 18,000 livres in value. But confidence began to dwindle. Foreign speculators withdrew their gains in bullion. People began to sell shares. By various methods Law endeavored to maintain the price of the stock, and finally he declared it fixed at 9000 livres. This transferred the panic to the banknotes, and there was a rapid increase in their circulation. The bank was compelled to suspend payments, and Law went into hiding. The people were enraged, and the government endeavored to meet the situation by a number of actions against persons who in one way or another might be held responsible for the bubble. Both the bank and the company were destroyed.

Perhaps the best known bubble is that connected with the South Sea Company. In 1711 there was incorporated in England a new undertaking known as the "Governor and Company of the merchants of Great Britain, trading to the South Seas and other parts of America and for Encouragement of the fishing." The company took over nearly £ 10,000,000 of public debt, on which it was to receive 6 percent, secured by certain permanent duties. In exchange it was granted a monopoly of British trade with South America and the Pacific Islands. In 1713 the company received a monopoly of the lucrative slave traffic with Spanish America. The undertaking was only moderately successful. Late in 1719 it embarked on the more ambitious project of taking over the entire national debt. The Bank of England immediately made a counter offer; but the bid of the South Sea Company was accepted. This involved an offer to the government of £7,567,500 for the privilege of taking over the national debt of £30,981,712, on which the government was to pay 5 percent for seven years, and then 4 percent. The aim of the directors was to persuade the persons holding the debt, of which a large part was in the form of terminable annuities, to exchange it for South Sea stock. The stock, which was to be issued at a high premium, would extinguish a large amount of annuities with a small amount (par value) of stock. The enabling act of Parliament was not passed until April, 1720.

In the meantime there was a new development, the promotion of new companies. In 1717 the share capital of existing companies had slighty exceeded £20,000,000, of which one half was in the South Sea Company and one fourth in the Bank of England. Late in 1719 people encouraged by the success of the existing companies began to purchase stock in new enterprises. Subscribing for stock was made easy, the prospective purchasers being required to pay only a small fraction of par value. During January, 1720, there was uncertainty concerning the new proposal of the South Sea Company, and the interest of speculators turned to new ventures. In February the nominal capital in new companies exceeded £30,000,000. It became evident during this month that the debt would probably be sold to the South Sea Company, and its stock advanced from 128 to 187. An inquiry into the new subscriptions was undertaken by Parliament, which undoubtedly checked somewhat the excitement of the speculators; but the advance was resumed in the middle of March. The advance was cumulative in the case of South Sea stock because the higher the market price of the stock, the greater was the profit to be made on the debt conversion.

On March 18, 200 was reached; and in April, when stock was offered to the public and the debt conversion had begun, the price was over 400. In a few weeks more than half the annuitants had consented to convert.

Speculation was spreading rapidly to other fields, and there was a fresh outburst of new promotions during April. The earlier period had seen for the most part ventures in fishing, insurance and finance. The new enterprises were for foreign and colonial commerce. The speculation became most intense from May 20 to June 24. South Sea stock advanced to 800, and new enterprises with any promise advanced to large premiums. The total capital of new companies floated during the single week ending June 11 was £224,000,000. Many of these new companies were fantastic. Some of the purposes stated were: to fish for wrecks on the Irish coast, to make salt water fresh, to make oil from sun flower seeds, to import a number of large jackasses from Spain, to manufacture a wheel of perpetual motion. The directors of the South Sea Company were concerned with making more funds available for investment in their shares. They loaned funds to prospective purchasers, holding the stock as collateral, but they also used their influence to check the volume of new companies which were competing with them for capital. As a result, the Bubble Act (par. 18, 6 George I., c. 18) was passed declaring these new enterprises subject to legal punishment if not fundamentally sound.

Late in June South Sea stock reached its peak at 1050. At this time England was interested only in security prices. Everyone came to Exchange Alley to buy and sell stock. But in August the fall began. The insiders were mostly out, and word of their withdrawal made the collapse more certain. Furthermore a legal attack brought by the South Sea Company against certain other companies was such a shock to credit that it rebounded against the value of South Sea stock. At first the decline was chiefly in the new companies; but in September, 1720, South Sea stock fell from over 700 to below 180.

Although the whole affair was primarily financial it brought serious business depression in its wake. An inquiry by Parliament disclosed fraud and corruption in the conduct of the South Sea Company. Certain government officials were fined or imprisoned. The estates of the directors were confiscated, about four fifths being devoted to the relief of the sufferers. The greatest losers were probably the annuitants who had accepted the offer to exchange. They eventually received about one half the original value of their annuities.

Although there have been no bubbles in recent times which can compare with the three just described, speculative crazes still exist. In England prior to the crisis of 1825 the speculation in new companies was nearly as wild as in the South Sea bubble. Over 600 new joint stock companies were formed requiring £372,000,000 share capital, and prices of established companies went skyrocketing. There was a similar era of promotion ending in 1866, but it was much less extravagant. In the United States railroad speculation approached bubble proportions between the Civil War and 1873. The mulberry tree "craze" of the thirties, the "hen fever" of the fifties, the gold or Kaffir boom in the nineties, the rubber boom in 1910 and the Florida land boom of 1925 must also be mentioned.

In recent years bubbles have often been related to new industries. In the very nature of the case there are no past records concerning similar enterprises which can be taken by prospective investors as a basis for judgment. The new companies require capital for their development, and consequently the investment bankers are often enlisted on their side, using all available methods to convince investors of the promise of the new industry. The development of turnpikes, canals and banks played an important part in the bubble which burst in 1825. The expansion of railroads during the period from the sixties to the eighties and the growth of the electrical industry both possessed the necessary appeal to the speculative interest. Since the war the development of aviation companies has followed the same course. Many investors failed to differentiate between aviation records and aviation profits. As a result the speculative period of 1928–29 saw 33 companies listed on the New York Stock Exchange and Curb Exchange whose securities reached a value of $1,160,000,000, only to decline in the ensuing period to $284,000,000.

At present waves in speculative interest appear to be one of the most evident characteristics of the business cycle. The marked advance in security prices during 1928–29 was supported by the psychological optimism of a period of prosperity. The marked increase in publicity given by newspapers to financial news and the application of high pressure salesmanship to securities further enhanced the intensity of the situation. On the other hand the rapid development of paraphernalia for speculation—stock

exchanges, brokerage houses—has eliminated some of the difficulties in the way of widespread speculative activity. The extensive use of credit through margin accounts and call loans is another modern phenomenon which tends to stimulate speculative interest. There is, however, some tendency to exaggerate the part played by the speculative element in the business cycle. Stock speculation is a symptom rather than a basic cause. It may exaggerate the crisis, but its chief importance lies in its effect on the psychology of business men.

The bubble is fundamentally a psychological phenomenon. It is based on the principle of projection. The speculator is aware of past advances of price. He is therefore convinced of future advances in prices. He purchases with no intent other than resale at a higher price, seldom considering the economic forces in the situation. He sees only the anticipated profit. The character of his position, emotional rather than rational, makes him extremely susceptible to rumor, and assures a severe crisis when the reaction sets in.

WILLARD L. THORP

See: SPECULATION; CRISES; BOOM.

Consult: Mackay, Charles, *Memoirs of Extraordinary Popular Delusions*, 2 vols. (2nd ed. London 1852) vol. i, p. 1–92; Posthumus, N. W., "The Tulip Mania in Holland in the Years 1636 and 1637" in *Journal of Economic and Business History*, vol. i (1928–29) 434–66; Oudard, Georges, *La très curieuse vie de Law* (Paris 1927), tr. by G. C. E. Massé (London 1928); Scott, W. R., *The Constitution and Finance of English, Scottish and Irish Joint-Stock Companies to 1720*, 3 vols. (Cambridge, Eng. 1910–12); Benjamin, L. S., *The South Sea Bubble* (London 1921); Cole, A. H., "Agricultural Crazes" in *American Economic Review*, vol. xvi (1926) 622–39; Mattram, R. H., *A History of Financial Speculation* (London 1929).

BUCARELI Y URSÚA, ANTONIO MARÍA (1717–79), viceroy of New Spain (Mexico) and "father" of the present American state of California. Bucareli was born in Spain and entered the army, rising to the rank of lieutenant general. He served also as governor and captain general of Cuba and was appointed viceroy of New Spain in 1771. A man of the highest character, he was also endowed with extraordinary abilities and is considered one of the best of the Spanish viceroys. His greatest work was on behalf of Alta California, as California was then called, where in 1769 after two hundred and fifty years of effort the Spaniards had at length founded settlements. After a precarious existence of four years these establishments were on the point of being abandoned in 1773, but were saved by a remarkable series of constructive measures on the part of Bucareli. Most important of these was the opening of a land route, which under conditions as they existed in those days was the only way that settlers and the other elements of a permanent establishment could be sent to the province. These measures culminated in the founding of San Francisco in 1776. In that same year California was taken out of his hands and included in a new government of the frontier provinces. In consequence the overland route was neglected and the development of population of the province which Bucareli's measures promised to effect never materialized. He had saved California from falling into the hands of England or Russia, which might have hindered its acquisition by the United States, but he was not permitted to give California a chance to become ineradicably Hispanic, perhaps eventually a Spanish American republic. The negligence of his successor served virtually to hold the land in trust for the later occupation by the United States.

CHARLES E. CHAPMAN

Consult: Chapman, C. E., *A History of California* (New York 1921) p. 269–76.

BUCHANAN, DAVID (1779–1848), Scottish economist. His most important work was his annotated edition of Adam Smith's *Wealth of Nations*, with a supplementary volume entitled *Observations on the Subjects Treated of in Dr. Smith's Inquiry* . . . (Edinburgh 1814). This volume presents many acute criticisms of Adam Smith, particularly of his rent theories, and advances an argument for progressive taxation on the ground that a proportional rate works a hardship upon the recipients of small incomes.

In 1844 he published an *Inquiry into the Taxation and Commercial Policy of Great Britain* (Edinburgh), a work in which he favored free trade and criticized the existing system of taxation. He was opposed to taxing manufactured goods, and although he accepted the income tax in principle he held that it was indefensible in practise since it allowed inequitable assessment and evasion and was inconsistent with the "spirit of freedom." Believing that rent was due to the monopolistic ownership of land Buchanan attacked in this book the Ricardian theory of differential rent as "a skilfully disguised fallacy."

W. H. DAWSON

Consult: Cannan, Edwin, *A History of the Theories of*

Production and Distribution (3rd ed. London 1924); Seligman, E. R. A., *The Shifting and Incidence of Taxation* (5th ed. New York 1927) p. 149, 195, and *Progressive Taxation in Theory and Practice* (2nd ed. Princeton 1908) p. 259.

BUCHANAN, GEORGE (1506–82), Scottish humanist, historian and political philosopher. He was educated at Paris and at St. Andrews and spent most of his life as a wandering scholar, teacher and poet. His political thought is foreshadowed in his Latin tragedy *Baptistes* (written about 1541), which discusses the rights of reformers to resist authority and is an acute psychological study of the mixed motives against which they have to contend. Returning to Scotland in 1561 Buchanan joined the Reformed church, served as lay member of several of its general assemblies and in 1568–69 sat on the commission sent to England by the reformers to state their case against Mary Queen of Scots—a case which he later presented to European public opinion in his *De Maria scotorum regina*, commonly known as *Detectio* (London 1571?). From 1570 until his death he was tutor to the young king James VI. Besides his classical if not unpartisan *Rerum scoticarum historia* (Edinburgh 1582), primarily valuable as a record of his own time, Buchanan's chief prose work was *De jure regni apud Scotos* (Edinburgh 1579, tr. into English by Robert Macfarlan, Edinburgh 1799). It was written between 1567 and 1570 and circulated in manuscript, so that it antedated the writings of the French monarchomachs. It is usual to say that the *De jure* contains no novel contributions because it is built on a foundation of mediaeval conceptions, the subordination of the king to law, the compact between king and people and the right to depose the king for breach of the compact. Actually Buchanan's development of these ideas makes his work the most modern between Machiavelli and Hobbes. The law to which the king is subject is positive law, enacted by the national legislative assembly and requiring constant change and experiment in the process of giving content to natural law, which Buchanan regards as merely a sense of justice. The function of the king is little more than to serve as a public example of good morals. Buchanan is one of the earliest writers to accept expressly the theory of majority rule. Answers to *De jure* were published by Blackwood, Wyznet and Barclay. In the next century it had a great vogue among opponents of royal absolutism.

JOHN DICKINSON

Consult: Brown, Peter Hume, *George Buchanan, Humanist and Reformer* (Edinburgh 1906); Glasgow-Buchanan Quatercentenary Committee, *George Buchanan: Glasgow Quatercentenary Studies 1906* (Glasgow 1907), containing complete bibliography of Buchanan's works and works about him, as well as an analysis of the *De jure* by W. S. McKechnie; *George Buchanan: a Memorial*, ed. by D. A. Millar (St. Andrews 1907).

BUCHANAN, GEORGE (1831–95), British public health authority. He was the son of a London practitioner of Scottish origin and graduated in 1855 from the University of London. He was a physician at the London Fever Hospital from 1861 to 1868, a period when "fever," largely typhus, was still endemic and frequently epidemic in London and had become the chief concern of public health authorities. In 1857 Buchanan was appointed medical health officer to the crowded, poverty stricken London parish of St. Giles. His early reports on conditions in this parish deserve comparison with the reports for the entire city made by John Simon. In 1869 Buchanan became permanent inspector of the Privy Council, of which Simon was medical officer; he was soon transferred with Simon to the newly formed Local Government Board and eventually succeeded the latter as the medical officer of this board. In the course of his work for the Privy Council Buchanan prepared an official report on the decrease of mortality in twenty-five towns, following the installation of main drainage works and the provision of public water supplies. The report pointed out the decline in typhoid fever and pulmonary phthisis with the decrease in the dampness of the soil. In a subsequent study of the vital statistics of certain areas in the south-east of England, Buchanan discovered an excess of phthisis in the districts of impervious soils as compared with districts of porous soils. Those investigations had considerable influence on the medical opinion of the day and were described by Simon as having "become classical in sanitary literature." Although the conclusions based on them must be modified in the light of modern knowledge of both tuberculosis and statistical method, the preference for porous soils still exists even if the directness of the causal relationship is questioned.

ARTHUR NEWSHOLME

BUCHANAN, JOSEPH RAY (1851–1924), American labor leader. Born in Missouri and a printer by trade he was drawn to Colorado in 1878 by the "Leadville Fever." The railroad

brought cheap labor and wage cuts to Leadville, and Buchanan found himself on the street corners agitating for striking miners. From Leadville he moved to Denver, where he started a small paper, the *Labor Enquirer*, and acquired sufficient fame to be named Rocky Mountain representative of the International Workingmen's Association in 1883. The depression of 1884–85 and the receiverships into which speculation had thrown the western railroads brought on a series of wage reductions for the shopmen. In May, 1884, the Union Pacific shopmen walked out and appealed to Buchanan for leadership. He organized them into assemblies of the Knights of Labor, which he had joined through his affiliation with the Typographical Union, and won the strike. Within a year four great railroad strikes were fought, and his leadership of the famous strike on the Denver and Rio Grande Railroad and the victory over Jay Gould won for Buchanan a place on the general executive board of the Knights of Labor, then at the height of its power. He broke with Powderly in 1886 over the expulsion of the Cigar Makers from the order and attempted to lead a secession when he was excluded from the Minneapolis General Assembly. He was active in the movement to save the men sentenced in the Haymarket bomb affair, in the People's (Populist) party and for a time in the Socialist Labor party. In 1892 and again in 1894 he attempted to unite the scattered forces of labor but without success.

His autobiography, *The Story of a Labor Agitator* (New York 1903), reveals a romantic individualist who could find no place in party or organization demanding regularity and assent. His life and adventures probably best epitomize the type of labor agitation and revolt which first made its appearance in the far West.

NORMAN J. WARE

Consult: Ware, Norman J., *The Labor Movement in the United States, 1860–1895* (New York 1929).

BUCHENBERGER, ADOLF (1848–1904), German statesman and agricultural economist. After completing a course in cameral science Buchenberger entered public life in Baden in the seventies, and after 1893 served as its finance minister. It was largely due to his broad concept of the office that Baden was known as the best governed of the south German states.

Buchenberger approached the problems of government scientifically. He was most interested in questions of agricultural policy growing out of the rise of economic protectionism in Germany, such as the development of new crops, better credit facilities, a lightening of taxation on agriculture and other measures for improving the conditions of the peasant and small landholding class. In 1882 and 1883 he conducted a thorough statistical survey of the agricultural situation in Baden which was unique in its field and became the model for similar undertakings by other territories. As part of Adolph Wagner's voluminous *Lehr- und Handbuch der politischen Ökonomie*, he wrote *Agrarwesen und Agrarpolitik* (2 vols., Leipsic 1892–93), the standard work of the period on German agricultural policy. It is remarkable both for its erudition and for its judgments, and many sections are still considered authoritative. The theory of economic individualism is contrasted with a program for systematic state intervention in favor of agriculture, carefully moderated so that the sense of individual responsibility would not be weakened by the supervising activity of the state. Under the title *Grundzüge der deutschen Agrarpolitik* (Berlin 1897, 2nd ed. 1899) Buchenberger gave a condensed, popularized account of the premises and the aims of his agricultural policy.

AUGUST SKALWEIT

Consult: Reinhard, R., "Zur Erinnerung an Adolf Buchenberger" in *Zeitschrift für die gesamte Staatswissenschaft*, vol. lxi (1905) 131–58.

BUCHEZ, PHILIPPE JOSEPH BENJAMIN (1776–1860), French social philosopher. After the failure of the Carbonari movement, in which he had taken a prominent part, Buchez became converted to Saint-Simonism; this too he renounced in 1829 because he disapproved of the pantheistic religious doctrines of Bazard and Enfantin. His own social philosophy is presented in the *Introduction à la science de l'histoire* (Paris 1833; 2nd ed. 2 vols., 1842), and the *Essai d'un traité complet de philosophie, du point de vue de catholicisme et du progrès* (3 vols., Paris 1838–40). During the Revolution of 1848 he was elected to the Constituent Assembly, of which he became president on May 4 as a representative of the moderate wing. His influence as a politician was slight and after the revolution he retired into private life.

The basis of Buchez' philosophy is the conception of continuous progress through successive stages of history. The last stage was initiated by the revelation of the Christian religion and will be completed when the precepts of Christ, equality, fraternity, charity, have been applied

to social organization. Since, as he believes, the church has failed in its mission, other forces must accomplish its work. Buchez' sympathy with the achievements of the French Revolution was expressed in *Histoire parlementaire de la révolution française* (40 vols., Paris 1834–38; 2nd ed. 6 vols., 1846), a vast collection of documents which he edited in collaboration with Roux-Lavergne. Accepting the revolution, he nevertheless condemned violence. Here as elsewhere his political doctrines, like those of other French democrats under the bourgeois monarchy, are somewhat vague and confused. As a practical measure of reform Buchez advocated, especially in his publication *L'européen*, that working men form associations to assume control of raw materials and the tools of production. Thus he may be regarded as a founder of the producers' cooperative movement. The working class newspaper *L'atelier* (1840–50) derived its inspiration from Buchez' ideas, while his theoretical writings exercised an important influence on J. M. Ludlow and other English Christian Socialists.

HENRI SÉE

Consult: Ott, A., "Notice sur M. Buchez" in Buchez' *Traité de politique et de science sociale*, 2 vols. (Paris 1866); Castella, G., *Buchez historien* (Fribourg 1909); Cuvillier, Armand, "Buchez, le fondateur en France de l'association ouvrière de production" in *Revue des études coopératives*, vol. i (1922) 356–71; Weill, Georges, *Histoire du parti républicain en France de 1814 à 1870* (Paris 1900).

BÜCHNER, LUDWIG (1824–99), German philosopher. Brother of the revolutionary dramatist, Georg Büchner, he was a leader in the *Materialismusstreit* which raged in Germany in the last half of the nineteenth century. He had been trained as a physician and after his dismissal from the University of Tübingen caused by the publication of his *Kraft und Stoff* (Frankfort 1855, 21st ed. Leipsic 1904; tr. by J. F. Collingwood London 1864, 4th English ed. from 15th German ed. London 1884) devoted himself to study, scientific popularization and social agitation.

Büchner's materialism pretended to be the logical corollary of the exact and biological sciences. Together with Vogt and Moleschott he regarded the categories of mechanics—force, matter and motion—as fundamental, explanatory terms to which everything could be reduced.

The real import of his theory was its opposition to dualism of the metaphysical religious variety. In order to combat religious dogmas more effectively it erected into opposing dogmas the tentative results won by the science of its own day. In discussing social and political questions it appealed not to revelation but to the laboratory and, after Darwin, to the workshops of nature. Büchner never worked out a consistent theory of materialism. He characterized his position as "realistic monism" in contrast to the dualistic idealism which was the current state philosophy. He won adherents among the rank and file of the German Social Democrats by virtue of the negative impact of his "militant naturalism" rather than by anything positive. Marxian theoreticians (e.g. *vide* K. Kautsky's *Materialistische Geschichtsauffassung*, Berlin 1929), following Engels' lead, have dubbed his standpoint "vulgar materialism," condemning its mechanism, its unhistorical character and its sentimental ethical tendencies. Büchner's other important works are *Natur und Geist* (Frankfort 1857, 3rd ed. Halle 1874) and *Darwinismus und Sozialismus* (Leipsic 1894, 3rd ed. Stuttgart 1910).

SIDNEY HOOK

BUCKET SHOPS. A bucket shop is an organization which poses as a commission brokerage house, dealing either in stocks or in grain and cotton futures, but which does not actually execute the trades that are ostensibly made through it for the account of its customers. If, for example, a customer gives the bucket shop an order to purchase on margin 50 shares of corporation stock, the bucket shop merely makes a book entry indicating that the customer has purchased this amount of stock at a nominal price based on the next transaction on some exchange. When the customer orders the stock sold he is credited with the nominal selling price and his margin deposit is returned to him with an addition or deduction for his profit or loss. If the customer decides instead of selling to pay out the balance of his account and take the stock, the bucket shop must of course buy it for him, taking a profit or loss on any change in price which may have occurred. In effect the bucket shop simply speculates on the opposite side of the market from each of its customers to the extent of the customer's open trades.

There are several advantages which the house derives from bucketing. First, there is a saving in interest. Whereas a commission house expects to make a moderate profit on the difference between the rate it charges customers for loans and

the rate it pays for bank accommodation, a bucket shop can keep the entire amount of interest which it charges all margin buying accounts just as if the orders had actually been executed. Second, a bucket shop saves the expense involved either in maintaining representatives on the floor of an exchange or in payment of commission to exchange members. Its commission rates are ordinarily the same as those of a legitimate house, but the charges are net profit. Third, there is a possibility of profiting by manipulation of purchase and sale prices. A legitimate brokerage house reports to each customer the actual price involved in every trade for his account and is interested in securing for him the most favorable prices possible. The bucket shop reports an arbitrary price, based in theory on the next official quotation after the order is received. This procedure offers the house an opportunity to report as high a price as is plausible. For instance where orders are received by mail it is quite possible to report the highest price on purchases and the lowest price on sales made during the day.

Bucketing, of course, exposes the house to the risk of speculative loss if its customers are predominantly on the right side of the market. When the shop has a considerable number of customers it is to be expected that long and short accounts will to a considerable extent offset one another. In case there is a predominance of long accounts, as is usual, the bucket shop can, of course, eliminate its risks by actual execution of a sufficient number of purchase orders to leave the bucketed trades in balance.

A more roundabout method of bucketing came to public attention as the result of a long series of failures of brokerage houses in the winter of 1921–22. In this method of operation a customer's order was executed in the regular way, either through an exchange or "over the counter." At the same time the house actually made a trade of the same size on its own account, taking the opposite side of the market. For every share its customers were "long" the house was "short," for every share they were short it was long. At the close of each day the purchases and sales were in balance, so that no stock had to be received or delivered and no money had to be borrowed or advanced by the house.

During the protracted period of falling security prices which terminated in the summer of 1921 a large number of concerns employed this system to their very great profit. Because the majority of their customers were committed to the long side the houses which practised "trading against orders" made money on their own trades, while the low interest rates they charged served to attract a huge clientele. When the market turned upward and the public began to make money such firms failed in great numbers. Investigations usually showed that those of the customers' funds which had not been lost in trading short against the rising market had been wasted or stolen.

The fight against bucket shops is being carried on by public authorities and by the organized exchanges. Several states have enacted laws specifically aimed at bucketing. One of the most effective of these is the Martin Act of New York state, which imposes upon the attorney general the duty of detecting and prosecuting bucket shops. The organized exchanges prohibit their members from doing business with bucket shops and withhold ticker service from suspicious non-member brokerage firms. These measures have not so far succeeded in completely doing away with bucket shops; many of them continue to inflict losses upon the inexperienced speculator of small means and to discredit speculative trading in the eyes of the general public.

CHARLES O. HARDY

See: SPECULATION; STOCK EXCHANGE; COMMODITY EXCHANGES; FRAUD.

Consult: Huebner, S. S., *The Stock Market* (New York 1922) p. 60–65; Barnes, John K., "Fighting the Fakers in Finance" in *World's Work*, vol. i (1925) 614–19; Wyckoff, R. D., "Bucket Shops and How to Avoid Them" in *Saturday Evening Post*, April 8 and 22, 1922; Boyle, J. E., *Speculation and the Chicago Board of Trade* (New York 1920) p. 89–96; Hill, John, Jr., *Gold Bricks of Speculation* (Chicago 1904) p. 19–91; Wille, Conrad A., *Das System des Bucketshop* (Berlin 1914).

BUCKLE, HENRY THOMAS (1821–62), English historian. Buckle's *History of Civilisation in England* (2 vols., London 1857–61; new ed. by J. M. Robertson, 1 vol., 1904) is but the introduction to a great work which was cut short by the author's early death. He begins by describing the method of a true inductive science of history, of which his work is to be the first example. Man is wholly a part of that nature about which modern science has discovered so much. The incompetence of historians, their preoccupation with individual biographies, with political and military history, coupled with the lack of adequate statistical materials on past ages, have hitherto prevented history from establishing itself as a true science

with a body of laws. Drawing on his wide reading Buckle by a process of inductive reasoning worked out physical, moral and intellectual laws which he claims are universally valid. Physical laws are of two kinds: those which show the relation between such factors as soil and climate and material wealth; and those which show that where nature is too terrible man's mind is overstimulated, that where nature is too mild man's mind is understimulated, and that only in Europe is the balance reached and man made nature's master. Moral laws are everywhere unchanging and therefore without influence on man's progress. Intellectual laws show that the genuine scientific method, a combination of induction and deduction, has, when allowed free play, guided human beings—or rather certain European races—to more perfect civilization. Buckle then attempts to illustrate these laws from the history of France, Spain and Scotland and concludes therefrom that complete intellectual freedom, with the consequent willingness to doubt and investigate, permits the unimpeded working of the laws, but that the "protective spirit" in art, thought and industry curbs their operation and impedes progress.

Criticism of this system is too easy to be profitable. But in its very inadequacies the *History of Civilisation in England* is one of the most important works in the history of the social sciences. In the first place it was translated into all the important European tongues and widely disseminated (Wallace found it in translation in the huts of Russian peasants). Its brash confidence in progress, its lordly generalizations, its apt detail and its swinging rhetoric, its attacks on conservatism, especially on clerical conservatism, gave it a place superior even to that occupied by Comte, Mill and Spencer in the minds of thousands of obscure, faithful nineteenth century radicals. In the second place it is, by the fact of its great circulation, one of the best possible sources for a study of an important phase of public opinion of the time. For the investigation of the meaning given by even quite ordinary Victorians to such abstractions as "progress," "liberty," "civilization," "protective spirit," it is invaluable. Finally, although Buckle was exceptionally gifted for abstract speculation, his attempt to apply his powers to the stuff of history resulted in so many unresolved difficulties, so many faults of logic, that his work must remain as a warning to all who hope to deal with history as a science.

Buckle scandalized contemporary historians and perhaps helped to keep them more than ever attached to safe and narrative history. Recent historiography is, however, wholly in sympathy, if not with Buckle's methods, at least with his underlying assumptions as to the nature of history. In particular his emphatic insistence on the study of the masses of men rather than of the exceptional individual has helped to create modern social history.

CRANE BRINTON

Works: *Miscellaneous and Posthumous Works of Henry Thomas Buckle*, ed. by Helen Taylor, 3 vols. (London 1872), containing a biographical notice by the editor.

Consult: Huth, A. H., *The Life and Writings of Henry Thomas Buckle* (New York 1880), containing a bibliography; Fränkel, F., *Buckle und seine Geschichtsphilosophie* (Berne 1906); Robertson, J. M., *Buckle and his Critics* (London 1895); Barth, Paul, *Die Philosophie der Geschichte als Sociologie* (Leipsic 1897) p. 278–84; Stephen, Leslie, *The English Utilitarians*, 3 vols. (London 1900) vol. iii, p. 344–75.

BUDDHISM

DOCTRINES AND INFLUENCE. Buddhism is a religious system which, since its origin in India in the sixth century B.C., has spread out to nearly all the Asiatic countries and so influenced their peoples that oriental culture in large measure may be called Buddhistic. Its name is derived from an appellation of its founder, "Buddha," or the "Enlightened," who is otherwise known as Gotama, his family name, or Sakya-muni, the sage of the Sakya clan which inhabited a portion of the borderland of the Himalaya range and the valley of the Ganges. The appellation Buddha was one adopted by the founder himself, probably in contradistinction to the other prevailing epithets signifying sage, seer or leader. It expressed a significant characteristic of his leadership: the conviction that a man fully enlightened in the truth of existence, aware of the oneness of all beings, had a mission to lead all fellow beings to a life embodying that truth and therefore to the same dignity of Buddhahood.

The metaphysical conception of the oneness of existence had been developed through many years by the Brahmanic predecessors of Buddha, but its application as a practical social ideal had ever been hampered by the caste system and the sacerdotal authority of the Brahmans, the privileged priestly class of India. This caste monopoly was, at least in theory, broken down by the leadership of Buddha, who had himself belonged to the warrior class but abandoned all the glories and luxuries of an aristocrat for the

sake of his spiritual ideal. When he appeared as the teacher of a new gospel of equality, however, he was not so much an active social reformer as a propounder of the way of purity to be practised by all. His disciples included men and women, princes and outcasts, wealthy and mendicants, scholars and barbers, even sinners and robbers. His ministry and the consequent formation of the community (*sangha*) of his disciples aroused little resistance from the established religions except in a few instances. The *sangha* had become quite a significant force throughout India by the time of his death, about 480 B.C. (the dates of birth and death of Buddha are controversial; most scholars now agree upon *c.* 560–480 B.C., but in Burma, Siam and Ceylon the dates 623–543 B.C. are generally accepted); in succeeding years its influence spread gradually and steadily beyond the boundaries of India until within ten centuries the Buddhist religion had become the ruling force of nearly the whole of Asia. Even in India, where it disappeared as an active religion about the tenth century A.D., the Buddhist tradition never wholly ceased to influence religious and social life.

Buddhism as a driving force in faith and culture can be understood only after an examination of the spiritual sources of its influence. Perhaps the most important factor in its appeal was the personality of its founder. He exemplified in his own life and stressed in his leadership the fact that worldly glories or wealth have nothing to do with the real value of life; that neither knowledge nor erudition but spiritual insight or "enlightenment" is the key to real bliss; and that fellowship in sympathy and charity is the consummation of self-training. The importance of this doctrine lay in its emphasis not only on the power of personality but also on the equality of every person in respect to the destiny to Buddhahood. Herein lay the kernel of Buddhism as a universal religion, which could not only overshadow the caste system of Brahmanic India but could unite peoples of different races and cultures in one ideal of universal perfection.

The type of personal training advocated by Buddha was also largely responsible for the influence of his doctrines. Asceticism had long been a major force in Indian society. Buddhism took over this ideal, and the methods of Buddhist training were certainly ascetic. Buddha himself, however, went through them as a middle way between pleasure and self-torture, with the aim of self-purification leading to the denial of selfish motives and to the realization of the oneness of existence in the spirit and life. Although some forms of Buddhism developed extreme ascetic practises, Buddha personally emphasized moderation. Buddhist training bore its best fruits in the development of strong personalities and in a widespread and effective stimulation of charity and social service. Indeed the Buddhist training resulted in something like a harmonious combination of the spiritual exercise of the Jesuits, the charity of the Franciscans and the social service of the Benedictine monks.

The doctrinal basis of Buddhist influence is contained in the teaching of karma and dhatu, which may be considered the fundamental ethical and social ideas of Buddhism. The metaphysical basis of these ideas may be found in the Brahmanic *Upanishads*, but it remained for Buddhism to develop their social implications. The central concept of karma is that of deeds and retributions lasting through lives: the present life is the result of the past karma, the future of the present; life is a continuity surpassing the reach of memories and stretching beyond the grave, a link of changing and moving forces of deeds and retributions. This continuity is not limited to the individual life but applies also to grouping of beings, dhatu. Just as one individual life constitutes a phase of the long series of deeds and retributions, so the nature of a group is the manifestation of a common karma as well as the determining force for the beings born into the group. And as there are infinite varieties of karma, so are the kinds of dhatu numberless, ranging from the larger realms of existence, such as the heavenly worlds and the purgatorial circles, the races of animals and mankind, to the groupings of people according to locality, community, class, guild, family and even to the links binding loving couples or hated enemies. Not only weal or woe, love or hatred in the individual life, but the growth or decay of races, the rise or decline of kingdoms and even of world systems —every movement of life is a phase of the large cosmic movement of the forces called karma and dhatu.

These ideas had a variety of social manifestations. They led people to see the extent and meaning of life even to the overcoming of its individual limitations. Karma comprises thought, speech and bodily acts, all of which must be purified to assure escape from the entanglements of vicious karma. But since mental acts—ideas, feelings, intentions—are chiefly emphasized, spiritual exercise and training of

the will assumed great importance. Appealing to the sentimental life, the idea of karma refined it by arousing a delicate sense of sympathy in every movement of feeling and emotion. Herein lay the basis of one of the characteristic features of Buddhist charity, its close association with a sense of compassion or commiseration (*metta-karuna*). In practise Buddhism encouraged social service of many kinds as part of the obligation of every Buddhist to his fellow beings, not only because of the links of karma and dhatu but in order that these fellow beings might be led to Buddhahood, or "Supreme Enlightenment." On the other hand it must be realized that the influence of the doctrine of karma was stronger in affecting sentiment than in leading to active work; it is also true that in many cases the doctrine led to an easy submission to the irrevocable. Thus western critics of Buddhism are not entirely mistaken when they criticize it as fatalistic and pessimistic, but such criticism fails entirely to explain the vitality and quickening influence of Buddhism in its period of growth.

One factor in this influence was the vitality of the sense of community given by Buddhism and developed from certain aspects of the conception of dhatu. The dhatu may be a solidarity based either on avaricious intentions or on mutual service and loyalty. Since most worldly groups are products of custom and instinct, there is great need for the deliberate formation of others on the basis of reason and high ideals. The Buddhist *sangha* as the most important of such groups is called the "harvest-field of merit" (*punna-khetta*); and it was in the formation of *sangha* that the fundamental ideas of Buddhist faith found actual embodiment. The *sangha* was a community for the mutual enhancement of meritorious deeds. Not only did its regular members, the monks and nuns, owe one another help and emulation; these monastic members contributed to the community the "gift of truth," i.e. teaching, while the lay followers, particularly those who were organized in a kind of tertiary order, were responsible for the "gift of provision." Thus the pervading idea of Buddhist life was that of mutual indebtedness, religious, moral and economic, not limited to the visible community but in ideal communion extended to all the saints of the past and future, visible and invisible beings, all destined to become enlightened and finally to attain Buddhahood. It was the actual community that proved effective in enforcing discipline, in organizing social and missionary work, in perpetuating ideals and traditions, while the ideal extension of the fellowship inspired all Buddhists to a sense of union transcending race, class, country or time. This idea of invisible communion in enabling Buddhism to adopt the divinities of other religions made easier the spread of the Buddhist faith; in keeping alive the sense of communion with the intangible genii of nature it both enhanced the poetic imagination and induced compromise with animistic beliefs.

A central tenet of Buddhism is the universal application of its "Three Gems": the "Person" of Buddha, the "Truth" revealed by him and the "Community" of his followers. The missionary spirit of Buddhism was originated by the founder himself. Buddhists call the first preaching by Buddha "Turning the Wheel of Truth,"—the wheel which goes unimpeded everywhere, the truth which is destined to lead all beings to Buddhahood. According to tradition Buddha hesitated to reveal his spiritual vision because he thought it too hard for common mortals to grasp. The overcoming of this hesitancy implied his determination to open wide the "Gateway of Immortality" to all; and the first sermon given at Benares about 525 B.C. together with the missionary charge delivered to his disciples heralded the opening of a great missionary movement which was destined to cover the whole of Asia. The fifty years of his ministry were spent in journeys of preaching, consoling, admonishing, throughout the valley of the Ganges. Many of his disciples followed his example, one of them starting a foreign mission among the savage Suna tribes beyond the Indus. The missionary spirit of Buddha was expressed by his adoption of the appellation Tathagata, meaning Truth-winner and Truth-revealer.

In his lifetime Buddha not only visited pest stricken regions and penetrated into warring countries, but he also caused his rich followers to establish hospitals and asylums, to institute famine relief and travelers' aid; even the poor shared in the giving of personal service. There are many legends illustrating his effectiveness in overcoming caste distinction and in stimulating sympathy and charity; even if these have no basis in fact they show the ideal aims of Buddhism in the period of its growth. More solid historical data as to its development are found in the edicts of King Asoka inscribed on rocks and preserved nearly intact, wherein Buddhist works of social service and the establishment of foreign missions are unmistakably recorded. Asoka's reign (*c.* 269–*c.* 232 B.C.) marks the high point of

Buddhist influence in India and it was due to his zeal that Buddhist missionaries traversed the continents and seas. Within a few centuries most of southern Asia had come under Buddhist influence, while Central Asia and the Far East were brought into the circle during the first five centuries of the Christian era. Introduced into China in the first century A.D., it spread into Korea in the fourth century, thence into Japan in the sixth and southward from China into Annam about the tenth century A.D.

The spread of Buddhism was notable for the number of strong personalities it engendered. Buddhist missions everywhere supported and stimulated a cultural vitality that led to the development not only of saints and ascetics, missionaries and social workers, but also of statesmen and physicians, artists and poets. Of many we have historical records, others left works of art or literature, while some survive only in deified form. Indeed largely to Buddhist inspiration is to be credited the galaxy of great men and some women adorning the histories of the Asiatic peoples in the thirteen centuries from 500 B.C. to 800 A.D.

The civilizing effects of Buddhist influence are no less marked. In addition to its rich heritage of Brahmanic culture Buddhism absorbed a certain amount of Greek culture, which had early implanted itself in the northwest of India. After a further contact with Persian influences Buddhism civilized the nomad peoples of Central Asia. Under its inspiration scripts and systems of writing were adopted, worship was adorned by art and the social life was largely molded by its ideals. No more vivid testimonies to the civilizing influence of Buddhism are seen than in the relics unearthed from the buried cities of Central Asia. But of more far reaching importance was its influence upon Chinese culture, which was destined to mold the civilizations of Korea, Japan, Tibet and Indo-China. Buddhist influence also progressed southward even as far as the Melanesian Islands, where, however, the Brahmanic heritage was more predominant than in the north.

Though not entirely homogeneous the whole of Asiatic Buddhadom during the first six or seven centuries of the Christian era formed an area of one pervading culture in which Buddhism was definitely the inspiring and integrating power. This oriental civilization, however, could not resist the forces of disintegration. The effects of political separation, the migrations of the nomad tribes and the division into schools and sects were brought to a climax by the Mohammedan invasions and the Brahmanic revival and finally broke down the solidarity and the common culture of Buddhadom. In India Buddhism has been of minor importance since the twelfth century A.D.; in other countries it has taken on national characteristics. But whatever its present position or future fate no one can ignore the fact that Buddhism was once an integrating and civilizing force throughout the whole of the Orient.

The weakness and the strength of Buddhism were alike due in large part to the tendency to compromise which characterized Buddhist propaganda. Buddhism has always worked as a conciliatory force, only in the most exceptional instances fostering the development of a combative attitude. Thus there was no aggressive hostility manifested by Buddhism in its contacts with Zoroastrianism, Manichaeism, Nestorian Christianity, Confucianism, Taoism or even with Brahmanism, in protest against which it developed. Rather in every case a certain amount of mutual influence resulted from the contact; this was equally true of the relationship with lower forms of religion among less advanced peoples. Wherever Buddhist propaganda proceeded it enfolded the native deities within its own pantheon and made more or less of a compromise with the original beliefs and practises. In many cases Buddhist influence elevated and purified the autochthonous heritage, especially during the first stages of proselytism when inspiration was fresh; but the compromise often involved degeneration in Buddhism itself. Yet no one can conclude that even such corrupted forms of Buddhism as Shamanism and Lamaism will never renew their vitality. In fact signs of reawakening are visible in most of the Buddhist countries today, and Buddhism may well claim the serious consideration of the whole world.

M. Anesaki

Institutional Organization. The basis of Buddhist organization is the monastic system and the value placed upon monasticism as a way of life. In every country this system developed its own peculiar characteristics, in some cases achieving great strength. In Tibet, for instance, Buddhist monks became stronger than the secular party and the Dalai Lama is head of the state as well as of the Buddhist order. In mediaeval Japan the great monasteries threatened to become the chief military as well as the chief political power; only the destruction in the six-

teenth century of some of the largest establishments restored power to secular groups.

Monasticism as the organizational basis of Buddhism derived its strength from its place in Buddhist doctrine. For while Buddhism does not deny to the layman the possibility of achieving happiness, its ideal is the monastic and contemplative life and the support of the monasteries is a duty of every lay member of the faith. The strength of this tradition has assured the spread of the monastic system without the development of central agencies and with full freedom for local variations of structure and opinion.

This emphasis on the importance of the monastic way of life Buddhism inherited from Vedism and Brahmanism. The earliest Indian reference to the religious solitary is in the *Rig-veda* (x. 136) where the *muni*, or monk, described as clad in a faded yellow robe, is shown obtaining power to pass through the air and enter the realm of the gods. Here is an indication, about 1000 B.C., of the root from which developed that yellow robed order, the most far flung and picturesque in the world; and here too can be traced the beginnings of the theory which plays a considerable part in popular Buddhism, that *tapas* or austerity gives men magic power. From this root sprang the *paribbajakas*, or friars who, usually under a chosen leader, wandered from place to place living on alms and only during the wet season went into retreat in order to avoid harming the insect life with which the earth teems during the torrential rains in India.

The Buddha was the leader of such a group. This order, or *sangha*, began very simply. The simple words, "Ehi bikkhu" ("Come, be my monk"), with which he called men of all social ranks to join him were gradually replaced by the elaborate *upasampada*, or ordination ceremony, with its declaration of faith in the "Three Gems"—Buddha, Teaching and Order—confession of sin, tonsure and other requirements. But in two collections of psalms by early followers which have come down to us there is ample evidence of the democracy and the spirit of enthusiasm in the first little group. It seems clear too that women, although with some hesitation, were admitted as nuns. The great mass of people, however, were called to a different life, yet one which centered about the Teacher. To the inner circle he offered the Middle Path which leads to *Nibbana*; to the lay people he promised rebirth in a heaven through devotion to his person. This division into monks and nuns on the one hand and lay people on the other led naturally to a division of function: the monks being "the harvest-field of merit" and the laity winning merit and progress to some heaven by gifts of food, clothes and buildings. As the friars needed a place for meditation, kings and merchants presented them with parks and monasteries; thus there came into existence the *vihara*, or dwelling place, and the *chaitya*, or shrine—each to develop from simplicity to great complexity. The bas reliefs of Barhut supplement the texts in illustrating this development. They show, for instance, a king building a monastery and a rich merchant buying a park for the monks. The edicts of Asoka (third century B.C.) indicate that the great emperor was not only their patron but gave them advice as to what they should read and warned them against the dangers of schism.

In the Bhabra Edict Asoka mentions a *vinaya*, or code of discipline. The *patimokkha* (at first a way of conduct of the sect, later a ritual of the order) seems to have been the core of such a code, to which were added rules as occasion arose. The whole elaborate system can no more be traced to the founder than can the monastic rules of Christendom be traced back to Jesus, but it seems clear that the Buddha had much more definitely in mind than did the founder of Christianity an order of monks whose aim was that experience of transcendental truth which he called *Nibbana*, and that the teaching activities of the monks, like all other things, were subordinated to this; whereas the first group of Christian disciples were sent out to preach a new social order based upon a new vision of the divine nature. It is also clear that both groups became increasingly more monastic and ascetic than either founder intended. Thus the followers of Buddhism began to meditate upon skulls and to visit burial grounds, as the followers of Jesus began to turn away from the married life and to attach an exaggerated importance to penance and suffering. In Buddhism there was, about 100 A.D., a new orientation toward a more emotional morality, a multiplication of personal deities and a higher valuation of service to one's fellows rather than the achievement of personal merit. A similar transformation of Brahmanism, visible in the *Bhagavadgita*, was occurring at about the same time. The new movement in Buddhism called itself Mahayana (the great way), and the older ascetic tradition Hinayana (the little way). Neither group supplanted the other, but it was the Mahayana movement with

its appeal to the masses and its social emphasis, its more elaborate ritual and also its infiltration of popular superstitions and practise of magic that colored Buddhism in its spread throughout the Orient. Both schools have a canon, and Tibetan Buddhism, born of the blending of the Mahayana with Tantric Hinduism, has its own canon and commentaries.

With a developing Buddhology there arose a hierarchy within the monastic system. The first step in this process may be said to have occurred when the primitive *stupa* (burial mound to mark some sacred spot or enshrine some relic) was turned into an altar and the monk into a priest. The simple dirge:

Sabba dukkha all is sorrowful
Sabba anicca all is transient

gradually passed into an elaborate "three-part service" with chant, reading and sermon, and the head of the *vihara* became a great abbot honored by kings: the *chaitya* became an elaborate cathedral. These developments were complete within about five centuries of Gotama's death, although he is pictured emphatically insisting, as he dies, that his followers are not to appoint a successor as their chief and even refusing to make rules for their guidance. Other texts, however, show him doing both these things and in the growth of this later tradition may be seen both the process by which the elaboration of the *sangha* is accomplished and the growing veneration in which the founder is held until he becomes "God over the Gods" and the eternal *dharma*, law, embodied in time. The early distinction between the novice, *samanera*, and the elder, *thera*, developed into a hierarchy of four orders with a head abbot. It has been to the detriment of Buddhism that its monks have frequently become too powerful and that, as in Christendom, missionaries have given place to leaders or armed knights and retainers. But in each Buddhist country there is a strict or reformed sect claiming to go back to the discipline of the early *sangha*.

Buddhist monasticism has tended to resist centralized authority. The Meditative sect (*Chan* in China, *Zen* in Japan) claims a patriarchal succession with the great missionary Bodhidharma (sixth century A.D.) as twenty-eighth in succession from Kasyapa, appointed by the Buddha; but this is unhistorical and at best embodies the fact of a great succession of authoritative mystics. In many monasteries the abbot is elected for a three-year period; and each abbey foundation is a law to itself. Although Dengyo and his contemporary Kobo in the eighth and ninth centuries and Nichiren in the thirteenth sought to establish a national church, even Japan with its strong centralized government has preferred denominational allegiance. In the Shinshu sect with married priests and hereditary abbot it seems to approach greater unity, but even this sect is no more a national church than that of the Methodists of the United States, which it resembles in numbers, pietism and wealth. Buddhism, the religion of mystic enlightenment, believes in the authority of the saint rather than in that of the ecclesiastic, and when a great leader arises he is called the "Great Teacher." The monks are still in theory mendicants vowed to poverty and "clad in rags." The "rags" may be priceless brocades and the mendicant a prince —as in Christendom.

As Buddhism spread throughout the Orient, this monastic order established itself with varying strength in different countries. A typical Buddhist kingdom is that of Siam, in which the order is mildly ascetic, the dominant although not the only religion, given its place of honor by a devout people and a loyal king and in which the king's brother is Sangharaja, chief of the order. Very similar is its place in Burma and Ceylon, where its strength is shown by such magnificent monuments as the Shwe Dagon and the parks and buildings of Anuradhapura and by the fact that today it owns as much as one third of the arable land of Ceylon, and has two pagodas to every village in Burma. In China Buddhism is but one of several officially recognized religions; but here too it has not failed to gain lands and wealth.

With the rise of nationalism in modern Ceylon and Burma the numbers and prestige of the monks have increased; world weariness in China has again filled the monasteries; and throughout Buddhist countries, perhaps most noticeably in Siam, there are rising standards of scholarship among the Bhikkhus. Education has always been a Buddhist activity; the hold upon the young which this gives the monks is not being relaxed; in some centers it has been tightened by imitation of western Christian methods such as religious education, clubs and social service work.

In return for the "gift of teaching" the order continues to ask the alms of the faithful. These are usually given cheerfully by the women; but the men realize that with one son in every family a monk, as in Tibet, or with the endless building of pagodas, as in Burma, the Yellow Robe is at times a very burdensome economic liability.

Young China is making deliberate war on the monks. Modern Japan, on the other hand, looks kindly upon the order, which is not only her ally in the "pacification of Korea" but with the enhancement of land values in Japanese cities has become an economic power. There were in 1918 in Japan 71,681 temples, 117,982 priests and 5023 nuns in a population of 50,000,000. This may be compared with the figures for Ceylon with its 2,750,000 Buddhists and its 7700 monks in a total population of 5,000,000; for Burma with 75,000 monks in 10,500,000; for Siam with 93,000 monks in a population of 8,500,000; and for Tibet with 700,000 lamas in 3,500,000. Figures in China are harder to estimate as Chinese Buddhists can usually be also reckoned as Confucianists and Taoists, but there are nearly a million monks in Chinese Buddhist monasteries.

Much smaller in numbers but still influential in their austerity are the hermits. "Wander solitary as the elephant," say many passages of the Buddhist books—and these men, immured in some cave in the Himalayas or alone in the jungles of Burma, have their appeal to many to whom the sanity of Buddha's Middle Path seems too mild and reasonable. These extreme ascetics keep alive the dim hope of *Nibbana*, now accepted in all Buddhist lands as unattainable in this age. The otherworldly hermit remains to reproach the worldly monk or layman. This example cannot destroy but may spiritualize the organization of Buddhist monasticism.

K. J. SAUNDERS

See: BRAHMANISM AND HINDUISM; RELIGION; PRIESTHOOD; MONASTICISM; ASCETICISM; YOGA; SAINTHOOD; PROSELYTISM; SECTS; ATHEISM.

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BUDÉ, GUILLAUME (1468–1540), French jurist and humanist. Budé was secretary to Francis I and later *maître des requêtes*. He was a student of archaeology, translated the works of Greek authors and wrote several treatises on linguistics. He was the first to employ philology in the elucidation of Roman legal texts, striving thus to avoid the errors of the mediaeval jurists, Glossators and Bartolists in their commentaries on the *Corpus juris civilis*. In his *Annotationes in Pandectas* (1508) he points out numerous copyists' mistakes and proposes judicious corrections. He was the precursor of the modern Romanists, who from the time of Cujas have been concerned with textual criticism and with the study of Roman law as history rather than as contemporary legislation. This method had as its ultimate result the weakening of the influence of the *Corpus juris* on the political thought of the time.

Budé's political ideas are to be found in his *De l'institution du prince* (1516), which already foreshadows the absolute character of the French monarchy. According to Budé it is wrong for the king to disregard his own ordinances but he is not accountable if he does so. The treatise *De asse et partibus* (1515), although it is devoted nominally only to the Roman monetary system, deals in reality with Greek as well as Roman monetary problems, such as the basis of division, the variation in weights, the relative value of gold and silver and the purchasing power of precious metals. It is the oldest French study in economic history and created a profound impression on its appearance.

GEORGES BOYER

Works: The most convenient edition is the *Omnia opera*, ed. by Coelius Secundus Curio, 4 vols. (Base 1557).

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BUDGET is a term derived from the old English word *bougette*, the sack or pouch from which the chancellor of the exchequer extracted his

papers in presenting to Parliament the government's financial program for the ensuing fiscal year. It has been defined by René Stourm as the "document containing a preliminary approved plan of public revenues and expenditures."

While this is a satisfactory description of the budget document, it fails to bring out the real significance of the budget system, which is to provide for the orderly administration of the financial affairs of a government. The conduct of such affairs involves a continuous chain of operations, the several links of which are: estimates of revenue and expenditure needs, revenue and appropriation acts, accounts, audit and reports. An estimate is first made of the expenditures that will be required for the proper conduct of governmental affairs during a fixed period, usually one year, together with proposals for raising the money to meet these expenditures. On the basis of this estimate revenue and appropriation acts are passed giving legal authority for the action determined upon. Following this the operating services open revenue and appropriation accounts corresponding to the items of the revenue and appropriation acts and proceed to expend the money so voted. The data recorded in these accounts are examined by the auditing and accounting department to insure their accuracy, to see that they correspond to the real facts and represent a full compliance with all provisions of law. The information furnished by these accounts is then summarized and given publicity in the form of reports. Finally on the basis of these data new estimates for the next year are made and the circuit is begun again. In this chain of operations the budget is the instrument through which the several operations are correlated, compared and examined at one and the same time. The budget is thus more than a mere estimate of revenues and expenditures. It is, or should be, a report, an estimate and a proposal: the document through which the chief executive, as the authority responsible for the actual conduct of governmental affairs, presents to the fund raising and fund granting authority a full report regarding the manner in which he and his subordinates have administered affairs during the last completed year, and a statement of the present condition of the public treasury. On the basis of such information the executive sets forth his program of work for the coming year, with proposals as to the financing of such work.

The most important feature of a budget is comprehensiveness. It must assemble in one consolidated statement all facts regarding expenditures and revenues, past and prospective, the actual financial condition of the treasury and the condition of the treasury as it will be if the proposals contained in the budget are put into execution. These facts, moreover, must be presented by means of balanced statements, so that the relations between past action and proposals for the future, between revenues and expenditures and between resources and obligations may be clearly seen. Thus the budget presents the whole problem of financing the government at one time and focuses legislative attention on the relation of the total expenditure needs to the total prospective revenues.

The fact that budgets must be made in advance of the period in which they are to operate involves some difficulties. Exigencies unforeseen when the estimates were drawn up necessitate additional expenditure, often upsetting the balance achieved by the budget. Moreover additional appropriations, while sometimes unavoidable, make possible the kind of undesirable expenditure which it is in part the object of the budget to prevent. Administrations may even resort to the trick of submitting to the legislature a budget which will easily win approval and of trying later to secure additional appropriations on the grounds of emergency, thus relying on the decreased vigilance of the legislature and sometimes on the *fait accompli* of administrative commitments to win approval for expenditures which might otherwise have been refused. Another manner of evading the budget is the transfer by operating authorities of funds from one appropriation account to another, followed by an appeal to the legislature to grant additional moneys to cover the indispensable operations of the account tapped. Most budget systems now forbid the practise of transfer and provide for control of all additional appropriations, with a view to making them undergo the ordinary budgetary procedure and thereby maintaining the balance of revenue and expenditures.

Extraordinary budgets have at times been passed in addition to the main ordinary budget, chiefly to finance war or war preparations or for such elaborate expenditures as were necessitated by the railroad building programs of European governments. These expenditures are covered by loans, and the cost of amortization is shifted to future years or generations by omitting the items from the ordinary budget. Whatever justification this procedure may have in cases of dire necessity it has been abused by classifying

as extraordinary items which are really not extraordinary, in order to create an impression of economy by not overloading the ordinary budget. In most countries this practise has in recent years been practically discontinued. Similarly the practise of omitting from the main budget activities expected eventually to yield comparable return (e.g. industrial bounties or subsidies) and of covering the expenditure by loans for the repayment of which no provision is made in the budget has proved unfortunate in numerous cases when the expected revenue has failed to materialize. Such operations can be properly controlled only by means of the ordinary budget.

Other items which escape accounting in the ordinary budget are expenditures connected with revenue producing services, of which the postal service and railroads are typical. For administrative reasons such services are generally autonomous subsidiary corporations, and separate budgets cover the finances of each; these are tied into the main budget only by noting the net result, profit or loss, of the whole year's operations.

The conception of the budget as the central instrument of financial direction and control is a comparatively recent development. In England and on the continent the use of the budget as a financial program, emanating from the executive and submitted to the representative assembly for approval, was chiefly the outgrowth of the demand that no financial burden be imposed upon the people without their consent expressed through their representative assembly. In England the right of such financial control is very old, having been specifically extracted from both King John and Edward I. It was violated occasionally by the Tudors and was a crucial point in the struggle between Parliament and the Stuart kings culminating in the civil war of 1642–49 and the revolution of 1688. The accession of William and Mary and the passage of the Bill of Rights settled finally the exclusive right of Parliament to levy taxes and to authorize expenditures. Similar struggles were experienced in America and France, also culminating in revolution, and after 1789 the principle of parliamentary control of finances spread over Europe. Although *Voranschlagen* were known as early as the fifteenth century in Prussia and were made public as early as 1688 complete budgets did not come into existence in Germany until the early nineteenth century constitutions of Bavaria, Saxony, Württemberg, Hessen and Baden confirmed the ancient legislative right of consent to taxation. The main revenue and expenditure figures were made public in Prussia in 1821 to bolster up public credit, and constitutional rule brought a *Staatshaushalt-Etat* to that country in 1850; but as late as 1862 Bismarck, unable to agree with the Landtag on finances, could still assume for the royal administration the power to act alone lest the inability to reach a compromise stop the life of the state. Austria adopted a budgetary system in 1766, but full legislative control of finances did not come until after the fall of the Hapsburgs in 1919.

In these struggles interest centered on revenue rather than on expenditure. The budget as first used was little more than the means of controlling the raising of revenue from the people, and comparatively slight attempt was made to set up any control over the expenditure of the funds. Gradually, however, the principle was developed that the popular assembly should control not only the raising of revenues but the purposes to which such revenues should be devoted. Viewed in this broader aspect the use of the budget may be said to have had its beginning in England about the time of the revolution of 1688, and in France and other countries of Europe at the time of the French Revolution of 1789.

Since this principle of securing from the executive a formulated financial and administrative program had become firmly established in all the leading countries of Europe early in the nineteenth century and represented such a manifestly desirable device, it is remarkable that it was not adopted in the United States until the beginning of the twentieth century. Prior to that time little or no attempt had been made to distinguish between the two operations of formulating and taking action upon a financial program; both were considered as parts of the function of the legislative branch. Although the several administrative services were generally required to submit to the legislature so-called estimates of their expenditure needs, these represented merely individual requests for funds. The essence of a budget system, that is, a program proposed by the chief executive in which there is a balancing of the two sides of the account with recommendations regarding both expenditures and the means of financing such outlay, was wholly lacking.

The first move to correct this condition of affairs was made in municipal government. In the efforts to improve municipal administration

special attention was given to the demand that municipalities put the administration of their finances upon a budgetary basis. In the model municipal corporation act, drafted under the auspices of the National Municipal League in 1899, a section was inserted which provided that: "it shall be the duty of the Mayor . . . in each year to submit to the Council the annual budget of current expenses of the city, any item in which may be reduced or omitted by the Council; but that the Council shall not increase any item in nor the total of said budget." This provision, though a step in the right direction, indicates that at that time there was no clear conception of the function of a budget. It does not require the submission of recommendations regarding the means of financing proposed expenditures, or a balancing of income with expenditures to show the effect of the proposed expenditure program on the financial condition of the government, or a comparison of proposed with past expenditures so that the purport of the program may clearly be seen. This provision, however, marks the beginning of an increasing appreciation of the proper nature and function of a budget and a steady progress in the adoption of proper budgetary systems by municipal governments in the United States.

From the municipalities the movement for the adoption of a budget system passed over to the states. Beginning with California and Wisconsin in 1911 and Massachusetts in 1912 practically every state of the union has now made some provision for the formulation and use of a budget. The movement to establish a budgetary basis for the national government received its impetus from the recommendations of the President's Commission on Economy and Efficiency, created in 1910 by President Taft. This commission prepared two reports on the subject which had great effect in bringing to the attention of the public the importance of budgetary reform, not only in the case of the national government but in that of all government bodies.

The work thus inaugurated was taken up by the Institute for Government Research, created in 1916, which prepared and secured the adoption by Congress on June 10, 1921, of a bill providing for a budget system. At the same time the two houses of Congress revised their rules of procedure governing the handling of appropriation measures so as to bring them into harmony with the new system thus created. This act, known as the "Budget and Accounting Act, 1921," together with the amendment of the rules just cited, provides for what is probably the most complete budgetary system existing in the United States, if not in the world.

First and foremost it vests in the president the sole responsibility for requesting the grant of funds by Congress. Annually he must submit to a regular session of Congress a document to be known as a budget, in which shall be set forth in detail: first, the condition of the Treasury at the end of the last completed fiscal year, the estimated condition of the Treasury at the end of the year in progress and the estimated condition of the Treasury at the end of the ensuing year if the financial proposals contained in the budget are adopted; second, the revenues and expenditures of the government during the last completed fiscal year and the estimated revenues and expenditures during the year in progress; third, the provisions which in his opinion should be made for meeting the revenue and expenditure needs of the government during the year to ensue; and fourth, such other financial statements and data as he considers necessary or desirable in order that Congress may have before it all the information required to determine the administrative and financial policies of the government in the future. To make this responsibility of the president still more definite the act further provides that no estimate or request for an appropriation or the increase of an estimate or any recommendation as to how the revenue needs of the government shall be met shall be submitted to Congress, or any of its committees, by any administrative officer unless at the special request of Congress or one of its houses.

A second important feature lies in the fact that the president is given an organ of general administration through which he can meet this added responsibility. This organ, known as the Bureau of the Budget, which is located in the Treasury Department but actually functions as an independent service directly attached to the office of the president, has as its primary function the duty of receiving, compiling and criticizing estimates of expenditure needs as they emanate from the spending services. On the basis of the information thus compiled for him the president determines the recommendations that he will submit to Congress in his budget. It is, furthermore, the duty of the bureau "to make a detailed study of the departments and establishments for the purpose of enabling the President to determine what

changes, with a view to securing greater economy and efficiency in the conduct of the public service, should be made in (1) the existing organization, activities and methods of business of such departments or establishments, (2) the appropriations therefor, (3) the assignment of particular activities to particular services, or (4) the regrouping of services." The bureau thus has the continuing task of informing itself regarding the organization and operation of the government in order that it may consider intelligently requests of the operating services for funds and recommend to the president action that will put the government upon a more economic and efficient basis.

The passage of this act represented but part of the action required in order to put the administration of the financial affairs of the national government upon a proper budgetary basis. The law would largely have failed to accomplish its purpose had it not been accompanied by an equally revolutionary change in the method of handling financial proposals as provided for by the rules of the two houses of Congress. This change did away with the old vicious system under which the expenditure needs of the government were considered by nine different legislative committees, each working independently of the other and without reference to any general financial program. Thenceforth all jurisdiction over expenditure was vested in a single committee of appropriations in each house. At the same time the form of the appropriation bills was radically changed so as to bring together all the items of appropriation pertaining to the several departments, bureaus and other operating units of the government, thus securing a centralization of responsibility and an orderly arrangement of items for consideration of financial proposals similar to that which had been brought about in respect to their formulation by the budget act.

The new system thus established does much more than merely provide for an improved technique in the formulation and consideration of financial proposals. It has modified the whole system of national administration. Indeed it may be said to have affected profoundly the political system itself. It has brought about a greater change in the character of the office of the president than any which has occurred since the first organization of the government. It has made the president the working head of the administration in fact as well as in name. The budget serves as his plan of operations, determining what and how work shall be done and by which arm of the operating services; as such it is comparable to the report of the general manager of a business house to his board of directors. It has radically altered the relations between the president and Congress on the one hand and between the president and the administrative departments and establishments on the other. In the purely administrative field it has changed a condition of affairs in which the individual services largely went their own ways, considered their own interests and paid little attention to general needs, to one in which they are subject to that measure of central direction, supervision and control that is essential to a subordination of special to general interests, a coordination of efforts and a uniformity in procedure that are imperative if efficiency and economy in operation are to be secured.

The budget system of the United States government has profoundly influenced budgetary procedure in the states and their political subdivisions. The systems of the states, however, vary widely in character. Their most fundamental differences appear in the selection of the organ or agency that shall be responsible for the formulation of the budget. Those states which have gone the farthest in the way of reorganizing their administrative branches by grouping their services in departments have tended to follow the federal budget system of placing responsibility for the formulation of the budget directly upon the governor, and giving to him an agency through which he may meet this responsibility. Some states have entrusted the making of the budget to an ex officio administrative board and others to a board on which members of the two houses of the state legislature are represented. These systems are undergoing constant modification, the trend being to bring them more and more into harmony with the federal system.

The most recent development in the movement for budgetary reform in the United States is toward strengthening the power of the chief executive so that he may control the execution of the budget after it, or rather the appropriation acts based upon it, have been enacted. This takes the form of requiring the approval of the chief executive or some central agency acting for him before contracts or other obligations may be entered into or new activities undertaken, and in giving to the chief executive or his central agency the power to prescribe systems of business procedure. The tendency is, therefore, to

make the chief executive increasingly responsible not only for formulating a budget but for its effective execution.

The American federal system is strictly analogous to that of England where the formulation of the budget is concerned, although the American budget document itself is far superior in its technical arrangement and presentation of data to the English budget. The two systems are, however, radically different in respect to the principles governing the handling of the budget by the legislative branch. In England, as a result of the Parliament Act of 1911, the upper house has no power to modify the budget except when the lower house is willing to accept such modification. Furthermore the rules of procedure of the House of Commons provide that no proposal for the expenditure of funds will be considered unless it originates with the ministry; nor will any motion to increase a grant requested by the ministry be entertained. The powers of the House are thus restricted to the reduction of appropriations as proposed by the ministry and to the general consideration and criticism of such proposals. Even the power to reduce is theoretical rather than actual, since the ministry, with its parliamentary majority, can usually defeat such a motion. The result is that in England the executive formulates as well as determines the action upon the budget. As a consequence of this the consideration of the budget in Parliament tends to be perfunctory, and criticism relates mainly to matters of policy rather than to the technical expenditure needs of the government. Some five sixths of the revenue and six sevenths of the expenditures are even fixed by continuous law and do not go through the ordinary budgetary process. This has been the subject of considerable complaint in England, many critics arguing that in effect the submission of estimates never allows direct control over expenditure proposals, and that many estimates in which changes might have been justified emerge from the parliamentary process untouched.

In the United States, Congress retains full power to modify budgetary proposals, a power that can be and is exercised by both houses. For this reason the work of considering and taking action upon the budget constitutes one of the most important tasks of Congress. Elaborate hearings are held by the Committee on Appropriations of the House, and to a less extent by the Committee on Ways and Means of the Senate, for the purpose of determining the justification for the grant of funds requested; and amendments providing for an increase as well as a decrease in appropriations are made while the appropriation bills are under consideration on the floor of the two houses. Differences between the houses are adjusted through a conference committee.

Thus in America requests for funds are considered by both an executive agency (Bureau of the Budget) and a legislative agency (Committee on Appropriations), while in England only the Treasury has power to give requests effective consideration. The American system has proved as satisfactory as the English system in keeping down appropriations (during the seven years that the system has been in force no instance has occurred in which Congress has appropriated a larger total than that asked for by the president); and in addition to eliminating the evils of legislative initiative in making estimates it retains the advantage of effectual legislative consideration of executive proposals. The two systems, it should be noted, are in strict conformity with the political systems of which they are a part. The English principle of responsible government requires that the ministry's will shall prevail in respect to financial as well as other legislative proposals; while the American principle of the separation of powers requires that the final determination shall rest with the legislative branch.

In France each minister prepares an estimate for his department. The minister of finance summarizes them, adds an estimate of revenues drawn up solely by his department and drafts the budget message. Constitutionally his authority is no greater than that of any other minister, and he can do little to control their estimates other than make general recommendations of economy. The distrust of the executive, characteristic of the French legislature, is expressed in budgetary procedure by the reservation of full rights to amend ministerial estimates up or down. Until 1900 French deputies could introduce amendments on their own initiative and even today this power has not been entirely removed. Through its power of initiating the budget the lower house dominates the upper in France, the latter often being deprived of any real opportunity to examine the budget because of the late date on which it is passed by the Chamber.

The German budget system, as laid down by the Weimar constitution, contains a number of unusual features. The minister of finance en-

joys special powers in drawing up estimates, and when he has the chancellor's support he can veto requests of his other colleagues. He thus acts as a sort of controller general. The upper house exercises more authority than its counterpart in most other countries, and when it has the support of the president of the republic it can override the lower house. The special powers which under Article 48 of the Weimar constitution may be assumed by the president in "emergency" situations were recently (July, 1930) used to dissolve a Reichstag which had failed to reach an agreement on the budget. The budget systems of colonial dependencies are in various stages of evolution in respect to both the separation from the budget of the homeland and the principle of legislative control. Perhaps the chief indication that they have outgrown colonial status is that the British self-governing dominions make and execute their own budgets. Whatever the legal fiction may be, real colonial budgets imply the dominant control of the home government. In India the budget is that of "the Governor General in Council," and although the Indian legislature discusses it, the lower and relatively popular house has no control over it. Even the Governor's Council, in which officials and nominated members are a majority, must bow to the will of the chief executive, who is responsible only to the home government. Both the Philippines and Porto Rico have budgets of their own; but again the colonial legislature is subject to the wishes of the executive, especially since each statute provides for the renewal of the current budget in case of failure to pass a new one. Thus the administration, controlled by the home government, enjoys a supreme advantage in negotiating budgetary legislation with the colonial legislature.

W F. WILLOUGHBY

See: REVENUES, PUBLIC; EXPENDITURES, PUBLIC; PUBLIC FINANCE; LOCAL FINANCE; MUNICIPAL FINANCE; FINANCIAL ADMINISTRATION; ACCOUNTS, PUBLIC.

Consult: GENERAL: Stourm, René, *Le budget* (7th ed. Paris 1913), tr. by T. Plazinski (New York 1917); Jéze, Gaston, *Traité de science des finances* (Paris 1910).

UNITED STATES: Willoughby, W. F., *The Problem of a National Budget* (New York 1918), and *The National Budget System with Suggestions for Its Improvement* (Baltimore 1927), and *The Movement for Budgetary Reform in the States* (New York 1918); Upson, L. D., *Practice of Municipal Administration* (New York 1926); Buck, A. E., *Budget Making: A Handbook on the Forms and Procedure of Budget Making with Special Reference to States* (New York 1921), and "Progress in State Budget Making" in *National Municipal Review*, vol. xiii (1924) 19–25; Buck, A. E., and others, *Municipal Finance* (New York 1926); National Municipal League, Committee on State Government, *A Model State Constitution* (New York 1921); National Municipal League, Committee on a Model Municipal Budget Law, *A Model Municipal Budget Law* (New York 1928); Buck, A. E., *Public Budgeting* (New York 1929).

OTHER COUNTRIES: Willoughby, W. F. and W. W., and Lindsay, S. M., *The System of Financial Administration of Great Britain* (New York 1917); Mallet, B., *British Budgets 1887–88 to 1912–13* (London 1913); Mallet, B., and George, C. O., *British Budgets, Second Series, 1913–14 to 1920–21* (London 1929); Buchholtz, P., *Grundriss des Haushalts- Kassen- und Rechnungswesens in Reich, Staat und Gemeinde* (Mannheim 1924); Neumark, F., *Der Reichshaushaltplan*, Finanzwissenschaftliche und Volkswirtschaftliche Studien, no. 16 (Jena 1929); Dobbert, G., and Witt, O., *Das einheitliche Staatsbudget der U. d. S. S. R.*, Finanzwissenschaftliche und Volkswirtschaftliche Studien, no. 17 (Jena 1930); Miller, R. C., "Budgets of Western European Countries," United States, Department of Commerce, Bureau of Foreign and Domestic Commerce, *Trade Information Bulletin no. 222* (Washington 1924); Villard, H. G., and Willoughby, W. W., *The Canadian Budgetary System* (New York 1918); Radlauer, E., *Finanzielle Selbstverwaltung und Kommunalverwaltung der Schutzgebiete*, Abhandlungen aus dem Staats- und Verwaltungsrecht, no. 20 (Breslau 1910).

BUDIN, PIERRE (1846–1907), reformer of obstetrical practise and education in France, creator of infant welfare centers. As a young obstetrician in the Paris hospitals he succeeded in gaining for his colleagues a rank and prestige equal to that of other physicians and surgeons. In later years, as professor of obstetrics, president of the Société Française Obstétrique and editor of *L'obstétrique*, he contributed to the safeguarding of maternity by affording medical students for the first time the opportunity of gaining practical obstetrical experience in the course of their training. But Budin is chiefly important because by inaugurating a modern system of scientific care of infants he was instrumental in lowering the high infant mortality rate in France. Distressed by the ignorance of the mothers in caring for their babies after birth, Budin opened in 1892 his first "Consultation des Nourrissons" at the Charité hospital in Paris and began his campaign against the great waste of infant life caused by gastro-enteritis. Babies were brought each week for weighing and examination, and for those who could not be breast fed the clinic distributed sterilized milk sealed in bottles containing the proper amount for each feeding. The results were so gratifying that similar centers were

established elsewhere in Paris and, after the formation of the League against Infant Mortality in 1902, were extended to all parts of France. In his book, *Le nourrisson* (Paris 1900), Budin made available the knowledge gained from his experiences in the infant welfare centers. His work has proved a great incentive to the present systems of child welfare.

RENÉ SAND

Consult: Bar, P., in *L'obstétrique*, vol. xii (1907) 97–107.

BUFFER STATE. This term is often used to describe a weak state, small in size, probably without a positive foreign policy of its own, which lies between two or more powerful states and thus serves to inhibit international aggression. Such a state may be a result of historical accident, as in most historic cases. Or it may conceivably be the deliberate creation of the neighboring larger states or of a wider international concert; it seems impossible, however, to indicate any definite example of such a procedure, and perhaps it is more accurate to say that a buffer state is recognized and maintained as such by international agreement after it has come into existence by natural growth. With the development of powerful national states, especially in Europe, this practise has to some extent gained favor, although it cannot be said to have attained any general or well recognized status as a device in international relations. The policy which it represents has thus far been followed chiefly in connection with the maintenance of the balance of power.

In order to insure the continued existence of the buffer state its independence may be guaranteed by agreement among the neighboring states. Such an arrangement may be carried further and the territory of the buffer state may be formally "neutralized," i.e. rendered immune to invasion and utilization as a theater of war. If, however, the neighboring states wish to reenforce such an agreement by any restrictions upon the power of the buffer state to formulate and follow a foreign policy of its own, to maintain armaments, to engage in military action or to carry on any other independent activity, its consent must first be obtained. It may be worth while for the buffer state to accept the restrictions in consideration of the presumably greater security which it is to obtain by the guaranty. In any event the buffer state is compelled by circumstances to maintain relatively non-aggressive and neutral relations with its neighbors, since its position is difficult and dangerous at best.

Belgium presents the clearest and most familiar example of a buffer state; another example is the Netherlands, although it stands less directly in line between Germany and Great Britain than does Belgium between Germany and France. The position of Luxembourg is similar to that of Belgium, and Switzerland occupies a highly important buffer position among her neighbors, Italy, France and Austria. The Baltic states and especially Poland, as well as Rumania and the Balkan states, have in the past, and do still to some extent, served as buffers between Russia or Turkey and central European powers. Great Britain has to some extent utilized Persia and Afghanistan as buffers between Russia and India; another example in Asia is, perhaps, Manchuria which, however, is not an independent state. In South America Uruguay and Ecuador may be regarded as buffer states although the absence of very aggressive foreign policies among the states of this continent makes their position less important.

The history of the past century does not augur well for the possible value of the buffer state as a deliberate device for the maintenance of international peace. It has proved impossible to create an independent Rhineland between Germany and France because both of these states have been unwilling to yield territory for this purpose. Moreover the buffer state is not easily persuaded to surrender its rights under circumstances which normally allow active foreign policies to be maintained and to rely upon an international guaranty or neutralization which may prove ineffective in time of need. It is likely to prefer alliance with one of its powerful neighbors and thus to disturb the balance of power. Where the buffer state exists naturally it may serve a useful purpose, but even here the situation is delicate and difficult for all concerned. In the past the force of national foreign policy and military aggression has been too strong, and international protection too weak, to render secure or stable the situation of even the guaranteed buffer state. Neutralization of restricted areas, portions of buffer states or frontier zones, may prove to be more satisfactory, but the elimination of international aggression would seem to be the only effective remedy for threatened attack by one state upon another.

PITMAN B. POTTER

See: BOUNDARIES; FRONTIER; NEUTRALIZATION; BAL-

ANCE OF POWER; AGGRESSION, INTERNATIONAL; NEUTRALITY.

Consult: Hershey, A. S., *The Essentials of International Public Law and Organization* (rev. ed. New York 1927) §109, and references there cited.

BUFFON, GEORGES LOUIS LECLERC, COMTE DE (1707–88), French naturalist. With his appointment in 1739 as intendant of the Jardin du Roi at Paris Buffon's studies, which had hitherto remained diversified, received direction and purpose; ten years later he began the publication of the *Histoire naturelle* (44 vols., Paris 1749–1804; in *Oeuvres complètes*, ed. by Pierre Flourens, 12 vols., Paris 1853–55), with which he was to be occupied throughout the remainder of his life. Buffon approached his task with the objectivity of a pure scientist, aiming to collect and synthesize the scattered facts of natural science known to his day. This objectivity was in part responsible for his position of high authority among his contemporaries, who carried over many of his ideas to the sphere of social thought. To Buffon man was no more than a link in the animal series; while life in society favored the exceptional development of man's intellectual and moral faculties, these had their origins in sensations and instincts not radically different from those of other animals. He affirmed the unity underlying the diversity of human races, maintaining that all variations could be explained as the effect of purely physical and external causes. Modern students have seen in these ideas, as well as in certain of Buffon's observations on animals in general, indications that he glimpsed the notion of biological evolution. His theory of man was restated by the *encyclopédistes* and integrated with the psychological theories of Condillac; thus Buffon considerably affected the early development of anthropology. Another important influence on eighteenth century thought issued from Buffon's geological theories, set forth in his *Époques de la nature* (published as vol. v of supplement to *Histoire naturelle*, 1779; separately published Paris 1892). The doctrine that geological time could be divided into epochs separated by great catastrophic disturbances was applied to human history. Supplementing and modifying the system developed by Bossuet in his *Discours sur l'histoire universelle*, it furnished the basis for eighteenth century philosophies of history—notably Voltaire's *Essai sur les moeurs*.

RENÉ HUBERT

Consult: Flourens, Pierre, *Buffon, histoire de ses travaux et de ses idées* (2nd ed. Paris 1850); Académie des Sciences Morales et Politiques, *Séances et travaux*, n.s., vol. xix, pt. i. (1883) 378–88 and 683–95; Badey, Lucien, "Buffon, précurseur de la science démographique" in *Annales de géographie*, vol. xxxviii (1929) 206–20.

BUGEAUD DE LA PICONNERIE, THOMAS ROBERT, DUC D'ISLY, (1784–1849), French soldier, politician and colonial administrator. Bugeaud was one of Napoleon's Imperial Guard, with a long military record. He was retired to his Périgord domain after the second restoration of the Bourbons and acquired a reputation as a scientific agriculturist. The July Monarchy brought him into politics, and as a deputy his voice was often heard on behalf of military, protectionist and agricultural interests. His greatest work was in the pacification of Algeria, which was begun in 1836. Within four years he had driven the Arab raiders up to the fringe of the Sahara. His contribution to colonial policy was his conversion of his soldiers into colonists. Colonization "by sword and plow" was his aim, and his rule as governor general (1841–47) was the most fecund period of Algerian colonization both in the number and variety of his experiments; his policy of cooperating with the Arabs was half a century in advance of his era. But as time went on he emphasized the military element of his plan more and more, because the lack of discipline among time-expired men and private settlers provided no safeguard against the Arab forays. Droughts combined with the opposition of the civilians to weaken his plan, and finally the French government, always lukewarm about his schemes, refused the necessary credits, and he resigned. Despite the anticlimax he had broken the power of the Arab emir, Abd-el-Kader, had colonized a new province for France, had revived the faith in Algeria shattered by the native revolts and had bequeathed a theory of military colonization to his fellow countrymen and to the British. "Père Bugeaud," as he was known, became a legend in French Africa, and although his reputation with his contemporaries was rather mixed his influence remained. His writings cover colonial, military and economic topics.

STEPHEN H. ROBERTS

Consult: D'Ideville, H., *Le Maréchal Bugeaud*, 3 vols. (Paris 1881–82), abr. tr. by C. M. Yonge, 2 vols. (London 1884); Demontes, V., *La colonisation militaire sous Bugeaud* (Paris 1916); Ferrand, G., *La colonisation militaire du Maréchal Bugeaud, 1841–1847* (Paris 1909).

BUGENHAGEN, JOHANNES, (Pomeranus) (1485–1558), German educator and leader in the Protestant Reformation. Bugenhagen was born in Pomerania and studied at Greifswald. After a successful career as rector of a Latin school at Treptow he joined Luther in Wittenberg in 1521 and became professor of theology and pastor. In 1528 began the period of his constructive activity for the sound establishment of Protestantism in northern Germany. His fundamental contention was that the success of the Reformation depended on the intelligent and educated support of the people. In a series of ordinances (Brunswick 1528, Hamburg 1529, Lübeck 1531, Pomerania 1535, Denmark and Norway 1537, Schleswig-Holstein and Hildesheim 1542 and Brunswick-Wolfenbüttel 1543), in which he laid down the principles for the organization of the church, he therefore assigned an important place to education. He consistently urged as the duty of parents and of civil and ecclesiastical authorities the maintenance of elementary and Latin schools as well as schools for girls and, in the later ordinances, rural schools. He advocated a definitely articulated system of education and a radical improvement in the status of all teachers, recommending not only adequate salaries but support in sickness and old age. His vision did not stop with schools for the young; in several ordinances he suggested the organization of *Lektoria*, in part as preparation for the universities, in part for adult education in theology, philosophy, law and medicine. For the masses periodical expositions of the Bible and catechism were to be given in the churches.

I. L. KANDEL

Works: Bugenhagen's church ordinances are given in Richter, A. L., *Die evangelischen Kirchenordnungen des 16. Jahrhunderts*, 2 vols. (Leipsic 1871), and his school ordinances in Vormbaum, Reinhold, *Evangelische Schulordnungen im 16., 17. und 18. Jahrhundert* (Gütersloh 1860–64).

Consult: Hering, H., *Doktor Pomeranus, Johannes Bugenhagen* (Halle 1888); Krüger, *Johann Bugenhagens Wirksamkeit für die Schulen Niederdeutschlands* (Annaberg 1881); Rost, J. R., *Die pädagogische Bedeutung Bugenhagens* (Leipsic 1890); Mühlmann, Carl, *Bugenhagen als Schulmann* (Wittenberg 1901).

BUILDING AND LOAN ASSOCIATIONS and their English counterpart, building societies, are cooperative or quasi-cooperative institutions engaged in financing through mortgage loans the building and purchase of houses. The use of the word "building" is probably accurate for the very early societies but misleading when applied to most of these organizations at present. Although the modern associations developed from one original type found in eighteenth century England they exhibit a multiplicity of differences in methods of organization and operation. In a sense the existing differences represent merely various stages of development, which proceeded as a gradual organic adaptation to changing conditions. It is characteristic of these societies that throughout their history they were not influenced by deliberately constructed programs based on social or economic theories and that they have taken root in English speaking countries only. On the continent analogous needs of moderate or small income families have been met by land mortgage banks, general cooperative credit organizations, cooperative housing and building associations which often retained ownership of the buildings, and by various forms of government aid to housing.

Building associations and societies are defined at one extreme as mutual cooperative financial institutions and at the other as private corporations for profit. Mutuality was one of the original basic principles of these organizations. Its persistence to the present time is due only in part to its high repute; favorable legislation, particularly exemption from certain types of taxation, has been an important contributing cause. The decline in mutuality is evidenced not so much by the number of associations remaining faithful to it as by the decreasing rigor of its application. During the early stages the relations between the associations and their members were strict and exclusive. The transactions of the associations were confined to members, and shareholding was the only way of participating in the benefits the association might afford. On the other hand members were tied to the association by heavy engagements. Membership implied not only regular payments for a considerable length of time but also the risk of losses, which could make these obligations practically indefinite. Moreover, a member could not cancel his membership and withdraw his shares before maturity without incurring heavy penalties. His interests were thus sacrificed to those of the association, and the more mutual an association the more the association overshadowed the individual. It is in the manner of treating members that the process of modernization is best revealed. It is as easy to become a member of a large modern building association as to with-

draw; members' obligations are minimized and are becoming strictly defined. At present the association, far from being served by its members, undertakes obligations toward them. Thus the difference between a mutual and a non-mutual association is disappearing. Both deal with "customers"; both offer a certain service. There is a trend in modern associations to reduce membership to a mere formality corresponding with the tendency for dividends more and more to resemble fixed interest rates. The "membership share," for a long time the keystone of building association business, while still retaining its old form performs more of the functions of the deposit. In spite of the various legal definitions and provisions still in force "investing members" are in increasing numbers becoming depositors or investors; and since loans in many associations are no longer repaid by maturing shares, "borrowing members" have ceased to be interested in the affairs of the association and are coming to resemble ordinary borrowers. Thus as a result of growth old specific practises and principles of "building and loan" are disappearing and these organizations are following other financial institutions and adopting up to date business methods.

Another instance of the modification of early building association principles is found in the transition from the terminating to the permanent plans. All the early associations and societies were of the terminating type and within this form of organization many of the specific practises of the present associations were forged. In the old terminating association, often styled "building club," the members subscribe to shares of stock of the association ("instalment" or "membership shares") and make regular contributions (dues) on each share until it reaches its "matured" or par value (frequently $200 each). Then the association is "terminated" and the assets divided among the members. The first American association, the Oxford Provident Building Association of Philadelphia County founded in Pennsylvania in 1831, was of this type. "In this primitive association there was only a single series of stock issued. . . . At the regular monthly meetings of the shareholders, held in the evening, the dues were paid in . . . and the funds received were offered in open meeting and the right to a loan sold to the highest bidder. . . . In the event no one wanted to borrow, parties holding shares upon which no loans had been made were compelled to become borrowers. These were called 'forced loans' " (quoted from an address by Seymour Dexter in Clark and Chase, p. 459–60). The terminating plan is not in common use in the United States at present. It is still used by some three hundred small societies in England and is also found in the British dominions, especially in New South Wales where it is still the most popular type. The only country in which terminating societies are forbidden seems to be Canada, where they were prohibited by law in 1900.

The first permanent type introduced was the serial plan, which until recently was that most commonly used in the United States; it is still in general use in Pennsylvania, New Jersey, Illinois and Massachusetts. The serial plan repeats the main features of the terminating plan, but instead of using a single group of shares the serial association offers new groups or "series" of shares for sale at periodic intervals, annually, semi-annually, quarterly, monthly. "It is in a sense an association of an indefinite number of associations of the terminating type, each series in turn going through the processes of starting, functioning to maturity and then disappearing as its loans are liquidated and its 'free shares' retired" (Clark and Chase, p. 39). The serial plan is found only in the United States.

Other varieties of the permanent plan which developed from the serial type are the regular permanent and the Dayton permanent plans. Associations using the regular permanent plan issue shares not in series at stated periods but at any time. Each shareholder has an independent account and his shares start and are matured without being grouped with others. The regular permanent plan seems to be a transition from the serial to the Dayton permanent, which is more correctly styled the optional payment, plan ("deposit shares"). Under this plan payments are not restricted to the regular dues; each member may pay in any amount at any time or may suspend making payments. This plan is becoming the most common and is used by all the larger institutions in the United States and in England. Thus is indicated the gradual disappearance of the principle of compulsory regularity in the payment of dues on instalment shares. This principle applied for generations made the building associations a stern school of thrift. However, its application was accompanied by many abuses in connection with penalties (fines, forfeitures, withdrawal and membership fees) used to enforce regularity. The abuses are now being gradually eliminated and at the

same time the principle is falling into abeyance.

In addition to the instalment shares many associations in the United States issue fully paid up stock, thus departing still further from the original terminating-mutual type of building association. The outstanding type of this issue is the "guaranty stock" permitted by some state laws. It derives its name from the fact that the capital obtained through its issue is used to guarantee dividends on other shares and other liabilities of the association. Earnings in excess of liabilities accrue to the benefit of the guaranty shareholders and the latter exercise control over the association's affairs. Thus the functions of the guaranty stock are identical with those of the capital in a bank. This plan is used by an increasing number of associations in California, Kansas, Oregon, Texas, Utah and, with some modification, in several other states. The guaranty and the serial plans may be considered particularly characteristic of the American development, the former representing in a sense the last stage of modernization and the latter being the most orthodox of the specific "building and loan" methods.

The "local principle," which is a specific feature of American development, is also being gradually abandoned, although not as rapidly and radically as the others. The early institutions were all local just as they were terminating—not on principle, but because it was natural for an organization to be formed by people who had specific needs and who were bound by neighborhood ties. The limitation of membership to a restricted locality became a "principle" after the failure of the "national" building associations in the nineties. So great was the reaction in public opinion caused by the "national fiasco" that in spite of the disappearance of the old national associations there is still a hostility against this type of organization. In most of the states associations incorporated in another state ("foreign") are restricted, and in some states they are still prohibited. Most associations restrict their mortgage operations to one state, county or other limited territory. For instance, one of the largest associations in the United States and a perfect example of a modern mutual building association, the Railroad Co-operative Building and Loan Association of New York, with assets exceeding fifty-five million dollars, confines its mortgage service to a fifty-mile radius. The law of New York state formerly placed this limitation upon the associations, but a recent change permits loans to be made within one hundred miles of the association's home office. During recent years the process of centralization and concentration has been gaining ground. Many associations, especially of the guaranty type, have established branches in their own and in other states. There is also a tendency toward amalgamation among some of the numerous small associations and among some of the guaranty type associations, especially in California, a tendency toward consolidation of control through holding companies. Moreover, there are developing new methods of cooperation between associations, which do not interfere with the local principle. The Land Bank of the State of New York, established in 1914 as a semi-public institution, is an interesting experiment in this direction. Associations in various states are creating special reserve systems for their own use. In California the Building-Loan Federation was established in 1928. In Ohio, through the Ohio Building Association League, associations have created a fund of two million dollars placed with New York banks, which makes available for emergency a credit of ten million dollars. In Florida there has been organized a Building and Loan Reserve Association for a similar purpose. An important project designed to bring about coordination among the associations throughout the country on lines similar to the Federal Reserve system is under discussion.

In England, with its strong, highly centralized individual societies, nothing has as yet been done to create special reserve systems. There is less need for them since, in the absence of legal limitations as to territory served, the larger societies operate all over the country. The largest English society, the Halifax Building Society, which was created by a recent amalgamation, has assets of about $300,000,000, representing something like one fifth of the total assets of all societies in England. This society has more than 350 branches and is far larger than any single American association. The tendency toward centralization combined with a large number of dissolutions of terminating societies is responsible for the rapid decrease in the number of English societies, whereas in the United States the number of associations is increasing from year to year.

Building and loan associations function as savings institutions and as home financing agencies; in both fields they have attained and preserved a distinct place. In the savings field they developed in competition with savings

banks specialized methods of attracting funds and secured a special clientele. However, with the increasing tendency of building associations to sell their instalment shares upon virtually the same terms as ordinary deposits and with the spreading of the guaranty plan in some parts of the United States, the difference between building associations and savings banks is diminishing. Their chief attraction for investments, as compared with savings banks, is the higher rate of profits which they pay. But this difference too is becoming less marked, since the tendency among the associations is to lower the rate of interest charged to borrowers with a corresponding decline in the rate of earnings.

In the lending field, building associations specialize in mortgage loans on the instalment plan for the acquisition and building of houses, especially small residences. Perhaps one of the most important reasons for the absence of these associations on the continent is the prevalence there of housing in tenements as contrasted with the English and American preference for small, single family houses. For many years building associations were virtually the sole agencies for first mortgage loans on small residences and are still representative of what is called by R. T. Ely "the American method of acquiring a home." They succeeded in making this class of mortgages a sound investment and are meeting with increased competition on the part of insurance companies and other financial institutions controlling large funds. As a result there is a growing recognition of the necessity of extending to borrowers better service and easier terms.

In England and in most of the states of the United States no legal limitations are imposed as to the kind of real estate that may be accepted as security for a loan, but most associations lend only on dwelling houses and give preference to owner-occupiers. The loans are usually repayable by uniform monthly or weekly instalments of principal and interest spread over a period of years (usually from five to fifteen years). This system permits the lending of a larger proportion of the property value as the amount advanced is reduced with every periodical payment. The margin between the value of the property and the amount of the loan required by American associations varies greatly. In some states loan limitations are imposed by law. In England the amount of the loan is usually limited to three fourths of the value of the property; however, local authorities are empowered by the Housing Act of 1923 to give guaranties enabling building societies to lend under certain conditions up to ninety percent of the valuation of houses. Some insurance companies issue guaranties for the same purpose (mortgage guaranty scheme). In recent years the combination of life insurance with the amortization of mortgage loans is becoming popular in both England and America.

The social significance of building and loan associations, as well as their position among other financial institutions, rests upon the peculiar way in which they combine saving and lending features. They have succeeded in stimulating new sources of thrift and in making additional funds available for housing. Their usefulness was best tested during the period of extraordinary housing shortage following the World War. The rate of growth of building associations in this period exceeded that of other financial institutions and was quite different from their own previous experience. The development in the United States is presented in the table below:

Year	Number of Local Associations	Membership (in Millions)	Assets (in $1,000,000)
1893	5,598	1	473
1913	6,429	3	1,248
1918	7,484	4	1,898
1923	10,744	7	3,943
1928	12,666	12	8,016

In England, too, building societies started their golden age after the war. Within the last ten years they have increased their assets about three times and have more than doubled their membership. In 1929 there were in England about one thousand societies with a membership of about a million and a half; they held assets amounting approximately to £300,000,000. It is estimated that about 1,800,000 families in the United States and about 500,000 in England are financing their homes through building associations and societies. The existence in England of municipal housing and the granting of municipal mortgages to owner-occupiers, and the absence of both in the United States, are factors to be considered in comparing these figures.

The distribution of building associations, their success and growth, vary considerably from state to state and from locality to locality within the state territory. Pennsylvania with 4272 associations and $1,340,000,000 assets headed the list for the year 1928 as for previous years. Ohio was second with more than one

billion assets. Next came New Jersey, Massachusetts, Illinois, New York, Indiana and California. These states combined have far more assets than the associations in all the other states. The highest rate of growth in assets during recent years was shown in the newer sections of the country. During 1927 Texas showed an increase in assets of 30.8 percent and California of 27.2 percent. In England building societies are especially strong in Yorkshire, where the few largest societies are located. The highest rate of growth during recent years is shown in the London area.

In the early stages building associations and societies were not incorporated and were not subject to legislation. The first American act relating to building associations was passed in Pennsylvania in 1850. At present most of the states have special laws providing for the organization and supervision of building associations. The existing legal provisions vary from state to state and contribute to the lack of uniformity in the practises of building associations. Moreover, these laws are subject to frequent revision. The main object of these enactments is to combat the attempt of speculative promoters to exploit building associations for their own benefit; they are also designed to eliminate such abuses as the imposition of exorbitant fees, fines and forfeitures. Supervision is exercised by state officers through the examination of the books of the associations and of their periodical reports. In England building societies are under the Building Societies Act 1874–94, and the supervision is exercised by the Registrar of Friendly Societies.

The building associations and societies are organized into a number of leagues and institutes for the protection of their interests and for the maintenance of standards of service. In the United States there exist several state leagues and the United States Building and Loan League, formed in 1892. The corresponding body in England is the National Association of Building Societies founded in 1869. In 1922 the American Savings, Building and Loan Institute was established for educational and research purposes. The leading organs are the *American Building Association News*, published monthly since 1880 in Cincinnati, and the *Building Societies' Gazette*, established in 1869 in London.

Outside of the English speaking countries "building and loan" methods are little known. An attempt to introduce them was made in Germany by the establishment of *Bausparkassen*. The first institution of this kind, Bausparkasse der Gemeinschaft der Freunde, started business in a little village, Wustenrot, in 1924. In 1929 it had mortgage assets of about $20,000,000 representing savings of people anxious to build their homes. The success of this example induced many others in Germany and also in Austria to follow. At present the continental type of building associations is still in the making. So far the main difference between the *Bausparkasse* and the English or American association lies in the absence of voluntary investors in the former: *Bausparkassen* accumulate all their funds from prospective borrowers. A feature of the most recent development was that some German savings banks controlled by public authorities were induced by the success of the private associations to establish similar institutions of their own. Owing to the exceptional housing stringency felt in many countries and to the difficulties experienced by the existing agencies in coping with the financial aspect of the problem, it is possible that building associations' methods may become better known and more widely used.

ALEXANDER BLOCK
HORACE F. CLARK

See: HOUSING; COOPERATIVE HOUSING; COOPERATION; LAND MORTGAGE CREDIT; SAVINGS BANKS; THRIFT; CREDIT COOPERATION; REAL ESTATE.

Consult: Block, Alexander, "Bauspargenossenschaften" in *Wohnung*, vol. ii (1927–28) 101–07, 146–52, 184–87, 209–14, 289–97, 350–53, and vol. iii (1928–29) 109–14, 175–79, 184–90, 269–76, 290–300; Block, Alexander, "Das genossenschaftliche Prinzip bei den amerikanischen Bausparkassen" in *Wohnung*, vol. iv (1929–30) 62–65, and "Das locale Prinzip bei den amerikanischen Bausparkassen" in *Wohnung*, vol. iv (1929–30) 162–67, and "Das Baüsparen in der amerikanischen Volkswirtschaft" in *Wohnung*, vol. iv (1929–30) 268–74, 344–46, 370–73; Clark, Horace F., and Chase, Frank A., *Elements of the Modern Building and Loan Association* (New York 1925); Rosenthal, Henry S., *Cyclopedia of Building, Loan and Savings Associations* (5th ed. Cincinnati 1923); Endlich, G. A., *The Law of Building Associations* (2nd ed. Jersey City 1895); Sundheim, Joseph H., *Law of Building and Loan Associations* (2nd ed. Philadelphia 1922); Dexter, Seymour, *A Treatise on Cooperative Savings and Loan Associations* (2nd ed. New York 1894); United States, Bureau of Labor, *Building and Loan Associations*, Annual Report of the Commissioner of Labor, vol. ix (Washington 1894); Pranard, Charles, *Étude sur les building associations américaines* (Paris 1907); Bodfish, Morton H., *Money Lending Practices of Building and Loan Associations in Ohio* (Columbus 1927); Piquet, Howard S., *Building and Loan Associations in New Jersey* (Princeton 1930); U. S. League of Local Building and Loan Associations, *Proceedings* of the annual meetings published since 1893 in Cin-

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BUILDING REGULATIONS comprise laws, ordinances and rulings designed to guard the safety, health and welfare of persons in and about buildings. As constituted today they represent the results of experience through many years and in many countries.

From the sticks and stones of the savage to the towering heights of the modern skyscraper is an evolution in construction in the course of which men have been forced to sacrifice a certain amount of private independence in the interest of public safety. Buildings of primitive times, representing as they did an individualistic working out of the application of available materials to the purpose in hand, namely, protection from the elements, presented few construction problems. This was particularly true of nomadic tribes. With more settled conditions, however, there came inevitably the need for preventing injury to one's neighbors caused by selfishness, ignorance or incompetence.

Building regulations are by no means a modern phenomenon. They reach back into the roots of civilized history wherever people have settled down in towns and cities. The Civil Code of Hammurabi, which dates back to about 2100 B.C., has a passage as follows: "If a builder build a house for a man and do not make the construction firm, and the house which he has built collapse and cause the death of the owner of the house, that builder shall be put to death." Therein lies the principle which has become fixed in our building regulations today—that they exist to prevent injury and not, as some well meaning persons would have it, to confer a benefit.

In China building regulations can be traced back to at least a thousand years before the Christian era and these ancient regulations are said to be influential in preserving much of the construction in that country as it was three thousand years ago. Height, depth and breadth of buildings, the number of courts and similar details were all covered.

Thickness of party walls and other municipal regulations are to be found in the laws of the Roman emperors. Particularly did these rulers appreciate what sanitation means to a great city. The stringency and thoroughness with which laws regarding private sewers were covered are apparent from the *Corpus juris civilis* of Justinian. These excellent sanitary regulations and some of the other regulations disappeared in the chaos of the Middle Ages, to reappear in later times after some terrible lessons had been taught by pestilence.

Rather detailed regulations as to party walls, gutters and sanitary precautions appear in Fitz-Elwyne's Assize, which is the pioneer English building act. This was ordained in 1189 in the reign of King Richard I. It provided legal means for ensuring fairness and proper enforcement. London, seared by the great conflagration of 1666, took steps in its building regulations to make such events less likely in the future. Present day London regulations date from the laws of 1894; since then some modifications have been made to cover modern conditions.

Sometimes regulations have proved to be in advance of their time, as was the case with that promulgated by George Washington in 1791 to the effect that the outer and party walls of all houses within the city of Washington should be of brick or stone. The hampering effect of this regulation upon those of moderate means caused its suspension soon afterwards.

Early building regulations in the United States dealt with rather simple questions and in simple terms. The delineation of fire limits, thickness of walls and similar matters comprised all that was deemed necessary. Construction was relatively simple in type, the weight of buildings and of their contents being transmitted by girders or beams to solid masonry walls and thence to the foundations. Walls were required to be progressively thicker toward the lowest story in order to carry the accumulated weight of the structure above. Requirements were generally phrased in terms of thickness rather than in allowable stresses. Such construction reached the natural limit in height at from six to ten stories, partly because of the fact that the increasing thickness of walls left insufficient room on the lower floors and partly because tenants refused to walk up beyond a certain distance. In the latter part of the last century the coming of the elevator and of the skyscraper type of construction, in which loads were carried on a steel framework and the walls merely served to shut out weather, caused a revolution in construction methods. Naturally old time

regulations failed to cover such innovations and had to be modified to keep in step with progress.

The skyscraper is generally credited with arriving in the eighties, but did not push its way to extreme heights for some time thereafter. Its construction was predicated on engineering principles demanding rather intricate mathematics, and the regulations concerning it bore strange contrast to the simple requirements for its wall bearing predecessors. Not long thereafter a new type of construction based upon a combination of concrete with steel reenforcement began to forge ahead and came into full prominence in the beginning of the present century. Here again engineering formulae had to be developed and applied in controlling a type of construction for which there was no precedent. Building regulations have thus tended toward greater complication as the inevitable result of new inventions. As a further illustration of the effect of modern inventions there may be cited the application of electricity to lighting and other functions in buildings. This is a development mostly of the last half century, and dealing with it meant the evolving of regulations for something which did not exist, except on an experimental scale, within the memory of men now living.

Originally there grew up a trilogy of basic reasons for controlling construction: protection against fire, to prevent the public calamity of conflagration and to conserve life; insurance of structural strength, to prevent collapse with consequent personal injury; and guarding of incoming water and outgoing wastes from buildings, to prevent spread of disease. It will be noticed that all this is done to prevent injuries, and little thought is required to see the instant application. Extensions have come with modern inventions. Electricity has to be guarded and controlled in its course through buildings; boilers and elevators have to be inspected. Beyond these rather obvious extensions, however, have come some which have fought their way through to general acceptance because of their demonstrated application to human health and welfare. Of such is zoning. The coming of high buildings has increased the problems of proper light and ventilation—subjects which are just beginning to be covered adequately. Fortunately science has stepped in at the right moment to demonstrate the health giving qualities of sunlight and has furnished something more than a sentimental or purely legalistic reason for preventing one man from appropriating more than his fair share of what rightfully belongs to all.

Other currents are flowing toward the general stream, perhaps fated to disappear before merging with it, perhaps destined to eat their way through legal obstacles. Control of the aesthetic features of buildings takes its place in these. A few attempts have been tried at it; others are in contemplation. It is true, however, that many regulations of primarily utilitarian purpose, principally the zoning ordinances, have had the indirect effect of considerably influencing the appearance of buildings.

Back of all building regulations, giving them force and vitality, stands the police power. It is a power inherent in the states and usually delegated to some extent to the municipalities when their charters are granted. Some state governments exercise this power freely, passing laws which go into considerable detail. Others adopt a more flexible method such as providing for an administrative board which is empowered to draw up and enforce regulations. Still others are content with only meager legislation on the subject, leaving the towns and cities to adopt ordinances as they think best. Sometimes the county is the unit which prepares and enforces the building code. Wherever state legislation exists it takes precedence over local enactments, which may be more detailed and restrictive but may not negative anything in the state law. Enforcement is usually a local affair, although state factory, tenement, school house and hotel inspectors are not uncommon, and state officials occasionally work side by side with local authorities.

As they stand today regulations on fire limits and fire protection, strength of materials and structural members, and assumed loads in design constitute the bulk of building codes. Sometimes found in the same documents but frequently enforced by other departments than the building department are the plumbing and electric codes and regulations concerning the inspection and maintenance of elevators, boilers and other building equipment. Regulations concerning where particular types of occupancies may be located, maximum heights of buildings and percentage of lot area that may be covered by buildings appear in the zoning ordinances. Overlapping building and zoning ordinances in some of their provisions are state and local housing acts which are concerned chiefly with provision for proper lighting, ventilation and sanitary facilities. Sometimes their provisions apply only to public and semi-public buildings.

There are also the host of acts bearing in some way upon building construction in which working or living conditions in factories, tenements, schools, hotels and similar structures are guarded. It is thus apparent that there is a broad range of interest and diverse methods of application contained in contemporary building regulations.

In the United States there is wide divergency in requirements upon a given topic in the building codes of different localities. With no central organization to formulate requirements each political subdivision has adopted what is desired, using such information as was available at the particular moment. In other countries, where centralization of government sweeps away the complexities arising from the delicate relations of nation and state, country-wide codes are possible and common. Japan, for instance, has such a code for building construction.

While uniformity in building requirements is highly desirable from the standpoint of both safety and economy it does not necessarily follow that all requirements can be stated in the same terms throughout the country. Minor variations must of necessity persist because of peculiar local conditions. For instance, experience with earthquakes in certain sections will dictate certain precautions which would not be justifiable where such phenomena are of rare occurrence. Similarly the prevalence of tornadoes and hurricanes determines unusual measures in some localities. Regulations have suffered, however, from the tendency to produce requirements by copying those of other cities, which may not have been correct in the first place. Some curious regulations are still found today in certain codes which have apparently survived in this manner long after the regulations in the original code from which they were copied have been corrected. Uniformity is in the main both desirable and possible. In stress requirements, for instance, there is no apparent reason why the same grade of steel should not be permitted the same stress under given conditions without regard to locality. Equally possible is the use of uniform minimum live load assumptions.

Perhaps the most important application of uniformity from the standpoint of the architect and contractor doing business on a nation-wide scale is the manner of presenting code requirements. A uniform method of doing this would save many hours of groping for complete information and would tend to better observance of regulations because of better familiarity with them. When requirements are selected with no regard for consistency and with no resemblance to methods of presentation in other codes, even the builder seriously desirous of observing the law may run afoul of it because he has missed some point. As matters stand now, long hours of conversation with building officials must be held to determine points which could readily be looked up and observed if they were properly presented in the code. Present day tendencies in building codes, however, are undeniably toward a greater degree of uniformity in requirements. Lethargy of legislative bodies will continue to be responsible for obsolete and obsolescent requirements in some instances, but public insistence on common sense methods of protecting public safety will sooner or later prevail.

The time may soon be expected when there will be little dispute about the facts to be used. There appear to be developing two opposite methods with regard to the statement of requirements. One which is prominent for the moment depends upon a rather detailed treatment with explicit directions amounting almost to a specification. Its merit is that there is little room left for argument between a building official and a recalcitrant builder. Its inherent weakness appears to be too great rigidity in presenting requirements, and holding down the competent and skilled designer to the level of the mediocre man in order that there may be no possibility of failure.

The other method of treatment is general in tone. It lays down results rather than methods, states what performance should be expected of each structural part or what general principle should be observed and leaves it to the skill of the designer and builder and the vigilance of the inspector to see that results are obtained. Its great virtue is in giving the public the advantage of new processes, new materials and new developments in scientific thought, stimulating rather than inhibiting progress. It does not drag down the good architect and engineer to the dead level of the mediocre man in the profession. New materials are automatically admitted to use on satisfactory proof to the building official that they are capable of performing the function for which they are intended. A possible defect of this type of regulation is that in stating results rather than methods it places too much trust in the enforcement officials. The truth is that no code, however carefully drawn and however complete, can hope to cover every possible con-

tingency, but must leave many points to the discretion of building officials. It is better to maintain a well paid and intelligently manned building department with broad discretionary powers than to deprive the public of the best design that it is possible to obtain.

The hampering influence upon architectural and engineering design of inflexible code provisions is illustrated by stress requirements. In some communities they are obviously based upon crude conceptions of earlier years when accumulations of testing data were not available and a factor of safety of large but unknown amount was used. Today it is possible to design with greater assurance in the light of rich stores of basic information. Yet the skilled designer is frequently prevented from taking advantage of this situation. While revolutionary developments in construction do not occur frequently new materials and processes are being developed daily. Welding of steel members in place of the ear splitting riveting now customary may serve as an example. It should be the function of good building regulations to recognize such developments when they prove themselves, without the necessity of obtaining sanction from purely legislative bodies. In times past, efforts to introduce worthy new materials have met with open or covert opposition because the promoters of older materials with strong vested interests feared the new competition and had sufficient political influence to exclude the newcomer. The public was thus deprived of the economy to be derived from new processes.

It would be profitable for a community to scrutinize its building code provisions at regular intervals—probably five years is not too short a period—to see that everything is as it should be. Especially is this true in times of mounting costs of construction when more efficient ways of utilizing materials may be sanctioned which will encourage construction that would not otherwise be undertaken. Obsolete and unscientific requirements are responsible for a greater amount of hindrance to city growth than is commonly suspected. Anything that tends to keep construction costs up or to discourage the full application of skilled architectural and engineering talent tends to divert construction to more receptive territory and creates a differential in building costs between such communities and more progressive ones. The other side of the picture of course is of even greater importance, for neglect of precautions against conflagrations and epidemics may have disastrous consequences.

The local enforcement of building regulations is entrusted to an official variously termed by such titles as "Superintendent of Buildings," "Building Commissioner," "Building Inspector." Enforcement of zoning regulations as well as those contained in the building code usually rests with this official. Customs differ with respect to regulations regarding boilers and electric wiring. In some cities these form subordinate branches of the building departmen while in others they are independently administered. A favored administrative procedure with regard to plumbing is to place enforcement either directly in the Board of Health or in an official responsible to that body. In some localities electric inspection is done by representatives of insurance interests, a measure of rather dubious legality.

Enforcement is sometimes paid for by a sliding scale of permit fees, occasionally supplemented by fees for inspections. As a general rule permit fees do not pay entirely for the expenses of the department. In some instances, however, they bring in much more revenue than is used for inspection purposes and this has occasioned considerable question as to the wisdom of using the building department to swell the general funds of the city. The argument is presented that building owners must pay taxes on their property and that any charges beyond those necessary to pay for inspection are unjustified. Many municipalities make no charge of any sort, the expenses of the administration being paid for out of the general funds of the city. Still a third method of handling the matter is to require the owner of a building to employ a resident inspector whose salary is provided by the owner. This inspector is required to furnish to the building department satisfactory evidence of his qualifications and to make frequent reports on the progress of the work. The building department is supposed to check the quality of his inspection and can revoke his authority to conduct inspection if it finds him incompetent. Usually this type of inspection is confined to buildings of considerable size or to special types of construction.

As might be expected the quality of building inspection is extremely variable. In a good many small communities it is of a very informal sort and the rigidity of inspection is determined very largely by the character or qualifications of the person willing to accept a generally unremunerative job. Local politics and pressure of influential material industries are often factors in determining the grade of enforcement. Many

larger communities, however, have well organized departments manned by able administrators, although salaries of inspectors are not always of such size as to command the continued services of well qualified individuals. Large cities have elaborate organizations, often with differentiation in duties. One man, for instance, will specialize in checking plans, another in inspecting reenforced concrete and a third in determining the condition of elevator apparatus. Thoughtful building inspectors have made tentative attempts at defining a measure of quality of building inspection, but this study is in its infancy. Such conditions as geographic area to be covered, topography, prevailing types of construction and effect of political pressure have to be considered in arriving at even a tentative conclusion. It is not improbable that a standard can be arrived at whose worth can be determined experimentally. The finding of some method of gauging the manner in which the safety of construction can be assured is of obvious importance to the public.

A significant development is the rise of organizations of professional and scientific men or of manufacturers of building materials. These have worked earnestly toward producing sound standards for utilizing the various materials that enter into construction. The roster is a long one. Mention of such organizations as the American Society of Civil Engineers, the American Society for Testing Materials, the American Society of Heating and Ventilating Engineers, the American Concrete Institute, the American Institute of Steel Construction, the National Lumber Manufacturers Association and the National Fire Protection Association merely touches upon this aspect of the subject. Testing of materials has assumed an ever growing importance and the accumulation of data has furnished a basis on which many structural requirements may be determined. As before, mention can be made of only a few of the places where such tests have been made, but those conducted at the Watertown Arsenal, Columbia University, the Underwriter's Laboratories and the Bureau of Standards at Washington are of special importance. The amount of work fundamental to building regulations is steadily increasing at the last named institution because the public turns to it more and more for authoritative information. In a number of cases interested organizations have acted jointly to produce recommendations designed to be acceptable to all. Instances are the work of the Joint Committee on Standard Specifications for Concrete and Reinforced Concrete and the preparation of the National Electrical Code.

Interest in all phases of building regulations has been quickened in recent years by private and governmental agencies which have studied the fundamentals of the subject and have prepared suggestions to serve as a guide to better requirements. The Department of Commerce through its committees on building codes and on city planning and zoning has provided a focal point for the assembling of fact and opinion and their interpretation by nationally known experts. The first of these committees has issued five reports dealing with various subjects commonly covered in building codes and a subcommittee has issued another report on plumbing. These reports, which contain recommended minimum requirements suitable for use in state and municipal building or plumbing codes, have found a wide field of usefulness. The work of the committee dealing with zoning and city planning has resulted in reports on "A Standard State Zoning Enabling Act" and "A Standard City Planning Enabling Act" which have been equally influential in shaping sound legislation.

The National Housing Association has concerned itself with the promotion of ideals of better housing. The Building Officials Conference and its western counterpart, the Pacific Coast Building Officials Conference, have labored diligently in the encouragement of sound building requirements. Zoning, scarcely heard of a dozen years ago, has leaped into prominence. Tenement legislation in New York has come in for rigid scrutiny by a committee of experts. All signs point toward a tightening rather than loosening of restrictions placed upon individual freedom in building. In the process, however, requirements are becoming fairer, more scientific and better adapted to the needs of our present civilization.

Today some eight hundred and fifty cities, towns and villages in the United States have zoning ordinances and about the same number have building codes. In well ordered communities these legal measures control virtually everything that rises above the ground and very much of the contents of such structures. Exploration of their somewhat forbidding terms offers an enlightening example of the regulation of selfishness, ignorance and incompetence in the interest of the community as a whole.

GEORGE NORWELL THOMPSON

See: CONSTRUCTION INDUSTRY; HOUSING; FIRE PRO-

TECTION; SANITATION; VENTILATION; INDUSTRIAL HYGIENE; CITY AND TOWN PLANNING; ZONING; MUNICIPAL GOVERNMENT.

Consult: Burton, Frank H., "A Concise History of Building Codes" in *Engineering and Contracting*, vol. lxviii (1929) 82–85; "Fitz-Elwyne's Assize of Buildings," tr. by A. T. Riley with introduction by C. W. Tooke in *National Municipal Review*, vol. xvii (1928) 555–63; Thompson, G. N., *The Preparation and Revision of Local Building Codes*, Municipal Administration Service, no. 2 (New York 1927); Upson, L. D., *Practice of Municipal Administration* (New York 1926) ch. xiii; Fairlie, J. A., *Municipal Administration* (New York 1901) p. 175–80; McBain, H. L., *American City Progress and the Law* (New York 1918) ch. iv; Miller, R. P., "Architectural Law: The Standardizing of Building Codes" in *The Architectural Forum*, vol. xlviii (1928) 147–50; United States, Department of Commerce, Division of Building and Housing, *Zoning Progress in the United States*, published periodically since 1926; United States, Department of Commerce, Advisory Committee on Zoning, *A Standard State Zoning Enabling Act* (rev. ed. Washington 1926); United States, Department of Commerce, Building Code Committee, *Recommended Practice for Arrangement of Building Codes* (Washington 1925); Building Officials Conference, *Proceedings of the Annual Meeting*, published since 1917; Mendelsohn, Walter, "Exercise of the Police Power for Aesthetic Purposes" in *Yale Law Journal*, vol. xxx (1920) 171–74.

BUILDING TRADES. *See* CONSTRUCTION INDUSTRY.

BŪKHĀRI, MUHAMMAD IBN ISMĀʿĪL AL– (810–70), Arabic scholar and collector of the Traditions of Mohammed. By Būkhāri's time it had become an established practise to refer all questions of conduct to the precepts and example of Mohammed and accordingly the sacred science of Tradition had developed. The materials with which it worked were the sayings of Mohammed, transmitted orally, and its problem was to sift out the authentic from the spurious and to restore them as nearly as memory and human accuracy would permit to their original form. The very title of Būkhāri's great work, *Al-jāmi ʿal-Ṣaḥīḥ*, meaning the "authentic collector," attests his conscientiousness. At an early age he began his travels through the countries of Islam, visiting learned men in all the great cities and writing down the traditions he heard from them. His book is systematically divided into a great number of short chapters, each one preceded by a brief preface showing what practical conclusions are to be deduced from the traditions cited therein. He gives the texts literally as he heard them from his teachers and precedes each text with the full "chain" of traditionists who have related it, if possible down to the Prophet. In some cases there are also short critical observations. The traditions deal with all problems of ritual, juridical, dogmatical and ethical matters discussed in the days of Būkhāri, and are still held as a pattern of authority in the Moslem world.

TH. W. JUYNBOLL

Works: *Les traditions islamiques*, tr. from the Arabic by O. Houdas and W. Marçais, 4 vols. (Paris 1903–14), containing an introduction and biographical note by O. Houdas.

Consult: Goldziher, Ignaz, *Muhammedanische Studien*, 2 vols. (Halle a.S. 1889–90) vol. ii, p. 234–45; Lammens, H., *L'islam, croyances et institutions* (Paris 1926) p. 79–91, 256–57.

BUKŠEG, VILIM (1874–1924), Croatian labor leader. In his early travels as journeyman typographer Bukšeg came into contact with the labor movement in his own country and in other European states. After 1900 he became one of the leaders of the movement in Croatia, particularly in the spheres of syndicates and workers' insurance. He worked for the centralization of both these activities, serving first as secretary of the central office of the syndicates and in 1909 as chairman of the chief insurance treasury. Even the last years of his life were devoted to the extension of workers' insurance, particularly in his capacity as director in chief of the central office for workers' insurance in Jugoslavia.

Although throughout his career Bukšeg devoted himself principally to the economic and administrative aspects of the labor movement he was engaged in political activities as well. Especially after 1900 and during the Serb-Croatian struggle against the coercive regime of the Hungarian, Khuen Hedervary, he contributed often to the socialist press of Vienna, Berlin and Budapest. As head of the Croatian socialist party he worked for the rapprochement of Jugoslavian and Balkan socialists. He suffered imprisonment several times for his articles and manifestations in the cause of political freedom. After the World War he served as councilor for social welfare in the provincial government at his native Zagreb and as food minister in 1921. For several years after the war Bukšeg was president of the Workers' Federation of Jugoslavia.

DRAGOLJUB JOVANOVIĆ

BULGARUS. *See* FOUR DOCTORS.

BULL, PAPAL. Papal bull is a generic term commonly applied to letters emanating from the papal chancery. The word comes from the

leaden seal (*bulla*) which was attached to the document by linen or silk threads. It carried on one side the representation of Saints Peter and Paul and on the other the name of the reigning pope. In course of time the term came to be applied to the document itself, although there is no official sanction for this. The term bull is not employed by the papal chancery. These letters are frequently designated according to their content as follows: constitutions, addressed to the whole church and pronouncing on matters of faith and discipline; encyclicals, letters of instruction addressed to all Catholic bishops or at times to bishops of certain states; decrees, rules of general utility for the church; decretals, decisions in a particular matter but of which the solution may serve as a general rule.

Not all papal letters are strictly bulls. From the middle of the fifteenth century many of the papal letters took the form of the brief, in which the leaden seal was replaced by one of wax, by which the folded ends of the parchment were fastened together. Ultimately this wax seal was superseded by a stamp in red ink bearing the same device, that of the fisherman's ring. The bull still continued for certain types of documents, e.g. for pronouncement of doctrinal decisions, sentences of canonization, promulgation of general indulgences and territorial reorganization of local ecclesiastical divisions. This discussion will include both bulls and briefs.

Bulls are written in Latin. Until the eleventh century the material employed was papyrus; since then parchment (sometimes paper for the briefs) has been employed. Until the pontificate of Leo XIII bulls retained much of their archaic form, being written in a special script (the *bullatica*) extremely difficult to decipher. Briefs have regularly been written in Roman script. The peculiar style of the bulls, their script and methods of authentication were adopted and for long retained in part at least as a precaution against the constant danger of corruption of the text or forgery, which were common throughout the Middle Ages especially prior to the thirteenth century. Innocent III (1198–1216) devised elaborate rules for the detection of forgeries and insisted that local prelates should be trained to judge the genuineness of the document. But this by no means ended the abuse. Even in recent times serious works have continued to carry the allegation that in 1456 Callistus (Calixtus) III promulgated a bull anathematizing Halley's Comet.

Papal bulls, of which there are unbroken registers covering the last seven hundred years together with rich remains from preceding centuries, constitute a most valuable source for the history both of the papacy and of Europe. The earliest papal letters were of a semi-private character addressed chiefly to individual bishops throughout Christendom, offering advice, encouragement, admonition or censure and rendering decisions on points of doctrine or discipline. They were most often written in reply to definite queries on the part of members of the clergy. With the development of the papal monarchy, however, they early assumed a more public and oecumenical character and from the time of Hildebrand (Gregory VII, 1073–85) have become public documents of the greatest importance. They form the most considerable element in canon law and as such have had an important influence upon the development of legal theory more particularly in the Middle Ages. Through them the pope promulgates laws for all Christendom. Their significance was great, especially in the period prior to the emergence of the strong territorial state when the papacy played a decisive role in the political history of Europe. Reference to the registers of any of the popes of the thirteenth century will indicate the wide diversity of the problems dealt with in these documents. They reflect in a marked degree the political and social, as well as the religious and ecclesiastical, life of Europe.

Since the church is a universal institution, theoretically unlimited by arbitrary lines drawn to mark off one state from another, the pope has quite naturally assumed the right to communicate freely and directly with all Christians under whatsoever government they may live In the Middle Ages the growing territorial state frequently saw in this an infringement of its sovereignty. By the fourteenth century, therefore, several European states had limited the promulgation of papal bulls within their boundaries. The case of England may not be entirely typical of such action, but will indicate its general character. As early as the eleventh century William I is said to have introduced the principle that all papal letters addressed to persons in England must be seen by him before their delivery. This policy was continued by William II and Henry I, but it later fell into disuse. As a war measure, in his struggle with Thomas à Becket, Henry II absolutely forbade the bringing in of papal missives. This action

was only temporary, but English kings regularly insisted that papal letters which might be considered prejudicial to the law or their prerogative be delivered to themselves. The Statute of Praemunire (1393), for example, made it a crime for anyone to purchase or otherwise to secure from the pope a bull or instrument that would in any way injure the king or the realm. As a result of the break with Rome, Elizabeth in 1571 issued an unconditional prohibition of papal bulls. The kings of France from the late thirteenth century restricted the free entrance of bulls into that country, and the same was true in Portugal. Similar action was taken more slowly in Germany. In every case these laws were directed against bulls of political import.

As examples of bulls certain famous papal letters of political or social significance may here be noted. In the struggle between Philip IV of France and Boniface VIII the latter promulgated three important bulls: *Clericis laicos* (1296) forbade the taxation of the clergy by the state without papal consent; *Ausculta fili* (1301) recalled Philip to his obedience to the pope and his duty to the church; and *Unam sanctam* (1302) embodied the highest claims to ecclesiastical and temporal supremacy ever advanced by any pope. In the struggle with heresy and schism the bull *Ad exstirpanda* (1252), issued by Innocent IV, systematized the procedure of the Inquisitorial Courts in dealing with heretics; by the bull *Exsurge domine* (1520) Leo X condemned forty-one propositions of Luther and threatened the arch-heretic and certain of his friends with excommunication if they refused to recant; the bull *Unigenitus* (1713), promulgated by Clement XI under strong pressure from Louis XIV, condemned the Jansenists. An illustration of the position of the pope as an international arbiter is afforded in the series of three bulls promulgated by Alexander VI in May and September of 1493, establishing a "line of demarcation" in settlement of the rival claims of Spain and Portugal to recently discovered lands in the New World. But these bulls indicate also the weakness of the pope as international arbiter, since in the following year the two states concerned, independently of papal authority, established a new line by treaty.

More recent pronouncements of the papacy which have important social bearing are the encyclical *Quanta cura* (1864) and the accompanying so-called *Syllabus of Errors*, wherein Pius IX condemned the more liberal social, political and intellectual tendencies of the age, and the encyclical *Pascendi* (1907) by which Pius X declared war on "modernism." The most widely influential and interesting pronouncement of the papacy in social matters, perhaps for all time, is the encyclical *Rerum novarum* promulgated by Leo XIII in 1891. In this the pope took a stand against socialism, while at the same time he suggested principles looking toward the amicable settlement of the conflict between labor and capital, declared that every working man should receive a living wage and upheld the right of laborers to combine.

AUSTIN P. EVANS

See: PAPACY; CANON LAW; CHURCH; CONCORDAT.

Consult: Giry, A., *Manuel de diplomatique* (Paris 1894); Pflugk-Harttung, Julius von, *Die Bullen der Päpste bis zum Ende des zwölften Jahrhunderts* (Gotha 1901); Poole, R. L., *Lectures on the History of the Papal Chancery down to the time of Innocent III* (Cambridge, Eng. 1915); Tardif, Adolphe, *Histoire des sources du droit canonique* (Paris 1887); Richter, A. L., *Lehrbuch des katholischen und evangelischen Kirchenrechts* (8th ed. Leipsic 1884–86). The best known collection of bulls is the so-called *Magnum bullarium romanum*; the basis of this is the edition of Carolus Cocquelines (*Bullarium magnum seu novissima et accuratissima bibliotheca apostolorum constitutionem*, 28 vols. in folio, Rome 1739–62), which included bulls from the pontificate of Leo I (440) to the pontificate of Benedict XIV (1758). For a calendar of papal bulls to 1304, see Jaffe, Philipp, *Regesta pontificum romanorum ab condita ecclesia ad annum post Christum natum MCXCVIII*, 2 vols. (2nd ed. Leipsic 1885–88), continued by Potthast, August, *Regesta pontificum romanorum inde ab anno post Christum natum MCXCVIII ad annum MCCCIV*, 2 vols. (Berlin 1874–75). The complete registers of the popes of the thirteenth and fourteenth centuries are being published under the auspices of the École française de Rome. Modern bulls will be found in *Acta sanctae sedis*, vol. i–xli (Rome 1865–1908), continued as *Acta apostolicae sedis*, vols. i–xx (Rome 1909–28). The concordats between the papacy and the various governments are collected in *Raccolta di concordati su materie ecclesiastiche tra la santa sede e le autorità civile* (Rome 1919); the volume, published anonymously, is by Angelo Mercati.

BULLER, CHARLES (1806–48), British parliamentarian and reformer. He was born in India and educated at Harrow, under the private tuition of Thomas Carlyle, and at Trinity College, Cambridge. In 1830 he succeeded his father as member of Parliament for a Cornwall pocket borough.

Influenced, in his earlier years at least, by the philosophy of Bentham, he was an advocate of parliamentary, poor law and other reforms. He rendered his greatest service, however, in the field of colonial affairs, in which he became interested about 1833. Taking advantage of the

opportunity offered by the Canadian crisis a few years later he became chief secretary of Lord Durham's mission of 1838. Lord Durham's memorable report has been attributed to Buller, although the latter disclaimed the story and the weight of evidence is against it. Buller did much, however, to secure the endorsement for its principles. He urged a liberal colonial policy and the control of emigration for the amelioration of conditions in the mother country and the development of overseas possessions. *Responsible Government for Colonies* (n. p. 1840, reprinted in Wrong), an anonymous pamphlet embodying reform doctrines, which is generally attributed to Buller, is important in the documentary history of the evolution of the British commonwealth of nations. At the time of his death he was the recognized parliamentary authority on colonial matters and was on the way toward a cabinet post.

W. A. ROBINSON

Consult: Wrong, E. M., *Charles Buller and Responsible Government* (Oxford 1926).

BULLIONISTS. The name "bullionists" is applied to a school of economic writers of the sixteenth century; they are sometimes called the "early mercantilists" but are in reality quite distinct. Their starting point was the importance assigned to bullion. Thus Clement Armstrong states ("A Treatise concerninge the Staple [1530]," in Pauli, R., "Drei volkswirthschaftliche Denkschriften aus der Zeit Heinrichs VIII von England" in *Göttingen Gesellschaft der Wissenschaften Abhandlungen*, vol. xxiii, Göttingen 1878): "The hole wealth of the ream is for all our riche commodities to gete out of all other reamys therefor redy money." So in *Gemeine Stymmen von der Müntze* (Leipsic 1530) we read, "Reichtumb, das ist Gelt." The fullest statement is found in Milles, *The Custumer's Apology* (n.p. [1601]): "Though money were the beames and exchange the very light, yet bullion is the sonne: though money were the rudder and sterne of all our shipping, and exchange the compasse, yet bullion is the pilot: though money be the blood in the body trafficke, and exchanges the spirit, yet bullion is the chylus." In a later work, *The Misterie of Iniquitie* (London 1609), he says: "for as by goodnes men first become happy, both soveraignes and subjects, the same fixt in Bullion, makes men to be kings, and kings to be Gods."

In the endeavor to increase the stock of bullion the writers and statesmen were agreed on five measures: restriction on the import of ephemeral luxuries; prohibition of the export of bullion, with the array of searchers, customers and comptrollers; the staple towns with their mints, coyners, hostelers and the like; the statutes of employment, providing that money received on sales of imports be "employed" on the purchase of native commodities; and official control of the exchanges.

These methods, designed to secure a surplus of bullion in each transaction, have happily been called by Jones ("Primitive Political Economy in England" in *Edinburgh Review*, vol. lxxxv, 1847, p. 426–52) the balance of bargain system. Vernadskii (*Ocherk istorii politicheskoi ekonomii* [Summary of the history of political economy], St. Petersburg 1858) suggests balance of exchange system. Another and more distinguished Russian, Ianzhul (*Angliiskaya Svobodnaya Torgovlya* [English free trade], 2 vols., Moscow 1876–82) prefers balance of money system. Heyking (*Zur Geschichte der Handels-bilanztheorie*, Berlin 1880) likes balance of purchase system (*Kaufgeschäftsbilanz-system*). But the usually accepted term is simply the bullionist system.

The first doctrine is found very early. In *The Libelle of Englyshe Polycye, 1436* (ed. and tr. into German by W. Hertzberg, Leipsic 1878, English ed. by G. F. Warner, Oxford 1926) the Italians are blamed for bringing in "thinges of complacence, . . . apes and japes, . . . nifles and trifles that littel have availed" in return for which "they beer the golde out of this land and souketh the thrifte away out of our hand." In 1549 Hales (*A Discourse of the Common Weal of this Realm of England*, London 1581, ed. by E. Lamond, Cambridge, Eng. 1893) warns against exchanging "substanciall wares" for such trifles as "cardes, puppetes, toothepikes, broches, oringes and a thousand like things" for "thus we are impoverished of our treasure." Melchior von Osse in his *Testament* (MS. 1556, later ed. Halle 1717) decries the "Unnothdürftige Wahre," for just as the leeches suck the blood "also sauget solcher unnützer Pracht das Gold." Malynes (*A Treatise of the Canker of England's Commonwealth*, London 1601) distinguishes between "thrifty" and "unthrifty" commodities; Roberts (*The Treasure of Traffike*, London 1641) between "needful wares" and "petty manufactories"; and as late as 1662 the author of *Short Notes and Observations in Point of Trade* (London 1662) calls attention to the import of "vain and unnecessary commodities."

It is interesting to observe that although

Francis Bacon, basing himself upon the superscription of a report of 1615, seems to have been the first to use the term "balance of trade" (see his "Letter of Advice to the Duke of Buckingham" which was written in 1616, published in 1661 and reprinted in his *Letters and Life* ed. by Spedding, vol. vi, London 1872, p. 22–23, explaining that if exports exceed imports the balance of trade must be returned in money or bullion) he really agrees with the bullionists when he advises: "Let not the merchant return toys and vanities (as sometimes it was elsewhere apes and peacocks) but solid merchandize."

The leading English bullionist was Thomas Milles, a customs officer at Sandwich. In *The Custumer's Apology* he speaks wistfully of the old "orderly trafficke with its leges mercatorias, its courts of pieds-pouldres, its staples and mints" and its statutes of employment. Nowadays with the new fangled "speculative kinde of men" it is as difficult to distinguish "a merchant from an usurer with their billes of exchange" as to tell "an English-Catholic-Christian" from a "Roman-Jewish-Jesuite." The consequence is that "customers are perplext" so that the king "wanting bullion, his money seemes to faile and his myntes can stamp no more." The new "particular companies and private societies" have "broken into the staples, prophan'd our soveraigne's mints, turn'd money into a merchandize, and undermin'd the state with usurie —and all for lack of staples."

John Wheeler, secretary of the Merchants' Adventurers, replied in *A Treatise of Commerce* (London 1601), warning the "backbiting customers" to stop discussing things "which either of ignorance they understand not the ground of, or through malice doe misconceive and misreport of." Milles responded in *The Customer's Replie, or Second Apologie* (London 1604), driving home the current abuses and printing the "Treatise of Exchange of 1564," mentioned below. A few years later he returned to the charge, issuing in 1608 *The Custumer's Alphabet and Primer* (London 1608), in which he elaborated "the true patterne of a staple." Later in the same year he published *Acroamata for Bullion and Staples* (London 1608), following this in 1609 by *The Customer's Apologie, heere onely abridged, paraphrased and fitted unto the written Table or Epitome of all his other Workes Touching Trafficke and Customes* (n.p. [1609]). In 1610 he wrote the *Out-Port Customer's Accompt* and in 1611 he published his most elaborate work, *The Misterie of Iniquitie*. Emphasizing the "disorder of justice commutative, for want of staples" he sums up: "no staples, no trafficke; no trafficke, no mines; no mines, no bullion; no bullion, no mints." Were "trafficke once but fixed" "our Bullion (without which no Kingdom can stand) shall be made currant money and our staples made perpetual mines." Thus can the monarch "cut the throat of that stayne and stay of piety, that contempt of equity, that baud of bankers; that art of witchcraft and mystery of iniquity (usury)" and take through the "staples, our first steppe towards heaven and our summum bonum."

Finally in 1619 he repeated his arguments in *An Abstract almost Verbatim (with some necessarie Addition) of the Customers Apologie written 18 yeares ago* [n.p., n.d.]. Although he now ruefully confessed that "my faith be but fraile, my spirits well-nie spent, and my credite almost gone" yet he is impelled "to wish and pray for staples as heartily as I can."

In order to understand these references to the mystery of the exchanges it is necessary to advert to the mediaeval monetary situation. After the gold coinage was introduced in the thirteenth century the European states were on a bimetallic basis. The continual discrepancies between the market and the mint ratios caused the export now of gold, now of silver. The endeavor to prevent this, coupled with the desire of the prince to exercise the lucrative prerogative of his "domain of money," led to repeated debasements, with a resulting rise of prices.

This concealed for a time the real explanation of the price revolution of the sixteenth century. The theory that this was due to the influx of the precious metals from America was first stated by Noël du Fail (*Les baliverneries, ou contes nouveaux d'Eutrapel*, Paris 1548, ed. by E. Courbet, 2 vols., Paris 1894); and was elaborated by Bodin (*Réponse . . . aux paradoxes de M. de Malestroit*, Paris 1566, tr. as *The Elements of Political Economy*, London 1858), whence it found its way into the 1581 edition of Hales' work, now published with the new title, *A Compendious or briefe Examination of certayne ordinary complaints*.

The other doctrine was the one which, since MacLeod gave it that name in 1858, has been known as Gresham's law. As a matter of fact, however, the generalization is not found in any of the pronouncements of Sir Thomas Gresham. What he states in the memorandum of 1559 is that the changes in the coinage projected by the queen would be followed by the export of the old money. When MacLeod subsequently ascertained that similar assertions had been

made before Gresham, he suggested (*The History of Economics*, London 1896) that it "ought in justice to be called the law of Oresme, Copernicus and Gresham." Unfortunately MacLeod's ignorance of mediaeval literature caused him to overlook the fact that the statement was a commonplace even before Oresme, as with Pierre DuBois who pointed out ("De recuperatione terre sancte, 1305," in *Gesta Dei per Francos*, ed. by J. Bongars, Hanover 1611; also ed. by C. V. Langlois, Paris 1891) that debasements injure every one except the *firmarii* and *factores monetarum* who export the overvalued money.

When, however, for any reason tampering with the metal content of the coins seemed undesirable the theory arose that the best way to insure an abundance of bullion was to control the rate of foreign exchange. This took the form either of official valuation or of government monopoly. With the growing evasion of such laws by the private exchangers, continental literature of the fifteenth and sixteenth centuries concerned itself more and more with discussion as to what particular forms of the transactions fall within the prohibition of usury. In England, where the whole movement came later, the earliest treatment is found in "A Treatise of Exchange in Merchandise and Merchandising Exchange, 1564" (in Milles, *The Customer's Replie*, London 1604). "Lawful exchange" as carried on by the cambiadors is here distinguished from the other kind of exchange "when indeed it is not so, but a meer foeneration, and a making a ware and merchandise of money: that that is the same, and by the same, they buy and sell, rayse and abate the price of money, as of any other ware. Wherefore, it is not to be called simply exchange but properly the merchandizing of money or merchandizing exchange." The objection to this is stated as follows: "Forasmuch as money exchanged after this way must be payde againe according to the conditions and compacts and not according to the just and lawfull valuation it hath by public authority, the which temerarious alteration of public coynes is the principal foundation of the gaines, for the love and greediness whereof the other lawfull exchange is expelled the trade corrupted and (the reason) why all wares bear such excessive prices."

In Italy the chief upholder of official regulation was Marc Antonio di Santis (*Discorso intorno alli effetti che fa il cambio in regno*, Naples 1605). The three reasons which he advances for the scarcity of coin are the failure to pay for the exports in cash, the large imports of luxuries and above all the profits in exchange. The remedy consists in enforcing the "prammatica," or prohibition of any deviation in the rate of exchange from the official par. In England we find the further step of insistence on a government exchanger. The leading exponent of this was Gerrard de Malynes. In *A Treatise of the Canker of England's Commonwealth* he contends that the private manipulation of the exchanges "is become predominant or doth overrule the course of commodities and money," thus leading to "an overballancing of forraine commodities with our home commodities, which to supply or countervaile draweth away our treasure." The remedy lies in the appointment of "certain skilful and substantiall men to be the generall exchangers." In *St. George for England* (London 1601) the two wings of this dragon to be vanquished are declared to be *usura palliata* and *usura explicata* of the exchanges. In *Englands View in the Unmasking of Two Paradoxes* (London 1603) he gives a full version of Bodin's discussion, contending, however, that a more important paradox is concerned with the comparison of home and foreign prices, and maintaining that there would be no "over-ballancing of forreine with our home commodities" if "the course of exchange for money did not over-rule the property of money."

The general argument was developed by Sir Robert Cotton (*The Manner and Means how the Kings of England have from Time to Time supported and repaired their Estates*, London 1609; reprinted in his *Cottoni posthuma*, ed. by J. Howell, 3rd ed. London 1679). He holds that the king should enforce his old "Regalitie of Coine and Bullion" and reestablish the "*cambium regis*, his own exchanger." In Culpeper, *A Tract against Usurie* (London 1621), it is again contended that the "Merchants who send over bils of exchange eate us out with our owne money." The same position is taken by the author of *Cambium Regis; or, the Office of his Maiestie's Exchange Royall* (London 1628), in which the evil practises of "exchanging goldsmiths" are contrasted with the "loyall and legall price of Bullion" effected by the king's exchanger. The last defender of the system is Ralph Maddison (*Englands Looking In and Out*, London 1640), who pronounces the "merchaunt exchange" "very deceivable and damageable" and makes the real "ballance of trade" depend on "every particular trade" so that "their walke being observed, it may be known which trade bringeth in or forceth in money."

The opposition to the bullionist doctrine was first voiced on the continent. In France Barthélemy de Laffémas pointed out in *L'incrédulité ou l'ignorance de ceux qui ne veulent cognoistre le bien et repos de l'estat* (Paris 1600) that the evils of the "changes and rechanges" can best be remedied by the "police and controlle" involved in the protection of native industry and the prohibition of foreign goods. In *Comme l'on doibt permettre la liberté du transport de l'or et de l'argent hors du royaume* (Paris 1602) he shows the futility of the bullionist regulations and contends that the only way to prevent the export of coin is to develop home manufactures.

In England the criticism of the export prohibition came later, although at various times certain government advisers had cast doubt on the practise, as long as exports exceeded imports. So in the commission of 1381 (Ruding, Rogers, *Annals of the Coinage of Great Britain and its Dependencies*, 3 vols., 3rd ed. London 1840, vol. i, p. 239–43), in the memorandum of 1549, "Policies to Reduce this Realme . . . unto a Prosperus Wealthe and Estate" (*Tudor Economic Documents*, ed. by R. H. Tawney and E. Power, 3 vols., London 1924, vol. iii, p. 311–45) and again, shortly afterwards, in the *Considerations for the Restraynte of Transportinge Gould out of the Realme* (Schanz, Georg, *Englische Handelspolitik gegen Ende des Mittelalters*, 2 vols., Leipsic 1881, vol. ii, p. 648–49). This last expounds the *causa causarum* of bullion exports and contends that "if England would spend lesse of foreyne comodities the remayne must of necessity be retorned of silver or gould." But the real discussion began with the shipwreck in 1613 of an East Indian company's ship carrying a large amount of bullion. J. R. in *The Trades Increase* (London 1615) now exclaimed, "Let the whole land murmure at the transport of treasure." This brought forth the rejoinder of Dudley Digges, a director of the company, who in *The Defence of Trade* (London 1615) upholds the export of bullion. A similar defense was made a few years later by Mun in *A Discourse of Trade from England unto the East-Indies* (London 1621) which, however, still praises the statutes of employment. Finally in *The Petition and Remonstrance of the Governor and Company of Merchants of London, trading to the East Indies* (London 1628), written by Mun, it is claimed that the export of bullion is "the best trade and meanes we have to increase our Treasure."

The bullionist doctrine of the exchanges was also first refuted on the continent. Antonio Serra (*Breve trattato delle cause che possono far abbondare li regni d'oro e argento*, Naples 1613) answered de Santis' arguments one by one, declaring the true cause of the outflow of bullion to be found in the excessive imports of foreign wares. For real wealth consists (p. 30) in the surplus of goods (*soprabbondanza della roba*), which can be brought about only by favoring home industry. In England the transition came a little later. It is true indeed that business men had opposed the practise at various times. So Sir Richard Graham urged in 1531 that private merchants be permitted to exercise "exchanges and rechanges"; and in 1576 the Italian merchants protested against the reestablishment of the public exchange office (printed in Schanz, Georg, *Englische Handelspolitik*, 2 vols., Leipsic 1881, vol. ii, p. 642–46). But the first real discussion in England came in 1622. In that year Edward Misselden published *Free Trade; or, the Meanes to make Trade Florish* (London 1622), in which he found the lack of money to be due to the undervaluation of the coin, and still maintained a belief in the efficacy of the prohibition of bullion exports. Malynes now reentered the lists with *The Maintenance of Free Trade according to the Three Essentiall Parts of Traffique, namely Commodities, Money and Exchange of Moneys by Bills of Exchanges for other Countries* (London 1622), in which he catalogued the twenty-four "admirable feats to be all done by exchange" and advanced thirty-five remedies culminating in the "Kings Royall Exchanger." He followed this in the same year with his *Consuetudo vel Lex Mercatoria* (London 1622) with an elaborate development of the same thesis. Misselden replied with *The Circle of Commerce; or, the Ballance of Trade in defence of Free Trade: Opposed to Malynes Little Fish and his Great Whale* (London 1623), in which he for the first time in any book used this phrase and, now abandoning his earlier views as to the export of bullion, claimed that "it is not the rate of exchange, but the plenty or scarcity of commodities" that is responsible for price changes and the export of bullion. Despite the retort by Malynes (*The Center of the Circle of Commerce; or, a Refutation of a Treatise intituled The Circle of Commerce*, London 1623), in which the doctrine of the balance of trade is declared to be "full of deceitful fallacies" (p. 137), the new theory gradually won the day and after the crushing refutation by Mun (*England's Treasure by Forraign Trade; or, the Ballance of our Forraign Trade is the Rule of our Treasure*, London 1664; reprinted in the Economic Classics series,

New York 1895) we hear no more of the "admirable feats of the exchangers." Moreover with the acceptance of the newer doctrines the bullionist distinction between "thrifty" and "unthrifty" commodities was replaced by the distinction between raw materials and manufactured goods, which was henceforth to play so great a role in the balance of trade doctrine.

Despite their inadequate theories the bullionists were in one sense the earliest modern economists. The mediaeval writers, under the lead of the theologians, the Glossators and the canonists, dealt primarily with problems of individual morality, typified in the usury controversy. The bullionists were the first to stress questions of national or social wealth and to develop monetary theory from the prince's prerogative of debasing the coin to the wider discussion of the relation between money and prices as well as the connection between bullion and social prosperity. In this way they paved the way for the mercantilists.

EDWIN R. A. SELIGMAN

See: MERCANTILISM; BIMETALLISM AND MONOMETALLISM; COINAGE; MONEY; BALANCE OF TRADE.

Consult: There is no satisfactory account of bullionist theory. A few disconnected statements will be found in Cunningham, William, *The Growth of English Industry and Commerce in Modern Times*, 3 vols. (5th ed. Cambridge, Eng. 1910–12) vol. ii; Unwin, George, *Studies in Economic History*, ed. by R. H. Tawney (London 1927); and R. H. Tawney's introduction to Wilson, Thomas, *A Discourse upon Usury* (London 1925) p. 1–15. For a statement of the theory of the exchanges see Endemann, Wilhelm, *Studien in der romanisch-kanonistischen Wirthschafts- und Rechtslehre*, 2 vols. (Berlin 1874–83). Some of the continental writers are discussed in Bodin de Saint-Laurent, Jean de, *Les idées monétaires et commerciales de Jean Bodin* (Bordeaux 1907); Laffitte, Paul, *Notice sur Barthélemy Laffémas* (Paris 1877); Fornari, Tommaso, *Studi sopra Antonio Serra e Marco Antonio de Santis* (Milan 1880). For Malynes and Misselden see Seligman, E. R. A., *Curiosities of Early Economic Literature* (p.p. San Francisco 1920). The English legislation is described in Jones, Richard, "Primitive Political Economy of England" in his *Literary Remains* (London 1859) p. 291–335, with a passing mention of Milles and Misselden, whom he had obviously never consulted.

BULMERINCQ, AUGUST VON (1822–90), German jurist. He was professor of international and public law, becoming eventually the successor of Bluntschli at Heidelberg. Before 1870 there had been little progress in international law in Germany and the work of Heffter with its insecure foundation in the law of nature ruled the field. Better acquainted than any of his contemporaries with the international law of all nations, especially as embodied in European international treaties, Bulmerincq was well equipped to become the leader of a new positivism.

Bulmerincq made his reputation with his *Die Systematik des Völkerrechts von Grotius bis auf die Gegenwart* (Dorpat 1858). He objected that too little attention had been paid to the systematic exposition of international law since Grotius, which had come to be artificially divided into two parts, "Law of Peace" and "Law of War." Bulmerincq sought to accomplish its systematization upon the analogy of private law, dividing it into substantive and adjective international law. His program of positivism was developed theoretically in his *Praxis, Theorie und Codification des Völkerrechts* (Leipsic 1874) and *Das Völkerrecht oder internationale Recht* (Freiburg 1887, 2nd ed. 1889; previously published in the Handbuch des öffentlichen Rechts der Gegenwart in Monographien, vol. i, pt. ii, 1884). The specific field in which Bulmerincq himself exemplified his method was mainly that of the maritime law of war, particularly the law of prize. His general ideas were developed more logically by his pupil Bergbohm who, indeed, criticized his master for the traces of natural law which were still to be found in his work.

WILLIAM SEAGLE

Consult: Bergbohm, Karl M., in *Allgemeine deutsche Biographie*, vol. xlvii (1903) 348–50; Rivier, A., in *Handbuch des Völkerrechts*, ed. by F. Holtzendorff, 4 vols. (Berlin 1885–89) vol. i, p. 491–93 and further references there cited.

BÜLOW, BERNHARD HEINRICH MARTIN, PRINCE VON (1849–1929), the fourth chancellor of the German Empire. Born of an ancient and distinguished Prussian family, he filled various diplomatic posts at Vienna, Athens, Bucharest and Rome. In 1897 he became secretary of state for foreign affairs and in 1900 succeeded Hohenlohe as chancellor, a difficult position which he filled for nine years.

Under Bülow's guidance Germany definitely entered the sphere of *Weltpolitik*. Because he and his adviser, Holstein, believed that England could be brought to make greater concessions, that she would never come to a friendly understanding with France or with Russia and that Germany could therefore continue to enjoy the position of *arbiter mundi*, he failed to take up more cordially the proposals of Joseph Chamberlain for an Anglo-German alliance. It is

doubtful, however, whether such an alliance could have been brought about at the time in view of the mutual antagonism arising from South African, commercial and naval questions and because of the opposition of Lord Salisbury and a majority of the British cabinet. After the Anglo-French Moroccan Agreement of 1904 Bülow and Holstein sought to defend Germany's Moroccan interests by a policy of intimidation toward France. To break up the Anglo-French friendship the kaiser at the same time attempted an alliance with Russia by means of the Björkö treaty (1905), which was later repudiated by the czar.

In 1908 Bülow's carelessness permitted the publication in the London *Daily Telegraph* of an indiscreet interview with the kaiser which raised a storm of criticism in both England and Germany. Bülow took the blame upon himself but his Reichstag speech on the subject offended his imperial master, who became thenceforth less cordial to him. Bülow also differed with the kaiser and von Tirpitz in his desire to restrict Germany's naval program. In addition, the dissolution of the Reichstag bloc, which included all the parties except the Center and the Social Democrats, led to the rejection of Bülow's budget and he resigned in 1909. After the outbreak of the World War Bülow was sent again as ambassador to Italy in an effort to keep Italy neutral, but was unsuccessful.

In versatility Bülow was second only to Bismarck. Nevertheless he piloted the ship of state into dangerous currents. Clever and self-reliant, he was handicapped by the flippant habit of obscuring the truth in amusing metaphors and by an assumed optimism which silenced healthy criticism of his policies. He presented a brilliant apologia in his *Deutsche Politik* (Leipsic 1914, 2nd ed. Berlin 1916; tr. by M. Lewenz as *Imperial Germany*, rev. ed. New York 1917) and before his death prepared his memoirs for publication. His speeches were collected by J. Penzler and O. Hoetzsch (3 vols., Leipsic 1903–09).

SIDNEY B. FAY

Consult: Spickernagel, Wilhelm, *Fürst Bülow* (Hamburg 1921); Haller, J., *Die Ära Bülow* (Berlin 1922), a severe criticism; Gooch, G. P., in *Contemporary Review*, vol. cxxxvi (1929) 696–704; Herre, Paul, in *Berliner Monatshefte*, vol. vii (1929) 1154–67; Becker, Willy, *Fürst Bülow und England* (Greifswald 1929); Fay, S. B., *The Origins of the World War*, 2 vols. (New York 1928); Eschenburg, Theodor, *Das Kaiserreich am Scheideweg, Bassermann, Bülow und der Block* (Berlin 1929).

BÜLOW, OSKAR (1837–1907), German jurist. Bülow was professor of civil procedure at the universities of Heidelberg, Giessen, Tübingen and Leipsic. His importance, however, rests upon his leadership in the school of German jurists who, as representatives of the reaction against the earlier historical school, regarded German civil procedure as an independent branch of German public law. Until the end of the seventies civil procedure had been largely concerned with the old Roman-Italian law of process which Germany had taken over during the Middle Ages and developed further in its legal practise. With the unification of the judicial system and the formulation of a civil code for the whole empire in 1877 German legal science turned to the dogmatic development of the prevailing statute law as the almost exclusive subject of jurisprudence.

Together with Adolf Wach, Bülow was of outstanding prominence in the new movement. His first work, on the maintenance of actions, deals with the public law basis of civil procedure. Of his later books the brief study *Gesetz und Richteramt* probably exercised the greatest influence. Here Bülow demonstrated that even the system of codified statute law afforded the judge a field of action as creative as that of the legislator. This was the basis of a higher evaluation of the judicial opinion even under the modern system of codification.

HANS FRITZSCHE

Important works: *Die Lehre von den Prozesseinreden und die Prozessvoraussetzungen* (Giessen 1868); "Zivilprozessualische Fiktionen und Wahrheiten" in *Archiv für die civilistische Praxis*, vol. lxii (1879) 1–96; "Dispositives Civilprozessrecht und die verbindliche Kraft der Rechtsordnung" in *Archiv für die civilistische Praxis*, vol. lxiv (1881) 1–109; *Gesetz und Richteramt* (Leipsic 1885); *Das Geständnissrecht* (Freiburg 1899).

Consult: Heinsheimer, Karl, in *Zeitschrift für deutschen Zivilprozess*, vol. xxxvii (1908) v–xii.

BUNDESRAT in Germany was created in accordance with the constitution drafted by Bismarck for the North German Confederation (1866–71) and retained its power and functions with the establishment of the empire. It was intended as a substitute for the Bundestag, which in the period between the Congress of Vienna and the Austro-Prussian War was the supreme organ of the loose confederation of German states.

The Bundestag, which met under Austria's chairmanship, had its permanent seat in Frank-

fort. Of its seventeen members eleven represented the same number of larger states and six were delegated by curias, in which the smaller states and free cities were grouped for the purpose. For the rendering of important decisions the Bundestag was expanded into the Bundesversammlung, with sixty-nine members. In neither body was the apportionment of seats proportional to the population or size of the member states, which included not only German states and principalities but also Denmark, because of its sovereignty over Holstein, and the Netherlands, as the ruler of Luxemburg; in addition there was until 1837 a representative of the English sovereign, who governed Hanover by virtue of a dynastic union. The competence of the Bundestag was very limited because each member of the confederation enjoyed complete sovereignty, including the right to enter alliances in so far as they did not militate against the confederation. In some cases—for instance in Austria and Prussia—its authority extended only to parts of the member states. Consequently the Bundestag was not important in German political development; for example, the Zollverein was established without its assistance or sanction. Neither did it enjoy any popularity, particularly because it was associated with measures against the liberal, nationalist movement. Its existence was terminated by the war of 1866.

The Bundesrat, the organ of the governments federated in the German Empire, embodied the sovereignty of this state. Its membership was appointed by the governments, so that it resembled a permanent council of ambassadors rather than an elected legislature. The representation of the constituent states followed in some measure the practise of the Bundestag. Prussia had 17 seats, Bavaria 6, Saxony and Württemberg 4, Baden and Hesse and (after 1911) Alsace-Lorraine 3, Mecklenburg-Schwerin and Brunswick 2, and the remaining seventeen states one each. It was due to Bismarck, who attempted to allay fears of Prussian hegemony, that Prussia, with two thirds of the empire's population, had only 17 of the 61 votes. Constitutional provisions, however, made Prussian consent imperative for every law on financial, military and economic questions; moreover no change in the constitution could be made against an opposition of 14 votes. Prussia held the presidency of the Bundesrat and the imperial chancellor or his deputy presided over its sessions, which were not public. It met on the call of the emperor, who as king of Prussia appointed the Prussian delegates. The appointments were political in character and the delegates were responsive to every wish of their home governments; the votes of each member state were always delivered as a unit.

The authority of the Bundesrat was threefold: legislative, administrative and judicial. Every state had the right of legislative initiative and the body was divided into committees to prepare legislation. Coordinate in legislative activity with the Reichstag and the emperor, the Bundesrat customarily initiated all important legislation; it also prepared the annual budgets. It had the right to disapprove amendments made by the Reichstag, but if it endorsed them the emperor was bound to accept the law. Members of the Bundesrat had the right to be heard in the Reichstag. Indirectly the Bundesrat was extremely influential in administration, which was almost entirely in the hands of the constituent states. It developed upon the Bundesrat to elaborate and issue executive regulations and general administrative orders to insure uniform practise. As a judicial body it was empowered to act in cases of disagreement between the empire and a state, between constituent states and in constitutional conflicts within a state. It could delegate decision to a supreme court. It also enjoyed important powers in the purely political sphere. Except for such contingencies as the danger of an immediate offensive against national territory its consent was required to declare war. Likewise treaties with foreign countries had to be ratified by the Bundesrat. It determined upon measures against any of the federated states and its consent was necessary to dissolve the Reichstag and proclaim new elections.

The German Bundesrat was thus a body combining the powers of a second chamber, a council of state and a supreme court. It was the agency through which Prussia exercised its supremacy in a federation of apparently equal states. The relatively unchanging character of its membership strengthened the position of the Bundesrat in both theory and practise. It was the chief constitutional bulwark of the conservative and monarchist forces in Germany. It was essentially different from the Bundesrat of Austria and that of Switzerland, which are primarily legislative bodies. Similarly the Reichsrat, which succeeded the Bundesrat in republican Germany, is merely a legislative

body representative of the federated states, on an equal footing with the Reichstag.

THEODOR HEUSS

See: LEGISLATIVE ASSEMBLIES; CONSTITUTIONS; FEDERATION.

Consult: Laband, P., *Deutsches Reichsstaatsrecht* (7th ed. Tübingen 1919) p. 61–72; Meyer, G., *Lehrbuch des deutschen Staatsrechts*, 3 vols. (7th ed. by G. Anschütz, Munich 1914–19) vol. ii, p. 482–94, containing also bibliographical references; Herwegen, A., *Reichsverfassung und Bundesrat* (Cologne 1902); Poschinger, H. von, *Fürst Bismark und der Bundesrat*, 5 vols. (Stuttgart 1897–1901); Seydel, M., "Der deutsche Bundesrath" in *Schmollers Jahrbuch*, vol. iii (1879) 273–96; Robinson, J. H., *The German Bundesrath*, University of Pennsylvania Publications, Political Economy and Public Law series, vol. iii, no. 1 (Philadelphia 1891); Howard, B. E., *The German Empire* (New York 1906) ch. iv.

BUNGE, CARLOS OCTAVIO (1875–1918), Argentine jurist, educationist and publicist. His doctoral dissertation, *El federalismo argentino* (Buenos Aires 1897), attracted considerable attention because of its sociologico-historical interpretation of Argentine public law and political institutions, after the manner of Alberdi, Sarmiento, Spencer and Taine. In 1901 he published *El espíritu de la educación* (Buenos Aires; best known as *La educación*, from the second edition, Madrid 1902). In this work and in his teaching as professor of education at the University of Buenos Aires (1905–18) he treated his subject as a social science, emphasizing the philosophy of the history of education, and educational sociology rather than pedagogy. In 1903 appeared his *Nuestra América* (Barcelona) and *Principios de psicología individual y social* (3 vols., Madrid; also translated into French); the former, an essay in social psychology after the manner of Le Bon and Tarde, being one of the most widely read interpretations of Latin American history and politics, and the latter, the first Argentine attempt at a systematic treatise on social psychology. Perhaps the most successful of his works, *Teoría del derecho, principios de sociología jurídica* (Buenos Aires 1905; best known as *El derecho*, from the second edition, 2 vols., Buenos Aires 1907; translated also into Italian and French), was like all his works strongly sociological in outlook and method. His *Casos de derecho penal* (Buenos Aires 1911) and *Historia del derecho argentino* (2 vols., Buenos Aires 1912–13) practically complete his studies in legal philosophy and history. Bunge, a voluminous writer, left among various biographical and literary studies two biologico-sociological works of fiction, *La novela de la sangre* (Madrid 1903) and *Viaje a través de la estirpe y otras narraciones* (Buenos Aires 1908). Although he was neither particularly original nor always accurate or profound, he was among the most active in his generation in Argentina in introducing socio-psychological conceptions into the philosophy of law.

L. L. BERNARD

Works: Bunge's principal works have been reprinted in La Cultura Argentina series (Buenos Aires 1920–). See also *Obras completas de C. O. Bunge*, 13 vols. (Madrid 1926–28).

Consult: *Nosotros*, vol. xxix (1918) 305–435, a special commemorative issue devoted to Bunge.

BUNGE, FRIEDRICH GEORG VON (1802–97), Baltic jurist and historian. He was the first to edit systematically the sources of mediaeval Baltic history and to codify the Baltic private law. Each of the three Russian Baltic provinces, Livonia, Esthonia and Courland, had its own law, based originally upon German customs but displaying characteristic variations caused by the differences in the autonomous development of the provinces. The law had never been codified and there were no standard rules of interpretation. Bunge investigated the sources and history of the existing law, and sought to establish the relations between the development of the law and the political and social conditions of the several provinces. While engaged in this study he conceived the project of a complete collection of Baltic historical documents and records up to 1561, and to this end he started in 1853 in Reval the *Liv- est- kurländisches Urkundenbuch*, of which he edited the first six volumes. This work inaugurated a new era for historians of the Baltic territories. The Russian government entrusted him with the codification of the Baltic private law, a work on which he was engaged from 1856 to 1864. The code was sanctioned by the czar in 1865.

L. H. ARBUSOW

Important works: *Das liv- und estländische Privatrecht*, 2 vols. (Dorpat 1838, 2nd ed. Reval 1847–48); *Das curländische Privatrecht* (Reval 1851).

Consult: Greiffenhagen, W., *Friedrich Georg v. Bunge* (Reval 1891); Diederichs, H., in *Baltische Monatsschrift*, vol. xliv (1897) 357–86; Stieda, L., in *Allgemeine deustche Biographie*, vol. xlvii (1903) 364–68.

BUNGE, NIKOLAY CHRISTIANOVICH (1823–95), Russian economist and statesman. He graduated from the University of Kiev in

1845, served as professor of economics, statistics and administrative law (interpreted as economic policy) at the same university from 1850 to 1880 and was elected a member of the Russian Academy of Sciences in 1890. His career in public life was not less distinguished: he was a member of the commission which prepared the financial measures connected with the emancipation of the peasants; he was several times rector of the University of Kiev; and after 1865 he was in charge of the Kiev branch of the State Bank. In 1880 he was appointed assistant minister of finance and in the following year, with the resignation of the liberal members of the government after the assassination of Alexander II, became minister of finance, an office which he held until 1886. In the last decade of his life he was president of the Committee of Ministers, a council which passed on all matters exceeding the competence of a single ministry and sometimes on measures of an urgent legislative character.

Bunge modernized considerably the Russian system of taxation. He abolished the salt excise and the poll tax paid by the lower classes and considerably reduced the redemption payments of peasants inaugurated as a result of their emancipation. On the other hand he introduced a tax on moneyed capital and increased the taxation of business enterprises, measures regarded as forerunners of a general income tax. He instituted the system of tax inspectors and thus created for the first time in Russia an organization devoted exclusively to tax administration. He took the first steps in preparing the monetary reform carried out under Vishnegradsky and Witte. Having definitely rejected the idea of raising the value of the monetary unit, he adopted the plan of monetary stabilization at the current level. He began the accumulation of a gold fund and advocated the legalization of private dealing in gold. Bunge also promoted labor legislation in Russia and introduced the system of factory inspectors.

Bunge's scholarship was not particularly forceful or original. As early as the fifties he appeared as a staunch exponent of the historical approach in theory and of liberalism in economic policy. Clearly influenced by the older German historical school, he became in his turn the founder of the Kiev school, which criticized the labor theory of value and opposed all forms of state intervention. As a statesman Bunge remained true to the views which he professed as a scholar. He was much less favorably disposed to protectionism than his successors and in an official memorandum on the peasant question (1894) took a definite stand against the reactionary laws of 1893 and 1894 which strengthened the village community form of land tenure. Among the published works of Bunge important contributions are to be found not in general treatises or textbooks but in shorter writings dealing with questions of economic policy. Of these the more interesting are: an article on Russian currency including a program of financial reform (in *Sbornik gosudarstvennikh znany*, vol. viii, 1880, p. 86–127), a review of A. I. Chuprov's work on railway economics containing an exposition of Bunge's economic philosophy (*Vestnik Europi*, 1876, vol. ii, 314–52) and a monograph on the Russian salt excise (St. Petersburg 1893). Some of his essays on the history of economic doctrines appeared in a French translation as *Esquisses de littérature politico-économique* (Geneva 1898); this book contains a biography of Bunge by Kartavtsov and a bibliography of Bunge's works.

PETER STRUVE

BUONARROTI, FILIPPE MICHELE. *See* BABOUVISM.

BURCHARD OF WORMS, eleventh century canonist. He was educated at the cloister school of Lobbes and in the year 1000 was promoted to the bishopric of Worms by Otto III. Between 1012 and 1022 he compiled his *Decretum* (reprinted in J. P. Migne's *Patrologia latina*, vol. cxl, cols. 538–1090), the last and most important collection of canon law texts before the Hildebrandine reform party became dominant in the church. Although many collections were utilized, more than half of its 1785 texts were borrowed from the earlier collection of Regino of Prum and the ninth century Italian collection known as *Anselmo dedicata*. A few texts affirm that secular enactments are subject to the law of God, but little else is included of a political character. Burchard's own texts are mainly upon the administration of penance.

Burchard's collection formed the most widely used corpus of canon law for almost a century until superseded by the collections of Ivo of Chartres. It was, however, unsatisfactory to the reformers because it did not sufficiently emphasize the primacy of the Roman See and because it compromised with prevailing practises in the matter of marriage of the clergy, investiture, dissolution of marriage and trial by ordeal. Near

the close of his bishopric Burchard promulgated (1023–25) one of the earliest municipal law books, the *Lex familiae wormatiensis ecclesiae* (reprinted in *Monumenta Germaniae historica*, Legum sectio iv, vol. i, p. 639–44), intended to supply a code for the administration of justice in secular affairs among the vassals of his bishopric.

JOHN DICKINSON

Consult: Grosch, Hermann, *Burchard I, Bischof zu Worms* (Jena 1890); Koeniger, A. M., *Burchard I von Worms und die deutsche Kirche seiner Zeit* (Munich 1905); Fournier, Paul, "Études critiques sur le décret de Burchard de Worms" in *Nouvelle revue historique de droit français et étranger*, vol. xxxiv (1910) 41–112, 213–21, 289–331, 564–84, and "Un tournant de l'histoire du droit 1060–1140" in *Nouvelle revue historique de droit français et étranger*, vol. xl (1917) 129–80, and "Le décret de Burchard de Worms, ses caractères et son influence" in *Revue d'histoire ecclésiastique*, vol. xii (1911) 451–73, 670–94.

BURCKHARDT, JACOB CHRISTOPH (1818–97), Swiss historian. He came of an old Basel family and received a humanistic education, first studying theology at Basel, then history under Ranke at Berlin and history of art under Kugler at Bonn. From 1844 to 1893 he taught with distinction at the University of Basel. Burckhardt's early works, which deal particularly with German history and history of art, show a strong culture-historical trend and reveal the impress of German romanticism. The fact that he had lived through the revolutionary period of 1830–48 strongly influenced his historical-political judgment.

Burckhardt's major historical works constitute a complete study of the development of the European culture that started with the Greeks. *Griechische Kulturgeschichte* deals with the genesis, nature and development of Greek culture and its relationship to contemporary religious, political and social forces. *Die Zeit Constantins des Grossen* describes the disintegration and decay of ancient culture and explains the triumph of Christianity over late antiquity and the transition to the Middle Ages. Finally *Die Cultur der Renaissance in Italien* portrays the rebirth of antiquity in humanism and the Renaissance and its fusion with the Italian folk spirit in subduing mediaevalism and in inaugurating the modern era. He draws a sharp contrast between the corporate character of mediaeval society and the strong individualism so characteristic of the Renaissance. Burckhardt had now the classical viewpoint and in these brilliant works he showed the strength, the continuity, the multiple changes and forms of the human spirit which first attained sovereignty among the Greeks. With this approach he revealed himself as a late disciple in the school of Schiller and Goethe, representing for the nineteenth century the stronghold of humanistic idealism.

Burckhardt's works on the Renaissance greatly stimulated research and amounted to a virtual discovery of the period that was crucial for modern Europe. His epoch making studies in the art of the Renaissance are contained chiefly in *Der Cicerone*, *Geschichte der Renaissance* and *Beitrage zur Kunstgeschichte Italiens*. His idealistic conception of art, which he derived from the Greeks, led him to give first place to the Italians in the history of European art and his judgment had a tremendous influence upon aesthetic opinion from 1860 to 1900.

His philosophy of history, which combines a profound idealism with an intense pessimism, appears in concentrated form in his posthumous works, *Weltgeschichtliche Betrachtungen* and *Historische Fragmente*. Burckhardt was severely critical in his attitude toward the political, economic and social forces of his day and was in many respects closely akin to Nietzsche, upon whom he exerted a marked influence. He was antidemocratic, antirevolutionary and antimaterialistic—a spiritual aristocrat, an idealist and on the whole inconsistent with the spirit of the times. In the historical thought of the nineteenth century his works are among the most profound and their influence continues even in present day political history and thought.

EMIL DÜRR

Works: *Griechische Kulturgeschichte*, 4 vols. (Berlin 1898–1902; new ed., 3 vols., Leipsic 1929); *Die Zeit Constantins des Grossen* (Basel 1853, 3rd ed. Leipsic 1898); *Die Cultur der Renaissance in Italien* (Basel 1860; new ed. by L. Heinemann, Berlin 1928), tr. from 15th German ed. by S. G. C. Middlemore (2nd ed. London 1890); *Der Cicerone* (Basel 1855; 10th ed., 4 vols., Leipsic 1909–10), tr. by Mrs. A. H. Clough (rev. ed. London 1879); *Geschichte der Renaissance in Italien* (Stuttgart 1867, 7th ed. Esslingen 1924); *Beiträge zur Kunstgeschichte von Italien* (Basel 1898); *Weltgeschichtliche Betrachtungen* (Stuttgart 1905, 2nd ed. 1910). The *Historische Fragmente* is in Burckhardt's collected works, vol. i– (Stuttgart 1929–).

Consult: Neumann, Carl, *Jacob Burckhardt* (Munich 1927); Markwart, Otto, *Jacob Burckhardt*, vol. i– (Basel 1920–); Dürr, Emil, *Freiheit und Macht bei Jacob Burckhardt* (Basel 1918); Joël, Karl, *Jacob Burckhardt als Geschichtsphilosoph* (Basel 1918); Cappis, O. B., *Die Idee des Kleinstaates im Deutschland des 19. Jahrhunderts* (Basel 1923) p. 104–28; Andler, Charles, *Nietzsche, sa vie et sa pensée*, 4 vols. (Paris 1920–22) vol. i, p. 265–339.

BURDETT, FRANCIS (1770–1844), English political reformer and philanthropist. First elected for Boroughbridge in 1796 he continued in the House of Commons almost uninterruptedly until his death, representing Westminster for thirty years (1807–37). In the early part of his career his stalwart championship of parliamentary reform, of popular rights and liberty of speech as well as his opposition to war with France made him the most popular political figure of London. His protest against the action of the government in the Manchester massacres led in 1810 to his detention in the Tower of London and his imprisonment in a common jail. Because of Burdett's vigor and wide popular appeal Bentham, Place, Cobbett and other radicals of the day turned to him to sponsor in the House of Commons resolutions calling for specific reforms. Nevertheless his turbulent nature and the intricate cross currents of the reform movement led to many ruptures in his relationships with the leaders of various groups.

It was distinctive of Burdett's attitude and perhaps the secret of much of his parliamentary influence that he based his claims always on ancient constitutional and legal principles, in this respect following Horne Tooke whose disciple he was. After the passage of the Reform Act of 1832 his interest in democratic movements waned and he ended his political career as a Tory. Throughout his life he contributed munificently to many public and philanthropic projects including, among others, the Mechanics' Institute.

W. H. DAWSON

Consult: Hazlitt, William, in *The Spirit of the Age* (London 1825; reprinted in *Collected Works*, London 1902–04, vol. iv, p. 324–25); Halévy, Élie, *La formation du radicalisme philosophique*, 3 vols. (Paris 1901–04), tr. in one volume by M. Morris (New York 1928) p. 249–64; Wallas, Graham, *Life of Francis Place* (rev. ed. London 1918) chs. ii and iv.

BUREAU, PAUL (1865–1923), French sociologist. He was one of the most prominent representatives of the school of sociology which aims at the study of contemporary social institutions by the Le Play method of first hand observation. After traveling in England, the United States and Norway, Bureau first became known for his monographs on particular institutions in those countries: *Le homestead, ou l'insaisissabilité de la petite propriété foncière* (Paris 1895); *L'association de l'ouvrier aux profits du patron et la participation aux bénéfices* (Paris 1898); *Le contrat de travail et le rôle des syndicats professionnels* (Paris 1902); and "Le paysan des fjords de Norvège" in *La science sociale*, n. s., vols. xx–xxi, nos. 20–21 (Paris 1905–06). In *La crise morale des temps nouveaux* (Paris 1907) he added to the Le Play method an ideological approach which sought the causes of French immorality in the intellectual currents of the day. His *L'indiscipline des moeurs* (Paris 1920; English translation, *Towards Moral Bankruptcy*, London 1925) put him in the forefront of those who, while accepting Malthus' population formula, took a primarily moral view of the population question and sought a remedy in the strengthening of family ties and in continence within marriage. In his last work, *L'introduction à la méthode sociologique* (Paris 1923), Bureau outlined the general principles of the method of personal observation in sociology, and defined the task of this method as that of furnishing the material on which the art of social reconstruction is to be based.

PAUL GEMÄHLING

Consult: Lanzac de Laborie, S. de, and others, *Paul Bureau* (Paris 1924).

BUREAUCRACY is the term usually applied to a system of government the control of which is so completely in the hands of officials that their power jeopardizes the liberties of ordinary citizens. The characteristics of such a regime are a passion for routine in administration, the sacrifice of flexibility to rule, delay in the making of decisions and a refusal to embark upon experiment. In extreme cases the members of a bureaucracy may become a hereditary caste manipulating government to their own advantage.

Until quite modern times bureaucracy seems to have arisen as a by-product of aristocracy. In the history of the latter a disinclination on the part of the aristocracy for active government has in some cases led to the transfer of power into the hands of permanent officials. In other cases the origin of bureaucracy may be traced to the desire of the crown to have a body of personal servants who may be set off against the appetite of the aristocracy for power. In the latter event the bureaucrats themselves may have developed into an aristocracy, as happened in eighteenth century France. Previous to the nineteenth century bureaucracies have always sought, wherever possible, to become a privileged caste. When they have succeeded they have attempted to obtain for themselves either the same powers as the aristocracy or access to

that superior class. In any case it was fairly characteristic of bureaucracies before the French Revolution not to consider the interests of the state as a whole. A notable example of this selfishness is the attitude of the French bureaucracy in the seventeenth and eighteenth centuries to the *vénalité des charges;* even so liberal minded a thinker as Montesquieu was prepared to defend the sale of offices in a monarchy (*Esprit des lois*, bk. v, ch. xix). Yet it resulted inevitably in a complete blindness to ability as a test for office. Even in quite modern times the Foreign Office of Great Britain has been very largely maintained as an appanage of the aristocracy; it was not until 1919 that applications for admission were entertained from candidates who did not possess a private income.

The advent of democratic government in the nineteenth century overthrew in the western world the chance of maintaining a system whereby officials could constitute a permanent and hereditary caste. But for the most part the new conditions which accompanied democracy made bureaucracy possible in a new phase. It was essential to have a body of experts surrounding the minister in charge of a particular service. The latter was an amateur who remained in office for at most a few years. It was therefore almost a condition of successful administration that the officials who surrounded him should hold office permanently. And since democracy implied also publicity, it was important too that there should be a uniform body of precedents, a consistent tradition, to which reference could be made in order to justify before a legislative assembly the action that was taken.

The tendency accordingly has been a certain suspicion of experimentalism, a benevolence toward the "safe" man. There develops almost insensibly an esprit de corps with canons of conduct, observance of which becomes the test of promotion. Administrative codes grow up and are applied simply from the conservatism of habit. When rules have been long in operation or when they have been made by men of considerable experience it is very difficult to resist their authority. Because they are old it is held that they embody necessary experience; and officials are not easily persuaded to abandon them. A bureaucracy, moreover, because it is open to public criticism in a democratic state is always anxious to secure a reputation for accuracy. It prides itself on not making mistakes. It insists on seeing questions from every point of view. This results not seldom in a slowness in taking action, a multiplication of *paperasserie*, in which the negative side of some proposed course of action is easily magnified as against its possible advantages. Because mistakes will lead to criticism a bureaucracy is easily tempted to persuade a timid minister that the statute he contemplates is probably destined to fail.

Under modern conditions these problems are magnified still further. The scale of the modern state and the vastness of the services it seeks to render make expert administration inevitable. To control the expert in such conditions is an unenviable task. The necessary knowledge of detail is as a rule concentrated in his department alone. The need to be impersonal means uniformity of administration; and this in its turn means a code of precedents through which it is difficult to cut one's way to the recognition of a new principle. Experts, moreover, naturally tend to push the field they administer to its furthest confines; the appetite for power grows by what it feeds on. In England, for example, the last thirty years have seen the increasing abandonment by Parliament of any effective control over departmental action. Even judicial control has had to surrender to the need for administrative discretion rendered necessary because the processes of law are too cumbrous to deal effectively with the delicacy of the technical issues involved. Where the legislative machinery still attempts interference, as in the United States, the result is fatal to expert and adequate administration.

We have reached, in short, a position in which certain simple principles may be laid down. (1) In countries built upon the English parliamentary model the legislature cannot because of the extent and pressure of its business do more than accept or reject the conclusions of ministers. (2) The conclusions of ministers based, as they must be, upon information which requires experts for its formulation and interpretation are very largely those of the higher officials of the departments in their charge. (3) In the department there is a constant pressure toward caution. The minister has to assume responsibility for the mistakes of his subordinates and it is a point of honor with his subordinates that these be minimal; the simplest way to this end is to minimize the sphere of novelty. (4) The system of appointment by competitive examination, adopted as a necessary

precaution against the evils of patronage, means that the young official grows up in the department and that his promotion depends largely upon the recommendation of his seniors. In this sense a high reward may too easily be won for conformity to the departmental code. In any case appointment from without is deeply resented and it will be found that most officials favor promotion by seniority; this, as a rule, is to mistake antiquity for experience. (5) In the United States there is hardly a bureaucracy in the European sense of the term; the small salaries and the operation of the spoils system prevent the continuity of service known in Europe. But the disadvantages of this system are great: the failure to attract able men to the civil service and the consequent low level of quality in the administrative performance. Discontinuity at the top of the departments involves a price perhaps even heavier than that paid for excessive continuity.

It should be pointed out that these undesirable characteristics of bureaucracy are not in the least confined to the service of the state; they operate wherever there is large scale organization. Trade unions, churches, institutions for social work, great industrial corporations, all these are compelled by the very size of the interests they represent and by their complexity to take on the same habits of bureaucracy. The familiarity of officials with the technical details of their work involves the accretion of power in their hands. The need for rules makes for stereotyped regulation. Innovation is distrusted because it means a departure from the wonted routine. The problem, for example, of influencing a great political party to adopt a new outlook frowned upon by its leaders; the effort to persuade, say, a great shipbuilding firm to turn from iron to steel; the difficulty of inducing case workers in a charitable organization to skepticism of their inquiries; these are merely examples of the power of habit over those who specialize in a particular department. It is rarely difficult in a trade union congress for the officials to "steam roller" the delegates into acceptance of policies about which as individuals the majority may be dubious. A great business corporation, as long as it earns a dividend, never has to bother itself about its shareholders. It is the boast of the Roman Catholic church that it has not changed since its foundation; and innovators have always been driven either to schism or submission. Even in a comparatively new state like the Soviet Republic the proceedings of the Communist party are full of accusations of this kind against officials.

In all large scale enterprise men who are desirous of avoiding great responsibility (and the majority of men is so desirous) are necessarily tempted to avoid great experiments. In a political democracy this obviously becomes an official habit where there is a tendency to a bureaucratic system. Nothing will be undertaken for the public for which it is not clamant. The difficulties of meeting the demands made will be exaggerated out of all proportion. Information necessary to the making of policy will be withheld, sometimes on the ground that it is not in the public interest to reveal it, sometimes by the argument that its collection would be unjustifiably expensive. Decisions will be made without the assignment of reasons for making them, or postponed until, in Bacon's phrase, the questions "resolve of themselves." The result is discretion, secrecy, conservatism, and all these minister to the preservation of power.

In modern times bureaucracies have, outside of Russia under the czarist regime, rarely been corrupt in a crude sense. Most of the advantages they obtain for themselves (security of tenure, superannuation, incremental salaries, annual vacation) are recognized as the necessary accompaniments of sound work. Nor has there been the tendency to nepotism which distinguished earlier types. Of course there have been scandals; in France notably there have been some sordid exposures worthy of the *ancien régime*. But it is in a broad sense just to say that in its political context the economic morality of the modern civil service, where it has had the advantage of permanence, has been far higher than that of private enterprise.

Its faults clearly arise from the difficulty of controlling experts in any department where action depends upon special knowledge which as a rule they alone possess and where mistakes of innovation may entail serious consequences. The size of the modern state in fact tends to make its government an oligarchy of specialists, whose routine is disturbed by the occasional irruption of the benevolent amateur. In England it may be said that the technical efficiency of the civil service has made it possible to avoid many of the larger evils of bureaucracy because the long period of service of outstanding statesmen gives to them a power of control not easily obtainable elsewhere. In Germany, on the other hand, at least until 1916, the statesman in office

tended to be the supreme bureaucrat who could avoid the consequence, to be faced in England, of having to meet a popular verdict. Moreover the English system of fairly constant and thorough inquiry into the whole condition of the civil service has made possible the introduction of a genuine flexibility of organization at comparatively frequent intervals. But it still remains true in England as elsewhere that the contact between the civil service, on the one hand, and the legislative assembly and the general public, on the other, is far too haphazard and incoherent. Here, it is probable, a great future lies before the advisory committee on which representatives of interests affected by the working of the departments shall have the opportunity of criticism and suggestion before the prestige of government is associated with the announcement of the result.

The characteristics of a civil service, which a French authority has described as permanence, hierarchy and profession, are probably fundamental to the proper performance of its work. The problem is to prevent the corporate degeneration of the civil service into a caste with a closed mind. There is no infallible method by which this can be accomplished. But it is possible, with experience, to indicate ways in which the degeneration can be minimized. (1) The political head of the department should be a person who has a permanent place in public life. He can then hope to acquire a sufficient knowledge of departmental operation to enable him to have a mind of his own. (2) The civil service should have direct and continuous contact with the representative public associations in order that public criticism of its work may be both well informed and coherent. (3) The retiring age of officials should be reasonably low. Otherwise the younger officials do not get the chance of really responsible work at a sufficiently early age, and the older become the prisoners of a routine. (4) There should be effective decentralization wherever possible. The more the official is brought into direct contact with the constituency he affects by his work, the more likely he is to be responsive to the need for innovation. Action and decisiveness require relation at the circumference; it is knowledge which demands centralization. (5) Efficient means should be organized for fairly frequent changes of work and for contact with foreign officials operating different systems. For an official in the diplomatic service, for example, to have direct experience of the League of Nations is both refreshing and a valuable exposure to novelty. (6) In the early years of service egress therefrom should not, as in England, involve penalty. It is always bad for a bureaucracy to retain officials who do not find their true vocation in their work but shrink from the financial loss which is a consequence of forfeiture of pension rights. (7) Organic connection with the legislature is of high value. In this aspect the British municipal system creates a relation between elected and appointed members which is far more satisfactory than that attained in the parliamentary system. (8) In the conferring of administrative discretion upon civil servants there should always be safeguards of full publicity for its exercise. Where the discretion is of a judicial nature such a system of controls as that indicated by the Supreme Court of the United States in McCall *v.* New York (245 U. S. 345) is important. The experience, further, of France and Germany suggests the value of the right to sue the state in tort as against the validity of the Anglo-American system of virtual administrative irresponsibility.

HAROLD J. LASKI

See: GOVERNMENT; ADMINISTRATION, PUBLIC; CIVIL SERVICE; PUBLIC OFFICE; ARISTOCRACY; NEPOTISM; CASTE; DEMOCRACY; INTERESTS; SPOILS SYSTEM; DELEGATION OF POWERS; JUDICIAL REVIEW; STATE LIABILITY; COMMISSIONS; EXPERT; CHANGE, SOCIAL.

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FOR BUREAUCRACY IN BUSINESS: Gablentz, O. H. von der, "Industriebureaukratie" in *Schmollers Jahrbuch*, vol. 1 (1926) 539–72.

FOR A TREATMENT OF BUREAUCRACY IN FICTION: Dickens' *Bleak House* and *Little Dorrit*; Anthony Trollope's *The Three Clerks*; Balzac's *Les employés*; G. Courteline's *Messieurs les Rondes-de-Ouir*; and Edward Shanks' *The Old Indispensables*, are amusing and informative.

BURGHLEY, LORD, WILLIAM CECIL (1520–98), English statesman. He came of a good Northamptonshire family and was educated at Cambridge and at Gray's Inn. He entered public service as Master of Requests during the reign of Edward VI and served that king subsequently as secretary and privy councilor. He participated actively in the establishment of Protestantism in England during Edward's reign, but found it prudent to accept Roman Catholicism when Mary reestablished the old faith in England. One of Elizabeth's first public acts was to create him principal secretary, an office which he held during the first thirteen years of her reign. In that capacity he was very largely responsible for the establishment of the Anglican church, for the direction of foreign policy and for the maintenance of internal order. He appears also to have been the queen's principal spokesman in the House of Commons. His great achievement during these critical years was to seat his mistress firmly upon her throne. In 1571 he was created Lord Burghley and in 1572 was appointed lord high treasurer. After that he was less concerned with the details of public administration, but he remained to the end of his life Elizabeth's most trusted adviser and had more to do than any one else except herself with the formulation of the royal policy both at home and abroad. He took a great interest in public finances, and though he did relatively little to improve the antiquated system of levying and collecting taxes he kept a close watch over royal expenditures and the conservation of royal resources. He did much also to encourage English trade, to stimulate English ship building and to develop English industry. He revealed little interest in colonization, and although he would gladly have had England participate in the wealth of the new world he opposed the piratical methods of Hawkins and Drake as likely to precipitate war. His foreign policy was directed primarily to the maintenance of peace and the promotion of English economic interests. While he encouraged Protestant rebels in Holland and France he steadily, though not always openly, opposed the efforts of Leicester and Walsingham and Essex to draw England into open war on their behalf. Before his death he contrived to establish his son, Sir Robert Cecil, as the queen's chief adviser.

CONYERS READ

Consult: Froude, J. A., *History of England from the Fall of Wolsey to the Defeat of the Spanish Armada*, 12 vols. (London 1898–1901) vols. iv–xii; Pollard, A. F., *The History of England from the Accession of Edward VI to the Death of Elizabeth, 1547–1603* (London 1910); Cunningham, W., *Growth of English Industry and Commerce*, 3 vols. (6th ed. Cambridge, Eng. 1915–19) vol. ii, p. 53–84; Read, Conyers, "Walsingham and Burghley in Queen Elizabeth's Privy Council" in *English Historical Review*, vol. xxviii (1913) 34–58.

BURIAL CUSTOMS. *See* DEATH CUSTOMS; FUNERALS.

BURKE, EDMUND (1729–97), British statesman and political theorist. Burke was one of the most eminent of those political thinkers who have devoted their main energies to the actual conduct of affairs. He was born in Dublin and after a good but desultory education at Trinity College, Dublin, he crossed to England to study law but abandoned it for literature and politics. He first attracted attention by a work entitled *A Vindication of Natural Society* (1756), a brilliant satire on Bolingbroke's recently published works devoted to a vindication of natural religion, wherein he showed how the arguments by means of which Bolingbroke had reduced Christianity to deism would, if applied to politics, reduce ordered society to chaos. In 1759 he initiated the invaluable *Annual Register* of outstanding events, which he continued to edit, and in the main to write, until 1788. In the same year (1759) he became secretary to a prominent member of Parliament, W. G. Hamilton, who shortly afterwards (1761) was appointed to the staff of the lord lieutenant of Ireland. This appointment took Burke back to

his native city, and during his stay there (1761–64) he became convinced that the troublous condition of Ireland was due largely to the penal religious laws, to the commercial disabilities of the Irish, to the factiousness of its parliaments, to the corruption of its administration and to the absenteeism of its landlords. He never ceased throughout his public life to advocate reforms calculated to remove these evils.

A new and important stage in his career opened in 1765 when he was appointed private secretary to the Marquis of Rockingham, the official chief of the Whig party, who had just been summoned by George III to form a ministry. A seat in Parliament was also found for him before the close of the year. His political principles had already become fixed. He had acquired a profound admiration for the British constitution as determined by the revolution of 1688–89; he firmly believed in the government of the country by the landed aristocracy, of which class the Marquis of Rockingham was a splendid exemplar; he burned with a zeal for justice, a hatred of oppression, an enthusiasm for good administration, a devotion to religion. His immense intellectual power, the diligence with which he made himself master of every subject that he took up, the torrential eloquence wherewith he poured forth the wealth of his ideas, the insight that enabled him with unerring certainty to penetrate to the heart of every problem—these qualities soon gave him a unique position in the House of Commons and in the councils of his party. He speedily became, and for a quarter of a century (1765–90) remained, the formulator and interpreter of Whig policy to the world.

He had occasion to apply his principles to many practical problems of first importance. To begin with he had to defend the party or cabinet system of government against the system of administration by the monarch and the "King's friends" which George III—modeling himself on Queen Elizabeth—was trying to reintroduce. This defense he made in his *Observations on the Present State of the Nation* (1769) and in his *Thoughts on the Causes of the Present Discontents* (1770) with a masterly thoroughness which makes those works classics in English political philosophy. The second great question that claimed his attention was the controversy respecting taxation and representation which had broken out early in George III's reign between the American colonies and the mother country. Two speeches that he made in Parliament on this matter (April, 1774, and March, 1775) together with his *Letter to the Sheriffs of Bristol on the Affairs of America* (1777) constitute in Lord Morley's opinion the most admirable of all his utterances. Refusing to discuss the abstract rights of either the one side or the other he pleaded for a conciliatory policy in the interests of peace and prosperity. "The question with me," he said, "is not whether you have a right to render your people miserable, but whether it is not your interest to make them happy." His third great prepossession was the problem of the government of India, closely connected with which was the problem of the corruption of British politics by the overwealthy "nabobs" who returned from the East to buy up the pocket boroughs of the homeland. His prolonged attack on Warren Hastings may have been mistaken in detail, but it did much to impress all succeeding Indian administrators with a sense of their responsibilities.

The last great concern of his life was the French Revolution. His attitude of hostility to this epoch making event caused him to separate himself from many of his old associates and it finally led to the disruption of the Whig party. His famous *Reflections on the Revolution in France* (1790) was one of the most powerful and influential pamphlets ever written. He followed this up by other works in which he showed that precisely the same principles as had led him to oppose the policy of George III in England compelled him to condemn the revolutionaries in France. These principles were the organic nature of the state, the need of constant adaptation of institutions to circumstances, the peril of too sudden change and the imperative necessity of the recognition of the religious basis of society.

F. J. C. HEARNSHAW

Works: *Works*, 16 vols. (new ed. London 1803–27); *Correspondence*, 4 vols. (London 1844); *Speeches*, 4 vols. (London 1816). A six volume edition of his works was published in the World's Classics (London 1906–20).

Consult: Prior, James, *Life of Burke*, 2 vols. (2nd ed. Boston 1854); Morley, John, *Burke* (2nd ed. London 1888); Newman, B., *Edmund Burke* (London 1927); Stephen, Leslie, *History of English Thought in the Eighteenth Century*, 2 vols. (3rd ed. New York 1902) ch. x; MacCunn, J., *The Political Philosophy of Burke* (London 1913); Vaughan, C. E., *Studies in the History of Political Philosophy before and after Rousseau*, 2 vols. (Manchester 1925) vol. ii, ch. i; Cobban, Alfred, *Edmund Burke and the Revolt against the Eighteenth Century* (London 1929).

BURLAMACHI, PHILIP (died in 1644), merchant-banker and diplomatic agent. He was born in France of Italian stock. Entering into partnership with his wife's family, the Calandrini, he became the head of a banking association which spread a network of agencies over Europe. About 1605 he settled in England, where he soon achieved prominence as financier and merchant. Between 1614 and 1633 he was the chief financial agent of the English government. His connections in northern Germany enabled him to act as paymaster and contractor for the various English expeditions which took part in the earlier stages of the Thirty Years' War. He paid and received for the home government large sums in the European capitals, was the paymaster of ambassadors and arranged for the pawning of the crown jewels in Amsterdam. After his naturalization in 1624 he became influential in Whitehall as the most active member of the select community of merchants which supplied the Exchequer with funds in anticipation of revenue. When phenomenal success as a lender led him to borrow money as a deposit banker he overreached himself and failed in 1633 with the crown as principal debtor. His bankruptcy produced a minor financial crisis in western Europe. Burlamachi was one of the first to devise a scheme for an English public bank. His plan, which never found its way into print, proposed an institution to furnish deposit facilities for traders and to provide means for "the payment of all considerable sums which are negotiated"; it was apparently to be supported by the credit of the city of London.

A. V. JUDGES

Consult: Judges, A. V., "Philip Burlamachi: a Financier of the Thirty Years' War" in *Economica*, vol. vi (1926) 285–300.

BURLAMAQUI, JEAN JACQUES (1694–1748), Swiss jurist, an adherent of the law of nature school and its greatest exponent outside Germany. His *Principes du droit naturel* (Geneva 1747) begins with a study of the nature of man considered as morally responsible and subject to law. Burlamaqui then attempts to establish the origin of rights in general. He discusses the norms of conduct, which he regards as derived from reason, the nature and origin of obligation, law as a system of reciprocal rights and duties, the nature of rules of law and the basis of sovereignty. He analyzes natural law and seeks to prove its existence, deducing it from the divine order, moral instinct and reason. The *Principes du droit politique* (Geneva 1751) treats of the origin and nature of civil society, forms of government, the transitions of sovereignty and the reciprocal duties of sovereigns and subjects. Here Burlamaqui examines specifically the legislative, religious, punitive and economic rights of the sovereign. Although he favors absolute power and hereditary monarchy he regards a popular assembly as capable of changing the existing ruler. Finally, in dealing with international law, he discusses the foreign rights of the sovereign, the rights and necessities of war, public treaties and the privileges of ambassadors. Burlamaqui consistently maintained that international rights are nothing more than natural law.

ROBERT REDSLOB

Works: The two books mentioned above were republished as one work, *Principes du droit naturel et politique*, 3 vols. (Geneva 1763), tr. by Nugent, 2 vols. (rev. ed. London 1763); they have also been translated into Spanish and Italian. The most notable editor and commentator of Burlamaqui has been Fortunato Bartolomeo de Félice, who published an enlarged edition, 8 vols. (Yverdon 1766–68), which was again revised by Dupin, 5 vols. (Paris 1820–21).

Consult: Rivier, A., "Litterarhistorische Uebersicht der Systeme und Theorien des Völkerrechts seit Grotius" in Franz von Holtzendorff's *Handbuch des Völkerrechts* (Berlin 1885) vol. i, p. 433–35, and further authorities cited there.

BURLINGAME, ANSON (1820–70), American diplomat. Burlingame was born at New Berlin, New York, and later settled in Massachusetts. He was elected to Congress in 1855 and became known as an orator and as a leader of the anti-slavery forces in the House. After his defeat for reelection in 1860 he was appointed minister to Vienna, but his earlier advocacy of the Sardinian cause had offended the Austrian government and the appointment was changed to China. As minister to China, from October, 1861, until November, 1867, he made for himself a lasting place in the annals of American diplomacy. His generous disposition won the confidence of the imperial officials and also of his British, French and Russian colleagues. Largely because of Burlingame's influence with his fellow diplomats his six years in China saw an abatement of the aggressive tactics which previously had characterized the policies of the western powers. In November, 1867, Burlingame resigned his post and accepted appointment as head of a Chinese mission to America and Europe. Pleading for a policy of "fair play for China" he succeeded in

concluding at Washington in 1868 a supplementary treaty between China and the United States, recognizing the territorial integrity and sovereignty of China and the right of free immigration. With the large increase of Chinese immigration into California this last provision was later to become the cause of serious friction between the United States and China. In London Burlingame was able to counteract the influence of the "old China hands" and to effect a complete reversal of Britain's past policy in China. The mission was cordially received at Paris, Berlin and St. Petersburg and Burlingame succeeded in evoking more considerate treatment for the Chinese empire.

G. Nye Steiger

Consult: Williams, F. W., *Anson Burlingame and the First Chinese Mission to Foreign Powers* (New York 1912).

BURNET, GILBERT (1643–1715), British historian and ecclesiastic. Burnet was born in Edinburgh, studied divinity and became professor of theology at the University of Glasgow. In 1674 he settled in London where as one of the most eloquent preachers of his generation and as a vigorous pamphleteer he consistently pursued a broad church policy. His lifelong advocacy of tolerance and his activities in behalf of Scotch Presbyterians and English Nonconformists may be traced not to a judicial temperament but to a belief that there were good men among the subscribers to all creeds. On the death of Charles II, since he had by his independence incurred the displeasure of James, he retired to Paris and later to The Hague. He won the confidence of William and Mary, translated and recast William's *Declaration* and crossing with him to England published an able defense of the revolution. He was rewarded in 1689 with the bishopric of Salisbury.

As a historian Burnet was something of a pioneer. For his *Memoires of the Lives and Actions of James and William, Dukes of Hamilton and Castleherald* (London 1677, new ed. Oxford 1852) he ransacked the available source material, printing many documents. He pursued the same course in his *History of the Reformation of the Church of England* (3 vols., London 1681–1715; new ed. by N. Pocock, 7 vols., Oxford 1865). Although full of inaccuracies and prejudices it was an endeavor not merely to narrate events but also to show underlying ideas and social forces, and in both method and aim provided a model for later writers. In the *History of His Own Time* (ed. by Thomas Burnet, 2 vols., London 1724–34; new ed. by O. Airy, with supplementary volume ed. by H. C. Foxcroft, Oxford 1897–1901), Burnet's most important work, he hoped to supply a handbook for statesmen while justifying the ways of God to man. He succeeded in producing an inimitable account of the shifting political scene he knew so well.

Louise Fargo Brown

Consult: Clarke, T. E. S., and Foxcroft, H. C., *A Life of Gilbert Burnet, Bishop of Salisbury* (Cambridge, Eng. 1907).

BURNETT, JOHN (1842–1914), British labor leader. Burnett first won prominence in 1871 as leader of the rank and file struggle for a nine-hour day in the Newcastle area. Although his election as secretary of the Amalgamated Society of Engineers in 1875 reflected a growing dissatisfaction with the staid craft union policy of the national unions, Burnett adopted in the main the traditional policy of his organization. An efficient negotiator, he was unable, however, in the prolonged trade depression of the decade, to do much more than maintain union membership and the nine-hour day. As a member of the Parliamentary Committee of the Trade Union Congress from 1876 to 1885 Burnett followed its policy in opposing independent political action by labor, and as its representative at the International Labour Congress in Paris, 1883, he supported a movement for non-political international craft organization. He was thus truly representative of the mid-Victorian phase of the British labor movement and out of harmony with the "new unionism" of the nineties.

In 1886, no doubt in recognition of his personal qualifications as one of the leaders who had contributed to the public acceptance of trade unionism, Burnett was appointed to the newly created post of Labour Correspondent to the Board of Trade. He held this office, which was later transferred to the Labour Department, until 1907. He was responsible for valuable reports on sweating (Great Britain, Board of Trade, *Report . . . on the Sweating System in Leeds*, Parliamentary Papers by Command, C-5513, London 1888, and *Report . . . at the East End of London*, Parliament, House of Commons, 331, London 1887) and on alien immigration into the United States (Great Britain, Board of Trade, *Alien Immigration*, Parliamentary Papers by Command, C-7113, London 1893). It was largely through his initiative that the government for the first time began the collection of

reliable information on trade unions and on strikes and lockouts.

H. L. BEALES

BURRITT, ELIHU (1810–79), American advocate of peace. His chief contributions to pacifist propaganda lay in his utilization of data from the social sciences and in his development of a technique of organization and publicity. Without abandoning the emphasis which his predecessors in the peace movement had given to moral and religious arguments against war, Burritt found new arguments in comparative philology, geography and economics. The evidence of related word forms and common roots corroborated for him the religious and humanitarian belief in the solidarity of mankind. Geographical studies convinced him that the unity of the globe and the interdependence of its parts made war an utterly irrational institution. He was among the first to see the importance of enlisting for the peace movement the support of free traders and laborers; as early as 1850 he urged workingmen "to unite and refuse to fight" ("The World Workingman's Strike against War" in his *Ten-Minute Talks*, Boston 1874). His *Year-Book of the Nations* (1855–56) was an able statistical analysis of the economy of the war system. In the field of jurisprudence he popularized the plan of William Ladd for a congress and court of nations, and labored successfully for the organization of representative jurists into a society for the codification of international law.

Burritt was the first pacifist to attempt on a large scale the organization of public opinion in the interest of peace. At critical points in international affairs he tried to propitiate mutual antagonisms by organizing in the countries concerned citizens' meetings for exchanging "Friendly Addresses"; during the Oregon crisis and the Anglo-French crises of 1848 and 1852 this "people's diplomacy" attracted wide attention. He was also the first who on a large scale utilized the press in furthering the cause of peace, inserting in almost forty daily newspapers of Europe incisive bits of peace propaganda. These "olive leaves"—blind advertisements—reached for several years perhaps a million readers each month. In 1848 he organized at Brussels the first international peace congress and was largely instrumental in the organization of those which followed in other European cities.

Burritt believed in the unity of all reforms designed to improve human relations and to remove misunderstandings and conflict between social groups. Therefore in 1853 he made a five thousand mile lecture tour in behalf of Ocean Penny Postage. He did something to realize his plan of "assisted emigration" from Europe to America. From 1855 to 1861 he sought to avert civil war in the United States by devoting his energy, enthusiasm and slender resources to a campaign for compensated emancipation of the slaves.

MERLE E. CURTI

Consult: *Elihu Burritt; a Memorial Volume*, ed. by Charles Northend (New York 1879); Curti, Merle E., *The American Peace Crusade 1815–1860*, vol. i– (Durham, N. C. 1929–) especially ch. vii.

BURT, THOMAS (1837–1922), British labor leader. He came from a family of Methodist, Chartist, trade union traditions; at the age of ten he entered the mines and in adolescence began a process of systematic self-education, reading Wordsworth, Ruskin, much contemporary American popular philosophy, and finding in Adam Smith and J. S. Mill support for his belief in trade unionism. In the later sixties he turned a bankrupt organization into a miners' union comprehensive of the whole Northumberland coal field and recognized by the employers. He played an important part in the development of arbitration into a permanent machinery for pacific negotiation and in the adoption of sliding wage scales based on the selling price of coal. In 1874 he was elected to Parliament by Morpeth, a constituency swamped by newly enfranchised miners, and supported Gladstone, in whom he saw the champion of social, religious and legal equality. He held minor office, was made privy councilor and became "father" of the House of Commons.

After 1890 he was attacked with increasing bitterness by a younger generation of confessedly socialist beliefs, the ground chosen for their attack being his opposition to their demand for a state enforced minimum wage and state control of working hours and his persistence in an outworn faith in trade union bargain. His main work was the construction of a powerful but pacific union, the perfecting of machinery for industrial agreement and demonstration to a country of predominantly upper class leadership of the possibilities of democracy free from demagogic violence.

E. WELBOURNE

Consult: Burt, Thomas, *An Autobiography*, with supplementary chapters by Aaron Watson (London

1924); Welbourne, E., *The Miners' Unions of Northumberland and Durham* (Cambridge, Eng. 1923).

BURY, JOHN BAGNELL (1861–1927), English historian. From Foyle College, Londonderry, Bury entered Trinity College, Dublin (1878), and in 1880 spent six months at the University of Göttingen. In 1885 he obtained his fellowship at Trinity College. At the age of thirty-two he was elected professor of modern history and five years later regius professor of Greek in Trinity College, thus holding two chairs contemporaneously. In 1902 he was appointed regius professor of modern history in the University of Cambridge, a position which he held until his death.

Bury approached the study of history through his interest in classical philology, and the philological method left a clear mark upon his historical work. He made a permanent contribution to our knowledge of the later Roman Empire and of the Byzantine period. In addition to many articles in the *English Historical Review*, the *Journal of Hellenic Studies*, the *Byzantinische Zeitschrift* and other scholarly publications he was the author of an important introduction to volume iv of the *Cambridge Medieval History* and of three masterly books, *A History of the Later Roman Empire from Arcadius to Irene, 395 A.D.–800 A.D.* (2 vols., London 1889), *A History of the Eastern Roman Empire from the Fall of Irene to the Accession of Basil I, A.D. 802–867* (London 1912) and *History of the Later Roman Empire from the Death of Theodosius I to the Death of Justinian* (2 vols., London 1923).

A keen student of philosophy, especially that of Hegel, Bury was a convinced monist and rationalist; he attacked Christianity and other forms of theism as demanding of their followers a faith which reason could not justify. "There is nothing for it but to trust the light of our reason. Its candle power may be low, but it is the only light we have." Bury contributed frequently to the *Annual* of the Rationalist Press Association, and it was this philosophical interest which led him to write his *History of Freedom of Thought* (London 1913).

Yet Bury had his own faith, the belief in progress, which inspired his industrious life. This belief is founded on "an interpretation of history which regards men as slowly advancing in a definite and desirable direction, and infers that this progress will continue indefinitely." It thus implies that "a condition of general happiness will ultimately be enjoyed which will justify the whole process of civilization" (*The Idea of Progress*, London 1920, p. 5). Further, the development must be conceived as necessary and certain; the theory would have little value or significance if future progress depended on chance or the unpredictable discretion of an external will. The historian's task is to contribute toward the ultimate synthesis of man's past which shall unify the process of the ages. History is not the dossier of an incompetent Providence, but the record of an uphill struggle in which the race of mankind, although heavily handicapped, has accomplished wonders.

NORMAN H. BAYNES

Consult: Baynes, Norman H., *A Bibliography of the Works of J. B. Bury, compiled with a Memoir* (Cambridge, Eng. 1929).

BUSCH, ERNST (1849–93), German writer on the theory of the cooperative movement. His three works, *Die Soziale Frage und Ihre Lösung* (Berlin 1890), *Der Irrtum von Karl Marx* (Basel 1894, 2nd ed. Stuttgart 1908) and *Ursprung und Wesen der wirtschaftlichen Krisis* (Leipsic 1892), all deal with the differences between the socialistic and the cooperative approach to the solution of the social question. Busch traced inequality of distribution to the process of exchange rather than to the system of production. He rejected the theory of class struggle and opposed the intervention of the state in economic affairs. He believed that through the cooperative organization of consumption it would be possible for the workers to effect a transformation of the modern capitalistic system. His doctrines provided the cooperative movement with a broader theoretical basis and exerted a considerable influence upon the German Social Democrats, whose attitude toward the cooperative movement had been indifferent or hostile. His influence extended to other countries, especially Switzerland and Austria.

V. TOTOMIANZ

Consult: Totomianz, V., *Konsumentenorganisation: Theorie, Geschichte und Praxis der Konsumgenossenschaften* (3rd ed. Berlin 1929) p. 19–25; Mülberger, Arthur, introduction to the second edition of *Der Irrtum von Karl Marx*, p. 5–15.

BÜSCH, JOHANN GEORG (1728–1800), German economist. Trained primarily in the natural sciences Büsch served after 1767 as the director of the commercial school at Hamburg, now known as the Büsch Institute. He was active in every movement for social progress and left twenty-eight works on technological, historical,

legal and economic subjects. He was one of the leading precursors of German economic science.

As an economist Büsch was significant especially for his opposition to eighteenth century mercantilism and his advocacy of a more liberal economic policy. He favored a limited system of free trade and declared that an international division of labor would improve the material welfare of mankind more quickly than the most flourishing economic development under conditions of national isolation. Accordingly he opposed the artificial stimulation of domestic industries but supported an educational protective tariff, thus anticipating Friedrich List in this as at many other points. Büsch disliked chartered companies because they easily became monopolistic, and demanded the regulation of competition in international trade by a system of commercial treaties. Having coined the German term for carrying trade (*Zwischenhandel*) he was one of the first to appreciate the true importance of this branch of economic activity. In internal affairs he stood for unrestricted competition in trade, freedom of industrial occupation and modernization of the agrarian regime by gradual reform. He welcomed the machine as an agency for the promotion of mass consumption. Among other things he advocated the improvement of commercial law and the establishment of special commercial courts.

Büsch's economic system centered about his theory of monetary circulation. Regarding money as a medium of exchange and as a standard of value, he opposed the quantity theory. He believed that division of labor is produced by the circulation of money and attempted to refute the opposite view of Adam Smith. Similarly the velocity of circulation rather than the absolute quantity of money determined for Büsch the prosperity of a country. One of the earliest German writers on banking, he held that banknotes are merely certificates of deposit, although he realized that they need not be fully covered, and declared that the function of deposit and transfer banks (*Girobank*) is to simplify payments. He also broached the subject of a single international monetary unit. This interest in monetary circulation was reflected even in his writings on taxation, in which he upheld the taxation of current income rather than of property and showed that the money withdrawn in taxes is returned through the employment by the government of its subjects.

KURT ZIELENZIGER

Important works: *Abhandlung von dem Geldumlauf*, 2 vols. (Hamburg 1780, 2nd ed. 1800); *Sämtliche Schriften über Banken und Münzwesen* (Hamburg 1801); *Theoretisch-praktische Darstellung der Handlung in deren mannigfaltigen Geschäften*, 2 vols. (Hamburg 1792, 3rd ed. 1808); *Kleinere Schriften von der Handlung und anderem gemeinnützigen Inhalte* (Leipsic 1772); *Handlungsbibliothek*, together with C. D. Ebeling, 3 vols. (Hamburg 1785–97).

Consult: Nölting, J. H., *Joh. Georg Büsch* (Hamburg 1801); Roscher, Wilhelm, *Geschichte der Nationalökonomik in Deutschland* (Munich 1874) p. 559–76; Sieveking, Heinrich, "J. G. Büsch und seine Abhandlung von dem Geldumlauf" in *Schmollers Jahrbuch*, vol. xxviii (1904) 77–115, 559–98; Biensfeldt, J., *Johann Georg Büsch* (Erlangen 1910).

BÜSCHING, ANTON FRIEDRICH (1724–93), German writer on economics, statistics and geography. He was the founder of comparative political statistics. His *Vorbereitung zur gründlichen und nützlichen Kenntniss der geographischen Beschaffenheit und Staatsverfassung der europäischen Reiche und Republiken* (Vienna 1758; 6th ed. by G. P. H. Loumann, Vienna 1802) was the first work to abandon the method of treating countries individually and to make a comparative study of the population, territory, government and particularly of the economic aspects of national life. His monumental work is the *Neue Erdbeschreibung* (13 vols., Hamburg 1754–1807; tr. in part by P. Murdoch as *A New System of Geography*, 6 vols., London 1762), ten volumes of which he completed before his death. It contains statistical and other information on the resources, industry, political systems and general culture of all the countries described; it initiated the politico-statistical method in geography. Büsching also founded and published twenty-three volumes of the *Magazin für die neue Historie und Geographie* (1767–93). The first periodical to deal with politico-statistical material, it furnished valuable statistical data on the political conditions of various states.

HELLMUTH WOLFF

Consult: John, V., *Geschichte der Statistik* (Stuttgart 1884) p. 90–95; Roscher, Wilhelm, *Geschichte der Nationalökonomik in Deutschland* (Munich 1874) p. 465–66.

BUSINESS is a term which etymologically means the state of being busy and hence tends to become identified in meaning with whatever there is to be busy about. This accommodating quality makes it impossible to compile a reasonably compact group of generalizations to cover the manifold senses in which the term is used

in the literature of the social sciences. Even in the relatively restricted field of economics it is frequently employed in a comprehensive sense to designate any activity directed toward gaining a livelihood.

While its use is extremely catholic the term business is nevertheless commonly associated with a system by which the process of profit making organizes and directs economic activity. Sometimes it is employed to indicate the immediate aim of profit seekers, as when the expression, "this is a business transaction," differentiates the dealing from one involving motives other than the acquisition of profit. It is also used extensively to designate methods currently employed in the process of profit making, such as financing, purchasing and selling, regardless of whether or not they are specifically directed to profit making. Religious societies, cooperative associations, departments of government and members of professions dedicated to purposes other than the realization of profit are customarily described as being engaged in business in so far as they use methods associated with the process of profit making.

The peculiar nature of business can be readily understood by contrasting it with other systems by which economic activity might be organized and directed. In any community there is a great array of physical, mental and mechanical processes by which human and material resources are converted into commodities and services for human use. The carrying on of these processes is economic activity. This activity might be under the supervision of a military dictatorship directing every phase according to calculations of what would constitute the most effective military establishment. In war time economic activity is generally brought in some degree under such a type of control. There might be dictatorship by a religious organization exercising a similar supervision according to standards believed to promote righteousness. There were traces of such a type of control during the Middle Ages. On the other hand economic activity might be organized and directed by government officials with the object of apportioning its burdens and benefits equally among the members of the participating group. This is one of the plans with which the term socialism is associated. In contrast to these methods business is a system whereby economic activity is controlled by those seeking a profit or surplus above the cost of making goods and services available for human use. In such a system there is not necessarily a central agency for planning and coordination, since its only essential is the possibility of profit making and its potential scope that range of economic activity adapted to such a purpose.

The prerequisites of business are: the existence of some standard, however crude, upon which to base calculations of profit possibilities; enough security through recourse to physical force or law to permit a course of action based upon such calculations; and an accumulation of products beyond immediate consumption requirements. So long as people are dependent for their livelihood upon the direct consumption of all they produce, business cannot exist because there is no place for profit making. Thus business is dependent upon something akin to capitalism in its requirement of an accumulated store of products, but its emphasis is upon the use of these products for profit making rather than for further production.

It does not follow of course that if these prerequisites have been fulfilled a business system will automatically spring into being. Nor does it follow that the general use of devices commonly associated with business involves commitment to a business system. It is essential to the existence of such a system not only that there be fulfilment of the prerequisites enumerated but also that these resources be directed to the end of profit making, a process which necessarily involves the use of business devices. It is in the combination of these three, to which direction is given by the desire to make profits, that a business system emerges.

Originated at some time prior to that disclosed by written records, business was already highly developed in what we are accustomed to call the ancient world. An extensive maritime and merchandising trade was controlled by a profit making system which in the Roman Empire had come to include both banking, as a money changing process, and elaborate machinery for speculation and investment. With the collapse of the Roman Empire this business system was virtually wiped out in northern and western Europe, but in the area controlled by Constantinople a substantial trade tapping the Orient and the western Mediterranean continued to be organized and directed by profit seekers. After the crusades the center of the business system gradually shifted to the Italian cities and later to Holland, where through steady advance in profit making machinery its modern expansion began.

The story of this expansion in all of its ramifications is little less than the story of the rise of modern western civilization. Christian churchmen contributing to whole souled pursuit of profit by reconciling personal gain with piety; explorers finding new lands and armies clearing the way for traders; kings fighting with princes and popes to establish national states and then with parliaments to hold their power; philosophers inventing or rediscovering theories of "natural rights" and "individualism"; scientists experimenting with microscopes, steam and electricity; lawyers perfecting devices for controlling property; all have important places in the story of the development of modern business—a story so vast and complex that it has never been put together in a complete and moving whole.

In paving the way for the modern business system three developments each with its own extensive history seem to have been of peculiar significance. The first was a commercial revolution which, gaining momentum during the fifteenth and sixteenth centuries largely as a result of the discovery of the Americas, expanded commerce from what was primarily traffic in luxuries to that in homely products for consumption by masses of people and created a large group of prosperous traders skilled in the ways of profit making. The second development was the industrial revolution, hastened by the pressure which the earlier commercial expansion had placed upon methods of production, precipitated by a series of mechanical inventions in England in the eighteenth century and still continuing its course with no evidence of waning vigor. The third was the elevation of the doctrine of laissez faire—that competition can be trusted to guide economic activity to socially desirable ends—to the position of a dominant social policy during the eighteenth and nineteenth centuries. The commercial revolution built the framework for a national and international business system but one that was definitely limited by the manageability of crude industrial processes. The industrial revolution removed this limiting factor; and widespread faith in the doctrine of laissez faire at least as a domestic governmental policy resulted in sanctions favorable to business expansion.

Before the mechanical inventions of the eighteenth century formally ushered in modern industrialism, many of the devices associated with modern business control of economic activity were known. A wage system had been used by profit making enterprises in the Roman Empire; accounting was quite highly developed by the Italians in the fifteenth century; insurance was being extensively used by Dutch business enterprises in the sixteenth century. The operation of a type of reserve banking system by London goldsmiths in the middle of the seventeenth century was followed by the establishment of the Bank of England in 1694; and prior to the middle of the eighteenth century stock speculation—much of it in various kinds of "bubbles"—was being extensively practised. The coming of industrialism, however, not only opened vast new avenues for profit making but also made possible a great extension of business control and its concentration on a much larger scale in individual enterprises. It is not so much the devices generally associated with modern business control of economic activity—wage systems, corporate investment, credit, etc.—that give it its distinctive character but rather the scope, power and pervasiveness of the system made possible by modern industrialism with its machine technique.

In the ancient world and throughout the Middle Ages in Europe business was confined largely to what would now be classified as finance and commerce as opposed to industry. Agriculture and the fabricating of goods were organized for the most part along lines other than those directed primarily toward profit making. With the expansion of trade during the commercial revolution there was a steady extension of business control to industry, notably in the field of textile production; but it remained for sweeping changes in industrial technique, particularly concentrated in England toward the end of the eighteenth century, to remove important physical barriers to any general invasion of industry by business.

The extension of the business system, however, was gradual and in extent has varied widely from country to country and in the various branches of economic life within countries. In England conditions during the latter part of the eighteenth century were singularly propitious for its rapid spread. The previous expansion of trade had placed funds at the disposal of people alert to profit making possibilities. Enclosures of agricultural lands for sheep raising had driven large numbers of people off the soil and created a floating population desperately in need of a chance to make a livelihood. Many of the raw materials essential

to industrialism were at hand. The view that the rich and poor alike should for the general good be required to look out for themselves in the struggle to make a living was in its ascendancy among those in power. Consequently when ways were discovered to apply power to tools, concentrate workers in factories and speed up transportation to steadily growing markets the path was already largely cleared for a rapid expansion of the business system. On the continent of Europe and in the United States the spread of business control to industry was much slower than in England. On the continent the Napoleonic and revolutionary wars put a blight on economic development over large areas, and social, economic and legal arrangements peculiar to various countries also held back the expansion of business control. In Germany, for example, a survival of certain important phases of the guild system of production as well as a demoralizing lack of political unity contributed to retard the development of large scale industrialism under business control long after it was extensively under way in England. In France among many factors contributing to a slower expansion of the business system was the continuing opportunity for workers to be relatively secure in tilling the soil, one of the activities less adapted to business control. In the United States the development of business was retarded relatively to England by the existence of a great frontier upon which successive waves of settlers advanced to carry on a system of production designed in substantial measure for direct use rather than for profit. The business system had however been expanding almost from the day the first European settlers arrived, favored not only by social and legal arrangements but by an abundance of resources for profit making. The passing of the frontier by closing the most general alternative to direct participation in a business system made it possible for that steadily expanding system to gain undisputed control over the economic life of the nation.

It is only in a general sense that the economic life of any community can be said to be controlled by business. Much of the economic activity in the United States, such as that of the government, of the churches or of housewives, is not motivated by the desire for profit, while in Russia, a country formally committed to a type of socialism, a large share of economic activity is controlled by the process of profit making. Thus in referring to the economic life of a community as controlled by business one means only that the profit and loss calculus of that system is dominant and that even those who do not participate directly in the effort to make profit must pay heed to it. This is peculiarly true of the United States where business, much more retarded in its initial development than in England, has not only come to dominate the economic life of the nation but has reached over national borders to confound other nations with its strength, vigor and firm devotion to its major objective, profit.

In spite of the extensive development of business in the United States it is still possible to study currently its most primitive stages in the production and barter of natural products for profit; and individually owned profit making establishments operating on a very small scale are still abundant. With the advance of industrialism, however, business has been increasingly taken over by corporations engaged in producing highly specialized goods and services for national and international markets. Manufacturing corporations gather equipment and material from all parts of the world through enterprises specializing in mining, agriculture and transportation; they convert this material into standardized products, sometimes relying on the coordinated activity of hundreds of thousands of factory workers; and they dispose of these products through business organizations engaged in advertising, wholesale and retail trade, each with its specialized body of workers. Such operations are typically financed through investment and commercial banking enterprises linked in national and international systems of their kind, and may depend for their ultimate success on purchases by hundreds of thousands or even millions of consumers. In such a sequence of operations a serious upset at any point is reflected with varying degrees of intensity throughout the whole system of enterprises. The failure of an enterprise supplying raw material or a breakdown in transportation may result almost immediately in unemployment of factory workers and in a consequent falling off in consuming power reacting through a connected chain of enterprises engaged in wholesale and retail trade and affecting the welfare of countless persons in no way responsible for the initial disturbance. This delicate adjustment of highly specialized enterprises, dependent for their individual success not only upon the coordination of vast and complicated processes but also upon the effective cooperation

of a great chain of interdependent enterprises and shaping the welfare of armies of workers, consumers and investors by their performance, is an outstanding characteristic of the modern business system and differentiates it markedly from business prior to the coming of modern industrialism.

In accounting for the fact that profit making is allowed to control such a delicately adjusted economic structure requiring a high degree of cooperation for successful performance, reference is generally made to the sanctions and restraints of a "system of free private enterprise" of which profit making is a part. This system, in one sense a working model of the doctrine of laissez faire, has as its key elements the institutions of private property, contract, profit making and competition. The institution of private property roughly speaking fixes the ownership of the resources coming within its scope and the rights attached to that ownership. By contract or agreement freely entered into by two or more parties to their mutual satisfaction machinery is provided for bringing property and those who are to use it into a dependable relationship. It is largely through contract in the broad sense of the term that property in all its countless forms is entrusted to the process of converting human and material resources into products and services for human consumption, that labor is obtained and that these products and services are ultimately disposed of.

The opportunity to make profit is depended upon to induce those having control of human and material resources through ownership of property or through contract to put the resources to work producing goods and services. And competition is the force primarily relied upon to hold profits within reasonable limits, to protect all those involved in the system from exploitation, to prevent any of them from making unreasonable exactions for their property or labor and to knit the process by which people gain a livelihood into a smoothly and steadily working whole.

Viewed as part of a system of free private enterprise, business is a set of arrangements providing those participating in it with rewards proportionate to their contributions to the production of goods and services and making these goods and services available for consumption on the best possible terms. But from the point of view of those engaged in business as profit seekers, generally called "business men," the acquisition of profit is an end in itself, if for no other reason than that failure to acquire it threatens their elimination from the ranks of the profit seekers. The difference between the conception of business as a device for providing human beings with the means of livelihood and as a way of acquiring profit represents the essential difference between economics and what is commonly described in the United States as the science of business. Thus profit, the mainspring of business, is treated by economists as a payment for performing some function, positive or negative, in the process of providing goods and service. Profit from the viewpoint of the science of business, however, is the difference between the receipts and expenditures of a profit making enterprise, to be treated as an end in itself.

To the extent that business dominates economic activity it is economical to have it carried on with a minimum waste of human and material resources, and if a balanced competitive situation exists this way may also be the most profitable. It is largely on the assumption that success in profit making and economical utilization of human and material resources go hand in hand that public funds have been extensively appropriated in the United States for studying and teaching ways of profit making. The assumption may or may not be true in the case of any particular effort to make profit. There is no certain and necessary relationship between "sound business"—that which gives profit seekers a satisfactory margin between expenses and receipts—and socially economical management.

While those directing profit making enterprises are given an initial control over business, in so far as it is a part of a larger system of free private enterprise the extent of this control is dependent upon the bargaining ability of all the various participants. Thus if laborers are in a strong bargaining position they can presumably obtain a relatively large share in the control exercised over business and a relatively large share of the income gained by profit seeking enterprises in which they participate. Likewise consumers have a potential control over business through their power to discriminate in purchasing. It has not however been the history of business under a system of free private enterprise that control over it has been seriously compromised by wage workers or consumers. Those directing profit making enterprises have as a group maintained firm control over the system and have been consistently successful

in using this control to obtain relatively large incomes.

This success has been reflected in the general conception of what constitutes being "in business" or having a business career. All those who spend their working lives in a business system whether as common laborers or as executives of great corporations have business careers. Those who earn their living by working for wages paid by profit making enterprises are no less committed to business than are those who direct their labors. However, because the control of the business system is lodged with those directing profit making enterprises, it has become customary to associate a career in business with the acquisition of profit or what might be termed the profit controlling side of the system.

With the increasing direction of business by employees of large corporations the difficulty of formulating any concise conception of an individual business career has been enhanced. Before the widespread application of the corporate device such a career was envisaged as one in which the owner of property whether in the form of money, materials or equipment put it to use for profit making under personal direction and personally pocketed the gains or bore the losses. Such an individual was the type of entrepreneur of eighteenth and early nineteenth century economic literature. While small retail shops, many farms and some substantial industrial enterprises are still conducted on such a basis, the dominant type of business organization at present is the corporation to which owners commit their property by contracts of limited liability to be used by hired workers ranging from unskilled manual laborers to highly trained specialists. Under such circumstances the difficulty of specifically identifying any group as peculiarly occupied with business careers is obvious. The process of profit making is clear, but the point at which an employee moves across the line that separates the "hired help" from those having business careers is difficult to locate. That there is such a line determined roughly by the degree of individual indispensability to a profit making enterprise is none the less true.

Because of their key position in a system which constrains all participants to pursue a course directed toward personal gain and because of their success in following such a course, those in the United States who control large profit making enterprises enjoy what is probably a greater prestige than that of any other group. In older countries where there are continuing systems of aristocracy based upon birth or royal favor success in business is somewhat less of an end in itself.

The marked material success of those in control of business in the United States is responsible in part for the widespread adoption of business devices and methods by enterprises not designed to make profit. Advertising has come to be used by religious establishments for what is not infrequently described as "selling the Lord's message"; departments of government and school systems make wide use of business methods in such operations as purchasing supplies and equipment, directing the work of employees and accounting for funds. It is true that since profit making dominates economic activity in the United States non-profit making establishments in dealing with enterprises conducted for private gain are sometimes forced to adopt such methods for self-protection. However, the stronger factor in the situation is the conviction that such methods are efficient. It is this idea of efficiency that generally underlies the much voiced demand for "more business in government," a demand which usually means that the government in expending funds on operations designed to promote the public welfare should more generally use the criteria and methods associated with profit seeking.

The prestige and power of successful business men in the United States also contributes to a movement of uncertain proportions and meaning to "make business a profession." An important contributing factor is the growing recognition that competition is neither a certain nor a consistently satisfactory regulator of the business system. This realization led to a formidable trade association movement in which competition is tempered by cooperation; it gave force to the contention by some business leaders that there must be a compensating control in the form of a professional attitude to obviate the necessity of more formal control by the state. What is generally meant by such a professional attitude is recognition that profit making is not an end in itself but a way of providing people with a livelihood and that profit seekers should formally accept a social responsibility in directing the process. Some conceptions of business as a profession include no more than a vision of a body of specialists trained in the ways of profit seeking, having group standards of performance and enjoying public recognition

in this capacity; but the predominant idea seems to be that of making the widely circulated business motto, "he profits most who serves best," dependent upon a professional code of binding force rather than upon a variable factor of individual good will and the exigencies of competition.

As business has increased in scope and power, governments have supplemented the earlier policy of fostering and protecting it by the adoption of a great variety of measures designed to direct it to social ends. In the United States most of such measures have fallen into three main groups: first, those designed to establish a plane of competition believed to be socially desirable; second, those intended to remove obstructions to competition within the limits set; and finally, measures to regulate the conduct of business enterprises believed not to be adapted to socially satisfactory control by competition. In addition an important control has been exercised over business through taxation. In some cases, such as the levying of a prohibitive federal tax on the note issues of state banks to drive them out of circulation, taxation has been applied explicitly as a regulatory device. Explicit use of the taxing power for the regulation of business, however, is now regarded as offensive to the federal constitution, and the effect of taxation on business is, in theory if not always in fact, incidental to its other purposes.

Attempts to establish a socially desirable plane of competition by governmental action have been based on the general theory as phrased by Henry C. Adams that "the law is an agency for the realization of the higher ideals of men by guarding them from that competition which would otherwise force them to a lower plane of action, or out of business." In the modern business system with its great discrepancies in economic power, its impersonal and long distance relationships and its control over highly complex products, the ways of competitive retribution may be slow and uncertain. By exploiting workers in a weak bargaining position or selling deleterious products a profit making enterprise may not only prosper at least for a time but may also force its competitors perhaps most unwillingly to follow suit if they are to survive. To check competition as a destructive force many laws designed to establish what legislatures have believed to be a desirable plane of competition have been enacted. The various branches of the government of the United States have also occupied themselves extensively with efforts to make competition effective on the plane set. In order to give this force a chance to work, Congress and the state legislatures have passed a large volume of "anti-trust" legislation designed to remove obstructions to competition in such forms as monopoly, conspiracy and agreements in restraint of trade.

In addition to trying to check competition believed to be undesirable and removing obstructions to "wholesome" competition the various governments of the world have also established regulatory machinery to control particular enterprises where monopoly is essential to satisfactory service or where competition has failed to produce results satisfactory to legislative bodies. Such regulation generally carried out in the United States by administrative commissions with provision for review of their decisions by courts varies widely in the case of different enterprises and from jurisdiction to jurisdiction. It is concerned primarily with the prices charged for standardized commodities and services. The government also regulates some enterprises by competing with them as a proprietor. Government competition, for example, serves to regulate certain privately owned and operated electric power and light companies. However, the instances where branches of government are engaged as proprietors of enterprises capable of yielding a profit are relatively few. "Less government in business," the companion piece for "more business in government" and generally meaning that the government should not occupy any profitable fields of endeavor, is still usually backed by an effective political force.

DEXTER MERRIAM KEEZER

See: ECONOMIC ORGANIZATION; CAPITALISM; INDUSTRIALISM; COMMERCE; INDUSTRIAL REVOLUTION; FACTORY SYSTEM; PROPERTY; CONTRACT; COMPETITION; CREDIT; PROFIT; CORPORATION; ENTREPRENEUR; CAPTAIN OF INDUSTRY; BUSINESS ADMINISTRATION; ACCOUNTING; ADVERTISING; MARKETING; COMBINATIONS, INDUSTRIAL; STANDARDIZATION; RATIONALIZATION; EFFICIENCY; BUSINESS EDUCATION; BUSINESS, GOVERNMENT SERVICES FOR; LAISSEZ FAIRE; GOVERNMENT REGULATION OF INDUSTRY; BUSINESS ETHICS; PUBLIC WELFARE; ECONOMICS.

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BUSINESS ADMINISTRATION may be defined as the science and art of conducting an enterprise with a maximum of efficiency and a minimum of cost. The administration of a project not only considers ways and means but weighs values and determines ends to be sought. There is a growing recognition of the separate roles of administration, management and organization. Administration, whether or not it is distinct in personal composition, is distinct in function from the management. Its function is to determine corporate policy, to coordinate finance, production and distribution, to point out the general path which is to be followed. Management is charged with the execution of policy within the limits set by administration; it devises methods and improves processes. Organization is the tool by which management achieves the ends aimed at by administration. Determination of the formulae which the engineer is to apply is the function of scientific management. But it is administration which in the first place, within the limits of the socio-economic environment, determines the situation for which formulae must be found.

It is only in comparatively recent times that business administration has been set apart as a distinct function in economic life. Even the vast business development following the industrial revolution failed to liberate business from the trial and error methods, the exclusive dependence upon native shrewdness and energy, that had characterized business since time immemorial. In England the period of laissez faire afforded dazzling opportunities to the acquisitive captains of industry who cornered the market or secured special concessions but had little interest in scientific administration or management. During the corresponding period in the United States the chief activities were farming, shopkeeping, small manufacturing and some foreign trading. Individualistic effort prevailed. Trading was on a shrewd, narrow basis and the chief virtues were the ability to keep out of debt and to work hard. Later the scale of operations broadened. Nevertheless, during the nineteenth century natural resources such as fertile farming country, dense forests, rich deposits of minerals, were acquired, appropriated and exploited under a system of opportunistic individualism.

By the end of the century this race for appropriating natural wealth had been run. In some fields intense competition among the various entrepreneurs was forcing attention to the methods and costs of production. In others large scale organizations had achieved virtual monopoly and had settled into the routine administration of their properties. Business then turned to the intensive cultivation of markets for the sale of its products. An economic consequence was mass production of goods for consumption by wage earners generally, and such production had to be based on low costs. These low costs could be attained in many cases only by the most rigorous study of methods, materials and organization and a scientific approach to problems of management and administration.

In both the competitive and the monopolistic industries the importance of improvements in administration was recognized. In the competitive industries progressively improved methods of production and distribution became almost compulsory because of price competition. Large scale industry magnified the importance of every detailed improvement, since a slight decrease in waste or the utilization of some small by-product might mean enormous savings. The consolidation of ownership of industrial plants into holding companies has likewise been an important influence, since financial powers were given an opportunity to compare costs in the various units under their jurisdiction. The competition created within their own organizations has often been more scientific and intelligent than the blind search for reduction of costs which has gone on among independent concerns. The spread and growing complexity of the corporate form of business organization resulted in the development of a management

group whose interests and actions became increasingly independent of ownership. It contrasted sharply with the older type of small scale owner-manager. This change gave a considerable stimulus to a detached and scientific approach toward problems of administration.

Other developments affecting the type of administrators called for in industry were the political and economic changes which took away from the employer legal and economic sanctions for the control of labor. Some employers came to understand that greater productivity could be secured from workers by winning their cooperation than by relentless driving. In America labor has always been relatively scarce, especially in recent years. As a result of the restriction of immigration employers have been forced to look elsewhere than to cheap labor for means of economical production. One of the most important consequences has been the increasing application of research to the relationship of management and men.

The advances made in the social sciences have been an additional stimulus toward new viewpoints. The newer psychology in particular, with its analysis of personality maladjustment and integration, has opened the door to intelligent control of factors vital to the morale of the workers. The rapid strides made in statistical economics and cost accounting in the past twenty years have made possible manipulation of quantitative data to bring out significant relationships formerly buried in general reports.

The result of all these economic and social developments has been a tendency toward the rise of a profession of business. There are a growing reliance on research and science, an increasing willingness to prepare oneself for a business career through training, a greater appreciation of standards of performance and encouraging signs of recognition of the ethical and social obligations of industry. Executives with technical knowledge have been relieved of the purely financial manipulations expected of financiers and owners and have therefore been free to inject a professional attitude into the conduct of the enterprises under their jurisdiction. Everywhere in America the special talents necessary to administer a business and the technical character of such ability have thus become recognized. One evidence of this has been the change in the type of executive called upon to direct important enterprises. The virile individual who displays his ability chiefly in resourceful action during emergencies has been gradually replaced by the quiet planning type who looks so far ahead that he does not allow emergencies to arise.

The work during the early years of the twentieth century of Frederick W. Taylor, the father of modern scientific management, has caused him to be widely regarded as the founder of business administration. His investigations were devoted, however, entirely to technique of manufacturing operations. The only relation of Taylorism to business administration is that each is an application of scientific method, but administration applies the method to the whole range of industrial problems—from launching an enterprise and plant location to administrative organization and marketing.

The growth of interest in business administration has been rapid. Schools of business have been established in the leading colleges and universities of America. By 1915 there was a large and growing body of literature, most of it devoted to techniques, but some of it evidencing evaluations of principles and objectives. Although there was considerable interest in the principles of business administration in Europe prior to the World War it has become enormous since then and American methods are the subject of admiration and study. In part this is due to envy of the prosperity which American business has enjoyed and to the difficulty experienced by European firms in competition with American concerns. In particular the experience of the Ford Motor Company and other American automobile companies has captured popular imagination. Students visiting the United States have observed that, as compared with the affection exhibited in continental countries for old machines and old plants, American concerns are continually scrapping equipment, discarding methods and looking for new models. Throughout Europe there has thus arisen a dissatisfaction with the traditional and antiquated methods, an eager search for improved practises and an unflagging effort to adapt industry to the new conditions. Everywhere there is an interest in rationalization, a term which according to the Reichskuratorium für Wirtschaftlichkeit, the central official body charged with the study of rationalized methods in Germany, may be defined as follows: "Rationalization consists in understanding and applying every means of improving the general economic situation through technical and systematic organization. Its object is an increase in the standard of living by the provision of better and cheaper goods in larger

quantities." It proposes application of the scientific intellectual method not only to the problems of industrial management within the framework of existing industry but to the reconstruction of economic life in the large. This movement is observable in England, Germany, France, Czechoslovakia and Poland and particularly in Russia, where scientific management is regarded as the essential basis of industrial progress.

The United States is properly known as the home of scientific management. Germany more recently has taken up the movement with great vigor and shows remarkable progress. For ingenious internal organization of the plant the American is justly famed, but it is the German who has most successfully managed the affairs of whole industries as units. Although handicapped by a large population and comparatively limited resources Germany has been enabled by superior physical technology and business administration to occupy an imposing place among modern nations.

In Russia the science of business administration has for the first time been applied by a government and on a national scale. In their frantic efforts to industrialize a large agricultural country the Russians have drawn upon America and western Europe not only for machines and technical processes but for knowledge of methods of coordination. The elimination of profits as the aim of economic activity has, however, necessitated a revision and additional development of the borrowed technique.

In general practise the business administrator deals with the business unit while the management deals with the production unit. The business unit is defined in terms of financial control, the production unit in terms of technological processes. Of course there is necessary overlapping and in the last analysis, although details of execution are problems of management, long time planning and organization of industry are concerns of administration.

Preeminent among the activities of administration are financial operations. The administrator, when the enterprise is launched, must determine the relative merits and possibilities of securing capital by subscription to stock, by issuing short or long term bonds or by other forms of indebtedness. He must determine the desired ratio of fixed to working capital and must maintain access to additional capital from such sources as commercial banks and the open market. He must forecast intelligently expenses and watch closely actual current expenses. To this end administrators are utilizing scientific budgeting and improved methods of cost accounting. In the matter of business organization there is a decided trend toward functional classifications. Business departments are being created on the basis of the function they serve, such as planning, material control, purchasing, sales promotion, accounting, personnel. A new tendency is that of having executive decisions made by committees rather than by line officials. This procedure coordinates responsibility and pools the fruits of experience but may result in loss of flexibility. Indeed one of the most difficult problems is to secure centralized leadership and at the same time flexibility and decentralized responsibility. Attempts to attain coordination and accuracy have resulted in elaborate systems of reporting and checking.

Control of production at a regular pace, utilizing all departments efficiently and having goods ready for shipment at desired dates, is aided by statistical devices such as the progress chart. Independence of seasonal and other fluctuations has been attained in some industries by developing side lines of by-products, by securing advance orders and by vertical integration to maintain steady sources of raw material, transportation or sales.

In the field of marketing there has been great improvement in statistical and psychological method. Analyses of market areas and establishment of territorial quotas have revealed new sales possibilities. Utilization of general forecasts of business and trade conditions has facilitated adjustment to market conditions. Establishment of reliable channels of retail distribution has increased volume and regularity of sales. Education of salesmen in the uses of a product rather than in the so-called art of salesmanship has put sales upon a sounder basis. The fine art of creating new wants and breaking down sales resistance through modern advertising, which apparently had infinite possibilities, has recently been subjected to close scrutiny and advertising budgets are being more carefully regulated.

Psychological treatment of personnel problems has advanced. Careful analyses of working conditions, mental as well as physical, and the providing of opportunities for self-expression and recommendations by workers are increasingly employed to forestall the growth of labor difficulties. The growing importance of scientific business administration is evidenced by the organization of various professional societies.

The Taylor Society is an organization with international membership for the promotion of better management. Originally launched to promote the principles of scientific management as developed by Frederick W. Taylor it has during the past decade broadened its scope to include a scientific approach to all phases of administration, such as production, marketing, finance and industrial relations. It holds meetings and conferences from time to time, publishes a bulletin and sponsors authoritative volumes on management.

The largest and most active of the associations interested in the art of business administration is the American Management Association, which includes companies and individuals organized to exchange experience and to study management methods. Because it is a reorganization of an earlier group which had limited its interest to matters of labor the present association may be said to date from about the post-war depression of 1921. Its educational influence is exercised through numerous discussion meetings and conferences held in various parts of the country and in the wide distribution of the proceedings, which are conveniently published in leaflets on special subjects and constitute an indispensable library of American management practise.

There are several other associations of this character such as the Management Section of the American Society of Mechanical Engineers, the Society of Industrial Engineers, the National Association of Cost Accountants and more localized groups. The United States Department of Commerce, through various sections, particularly the Division of Simplified Practise, has arranged numerous conferences of business men which have had educational influence in promoting better administration. Its various publications sent out widely to industrial concerns have brought to general attention much significant knowledge.

In 1927 the International Management Institute, a world wide association for promoting business administration, was organized at Geneva. Its aims include the securing of the maximum efficiency of labor with the minimum of effort, the promotion of standardization, the avoidance of waste, the improvement of methods of distribution and of transportation and the general application of enlightened methods to economic organization.

Business administration, in spite of the spread of special educational institutions and professional associations, can hardly be said to have become a definitely organized science. There is of course a considerable body of tested procedure with respect to business methods which comes more properly under the heading of scientific management. Agreement upon general policies and administrative decisions, however, is still far from being attained. Indeed, although knowledge of processes necessary for business conduct may be reduced to a science, the administration of that knowledge, dependent as it is upon relative values and upon personality, will always remain an art. The student of the most advanced principles of administration is dependent upon the aid of such technicians as engineers, accountants and lawyers and upon people of practical business experience who can supply the exact knowledge upon which business administration is predicted. Although many practical business men are frankly skeptical about the merits of the professional administrator occasionally called in as consultant or advisor there is a tendency to resort to private experts in acute situations. Likewise in times of business reorganization it is sometimes found expedient to retain administrative consultants, who render service for a fee. Although highly specialized and coordinated systems of administration have to some extent resulted in loss of flexibility in the lower levels of management they have also led to a breaking down of traditional viewpoints and a willingness to face new problems intelligently.

From the broad social standpoint implications of business administration are far reaching. As with any other instrumentality its significance depends on the purpose for which it is used. It undoubtedly strengthens the position of the persons directing capital (not necessarily the investors) but it also opens new vistas for public regulation of business. In so far as ends of industrial processes are subject to scrutiny the profit motive tends to lose respectability, and enlightened leaders tend to accept the social responsibilities which underlie economic activities.

HERMAN FELDMAN

See: BUSINESS; SCIENTIFIC MANAGEMENT; PERSONNEL ADMINISTRATION; RATIONALIZATION; BUSINESS EDUCATION; EXPERT; ADMINISTRATION, PUBLIC.

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BUSINESS AGENT is the title usually given to the general executive officer, formerly called the "walking delegate," who represents a local union or council in its daily business and whose work consists for the most part in enforcing union standards and verbal or written agreements with the employer. In this connection he is expected to recruit new workers on the job and to pass on to members information about available employment opportunities. The enforcement of union standards involves as secondary functions superintendence of the apprentice system, collection of fines and back dues, guarding of the trade jurisdiction and directing the work of the shop stewards. The business agent usually has few secretarial duties. Other duties, devolving upon him by reason of his superior information and powers of leadership, include representation of the local on central labor bodies and trades councils and at national conventions, watching legislation and lobbying for the trade. In the larger unions, and especially with the appearance of joint boards in the industrial unionism of the clothing industries, the versatile business agent has been replaced by specialized agents for administrative, personnel or organizing work. At the same time an effort has been made to professionalize the office by special pre-election or appointment tests of ability and character. Abuses of authority are most likely to occur where all these functions are centralized in one person and where the usual short term of office has been lengthened by re-elections or has been made, as in some instances by actual vote of the membership, a life tenure.

The qualities demanded of the office are peculiarly those of the business man—the ability to act quickly and bargain well rather than scrupulousness and delicacy. Since the union rules are often not enforceable on all jobs, the business agent must be a shrewd compromiser. Incumbents tend to assume the mental outlook of the business man and the professional politician and to consider personal interests before those of the membership, the industry or the public.

Much has been made of the labor leader's isolation—physical, economic and emotional—from the rank and file, but such isolation is probably less characteristic of the business agent than of the national officers. For actually his tasks, whether as part time official of a small and struggling union or on the full time job, keep him in close contact with the ordinary union members. In most industries the business agent's earnings are based supposedly on the full time earnings of a skilled journeyman working steadily, and if defeated for reelection he is likely to return to the trade. Often, however, after experiencing the white collar type of employment he is not disposed to resume the status of a wage earner and is encouraged in his attitude by employers either directly through bribes and favors or indirectly through subtle forms of flattery. He is likely to spend much time consolidating his position by creating a machine and by practising favoritism or by seeking out alternative employment against his possible defeat for reelection. In industries characterized by the contractor system and requiring small capital he is likely to become a contractor. Business agents have been known to receive money from employers while still on the job and when defeated on charges to enter openly into their pay.

Nevertheless the problems of abuse arise not so much from the isolation of the business agent as from the nature of the industry and its reciprocal effects on the type of unionism. These abuses have been most glaring in the building industry. Its local character, the irresponsibility of the contractors who are the wage payers and their rapid movements from one job to another necessitate immediate settlement of grievances. Rapid changes in the technique of construction and in materials have tended to destroy standardization and uniformity of practise, so that much has necessarily been left to the judgment of the business agent. The business agents in this industry, since the time of their emergence in 1884, have had power to call a strike immediately. The discipline of the membership has caused them to answer the call to strike and to obey other orders even when the reasons were

not clear. Because of the intimate way in which the building trades are associated on the job, joint action among agents on a given building has frequently led to a development of power greater than that of any other group in the construction industry. The absence of any fixed price for the finished product has also contributed to this result. Occasionally the union members, aroused by exposures such as that of Sam Parks in 1903, have attempted to establish more effective controls over the business agent; but since this would entail actual visits to the job such efforts have been almost uniformly unsuccessful. Even when in 1920 it was shown that Robert P. Brindell, president of the New York Building Trades Council and business agent extraordinary, had built up a fortune of a million dollars largely through extortion, the unions involved made only slight changes in their methods of control.

In other industries where such abuses are comparatively infrequent methods of control are likely to develop through the supervisory and veto power of district and national officials; the lively interest of the rank and file unionists in shop committees, executive boards and local meetings provides another check. In larger unions, moreover, the business agent's position may be limited to job inspection and adjustment of complaints. In addition, the regulation of employment, the spread of standardization, the decrease of cut-throat competition in industry may be expected to raise the level of local union leadership.

HORACE B. DAVIS

See: TRADE UNIONS; COLLECTIVE BARGAINING; LABOR DISPUTES; INDUSTRIAL RELATIONS; CONSTRUCTION INDUSTRY.

Consult: Hoxie, R. F., *Trade Unionism in the United States* (2nd ed. New York 1923); Blum, Solomon, *Labor Economics* (New York 1925); *American Labor Dynamics*, ed. by J. B. S. Hardman (New York 1928) p. 159–68, 192–96; Bernstein, E., *Die Arbeiterbewegung* (Frankfort 1910) p. 141–55; Michels, R., *Zur Soziologie des Parteiwesens in der modernen Demokratie* (2nd ed. Leipsic 1925), 1st ed. tr. by Eden and Cedar Paul as *Political Parties* (London 1915) pt. iv, ch. v; Foster, W. Z., *Misleaders of Labor* (Chicago 1927); Montgomery, R. E., *Industrial Relations in the Chicago Building Trades* (Chicago 1927).

BUSINESS CYCLES are a type of fluctuation characteristic of economic activities organized in the form of "business economy" or "high capitalism," to use the German term. They have a wavelike pattern—each cycle includes a phase of revival, expansion, recession and contraction. These successive changes in activity spread more or less promptly over a large part, seldom over all, of the economic processes of a country. The cycles are recurrent, but not periodic. Their average duration varies in communities at different stages of economic development from about three to about six or seven years.

This list of features makes a thumb print which is useful in identifying business cycles amidst the welter of changes to which economic activities are subject. But a vivid impression of the part they play in modern life and the problems they present to economics can best be had from a historical approach.

The Development and the Discovery of Business Cycles. Trade crises must be as old as trade itself and must have affected the fortunes of increasing numbers as trading grew in social importance. The early crises of record were commonly attributed to what would now be classed as random causes, such as governmental aggressions, riots, wars or "acts of God." As economic activities became more highly organized, random factors continued to make business troubles; but new sources of difficulties appeared within business itself. For example the outstanding feature of the Mississippi bubble and the South Sea scheme, which ran their parallel courses to disaster in 1720, was a mania for speculation. In the later crises of the eighteenth century commercial miscalculations were held responsible in increasing degree. By the close of the Napoleonic wars it was realized that "commercial crises" are recurrent, and economists began to devise explanations which applied not merely to a particular case but to crises at large.

Gradually the problem of accounting for "periodic crises" expanded in scope. In 1833 John Wade suggested casually that "the commercial cycle is ordinarily completed in five or seven years, within which terms it will be found by reference to our commercial history during the last seventy years, alternate periods of prosperity and depression have been experienced." This idea occurred to others and spread rapidly. Economists who still wrote under the caption "crises" came to deal with the full round of cyclical changes. Thus the term "business cycles," or "trade cycles" as the English say, is a twentieth century rechristening of a nineteenth century discovery.

Sources of Information. Commercial crises were dramatic departures from the ordinary course of affairs which could scarcely be overlooked by the least skilful of observers. Hardly

less striking were periods of boom and depression. The earlier investigators of these phenomena harbored no doubts about their genuineness. Descriptive materials such as merchants, bankers and newspapers provided sufficed to show the facts which required explanation. What statistical data were available concerning bankruptcies, imports, exports, discount rates and the like seemed merely to make this common knowledge more definite.

As statistical data grew more abundant it became possible to attempt more penetrating inquiries. Yet efforts in this direction led to difficulties and doubts, for time series show several distinct types of fluctuations in combination. To pick out the cyclical fluctuations for intensive study was a difficult task. Indeed the question as to what constitutes a business cycle, a question which seemed simple when few but descriptive materials were used and those in a broad way, now became complicated. The statistical investigator had to develop a sharper concept of the cyclical component in the changes of a given series; he had also to discover what sort of whole the cyclical fluctuations of different series make up. These are problems on which investigators are actively working, spurred on by critics who hold that "the so-called business cycle" is a myth.

While reliance is now placed largely on analysis of the increasingly abundant statistical data the older type of descriptive material has not dropped out of use. On the contrary such materials have been collected more systematically than before and condensed into "business annals," showing the changes from year to year in the state of trade. Collections of this sort extend our knowledge of cyclical fluctuations over countries and periods for which the statistical record is scanty. And where the statistical record is fullest business annals are a useful adjunct to the analysis of time series.

Analysis of Time Series. Most economic time series show four distinct types of changes: secular trends, cycles, seasonal variations and random perturbations. Less definitely established are certain other fluctuations called by their discoverers "long waves" and "secondary trends."

The secular movements are ascribed to factors which influence an economic variable in some uniform or regularly changing fashion over periods of time which for present purposes may be defined as long in proportion to business cycles. Examples are the gradual decline in American canal traffic which accompanied the development of transportation by rail, and the growth of the latter—a growth very rapid at first, then moderating its pace.

Swerving about a line of secular movements there may be several sets of wavelike fluctuations differing from each other in duration and presumably arising from complexes of causes which contain different elements. Thus Kondratieff, on analyzing a considerable number of the longest European and American time series, concludes that the capitalistic world experienced two and a half "long waves" between 1785–95 and 1914–20. The duration of these waves he gives as 40 to 60 years. Kuznets, using a larger number of series, finds waves which he calls "secondary movements" averaging not quite 25 years from trough to trough. Both of these results have still to pass through the process of critical testing by other investigators.

Seasonal variations arise partly from climatic and partly from conventional or institutional factors. Examples are the increase in coal consumption during the winter, holiday shopping in December and large dividend disbursements at the beginning of each quarter. In some series the seasonal variations are so prominent as to obscure all other fluctuations. When no regular seasonal change can be detected in a series the activity represented is presumably influenced by so many independent seasonal factors that they cancel one another's effects.

Random perturbations are as universal in their incidence as seasonal factors. Every economic process is affected at all times by a host of influences which cannot be classified under any other recognized head. When these many influences are not markedly unequal in magnitude and not closely connected by causal bonds they may be expected to offset each other so as to leave few detectable traces in a statistical record. At any moment, however, one or more factors having similar effects may rise to dominance in the constellation of random influences and produce marked perturbations in the net resultants of all the forces operating. Violent aberrations from the expected course of affairs are often plausibly attributed to a particular random cause such as a strike, a new law or a war. But the "expected course of affairs" is a vague concept. Analysis of a given time series over a period when no violent aberrations appear cannot determine what role the constellation of random factors is playing. And when some sudden break can be attributed to a definite cause it is impossible to say just how much of the ob-

served effect that particular cause accounts for.

Interwoven with the preceding types of fluctuations are wavelike movements which recur more or less regularly, with a time span longer than a season and shorter than that of the problematical secondary trends. In numerous series such fluctuations stand out boldly. In other series they can be traced by one on the lookout for such phenomena. In still other series they seem to be lacking. All recurrent fluctuations in individual time series with an average duration of more than a year may be called "specific cycles" to differentiate them from the general movements called "business cycles."

Even when cyclical fluctuations are readily discernible they are always shrouded by a veil of other changes—a mixed fabric woven in varying proportions of secular, seasonal and random changes, perhaps also long waves and secondary secular movements.

One of the obvious tasks of research is to draw aside this veil of other changes in order to see the cyclical fluctuations more clearly. The technique developed for this purpose consists in measuring and then eliminating such types of fluctuations as can be seized by statistical methods.

Current efforts toward isolating business cycles seldom go beyond computing and eliminating the secular and seasonal movements by methods which are described in the articles on these topics. Combined, trends and seasonals produce a curve which is usually characterized by regular wavy movements of a year's span superimposed upon smooth sweeps covering considerable periods. If long waves or secondary secular movements are found in a series and measured, an investigator may combine them with the secular-seasonal curve. But this is a stage of refinement not yet methodically attempted, although many empirical trend determinations presumably include secondary secular movements without the investigator's knowledge. Whatever the fluctuations independently measured, their values, in combination or by successive operations, are divided point by point into the corresponding values of the original data. The quotients, multiplied by 100 or treated as deviations from zero, are taken to show the cyclical-random fluctuations of the series.

Of course this stage represents but a partial segregation of cyclical fluctuations. How to press the segregation further by eliminating the random variations is one of the current problems. Perhaps the most promising suggestion is the following: (1) After eliminating the secular trend of a series, its seasonal variations and any other type of fluctuation susceptible of direct measurement, break up the residual cyclical-random fluctuations into segments on the basis of the cyclical turning points, which can usually be located with some confidence on a chart. (2) Find the average value of the first segment, take this value as 100 and turn the series into relatives. This procedure applied to each segment in turn yields comparable figures showing cyclical-random fluctuations in as many cycles as the series covers. (3) From the relatives for successive revival dates, or for a few months centered on these dates, derive whatever average best represents the central tendency of the array. Make similar averages for the reference dates for successive recessions. In these averages the distorting influence of random perturbations will be attenuated generally in proportion to the number of cycles represented. (4) Elaborate the observations as far as desired by breaking the intervals between revival and recession and between recession and the next revival into fractions, computing averages of the relatives for each fraction and drawing representative averages from the array for each fraction, just as averages were drawn for revivals and recessions.

The number of cycles which a series must cover to yield fairly representative cyclical patterns depends on the character of the series and the character of the period covered. Frequently half a dozen cases or even fewer suffice to establish the general character of the special cycles found in a series; but of course an investigator likes to have more evidence at his disposal.

Specific Cycles and Business Cycles. Not all the specific cycles found in time series are systematically related in time to business cycles. For many economic activities have a rough rhythm peculiar to themselves, arising from technical circumstances not closely connected with the condition of general business. For example Warren and Pearson find a fifteen-year cycle in the purchasing power of farm prices for beef cattle in the United States. Pigou holds that in England "ten years seem to be, not merely the average, but also the markedly predominant" working life of machinery. Hence any period of active machine buying gives rise to subsequent cycles of a ten-year span in machine buying, although these cycles may run down gradually with the lapse of time.

To determine in what economic activities the specific cycles conform to business cycles is an additional task. One may proceed empirically, sorting the series into groups based on the timing of their cyclical turning points and then studying the interrelations among the cycles of the several groups. A more systematic and in the end a quicker method is to begin by drawing up a set of "reference dates" marking off successive revivals and recessions in "general business." Such reference dates may be taken from some time series believed to reflect changes in business tides. An index number of prices at wholesale might serve, or an employment index, or bank clearings in Anglo-Saxon countries. But uncertainty regarding the role played by random factors in any single series and the difficulty of finding fit series which have been maintained in trustworthy form for long periods of time favor the choice of a broader base. Business annals when carefully compiled seem to offer the safest guide, and they can be carried as far back in time as is required. The indications they give regarding the timing of revivals and recessions can be made more definite and checked by supplementary use of such time series as are available.

There is an element of unreality in giving precise dates for revivals and recessions in general business; for these changes really take place during transition periods rather than at turning "points." But some set of bench marks is needed from which to measure the various turning points of individual series. The lack of uniformity in the materials on which decisions must be based makes it impossible to fix reference dates over long periods and in different countries in strictly consistent fashion; but if the dates are used merely as points from which to measure the leads and lags of different series this defect is not vital. The order in which the various series turn up or down is the important matter and it does not depend upon the dates chosen.

Equipped with a schedule of reference dates showing the time when each cycle in general business began, culminated and ended, an investigator can determine in what series the specific cycles conform in number and timing to business cycles. Further, he can make a second set of measurements showing the cyclical behavior of different series within the standard periods marked off by revivals and recessions; that is, he can take the turning points in general business, instead of the low-high-low points in each series, as the chronological basis for deriving cyclical patterns in the way described above. For many purposes this second set of measure-

STANDARD REFERENCE DATES FOR BUSINESS CYCLES, UNITED STATES, 1855–1927

EXPANSION		CONTRACTION		DURATION IN MONTHS		
REVIVAL	PEAK	RECESSION	TROUGH	EXPANSION	CONTRACTION	FULL CYCLE
Jan. 1855	June 1857	July 1857	Dec. 1858	30	18	48
Jan. 1859	Oct. 1860	Nov. 1860	June 1861	22	8	30
July 1861	April 1865	May 1865	Dec. 1867	46	32	78
Jan. 1868	June 1869	July 1869	Dec. 1870	18	18	36
Jan. 1871	Oct. 1873	Nov. 1873	March 1879	34	65	99
April 1879	March 1882	April 1882	May 1885	36	38	74
June 1885	March 1887	April 1887	April 1888	22	13	35
May 1888	July 1890	Aug. 1890	May 1891	27	10	37
June 1891	Jan. 1893	Feb. 1893	June 1894	20	17	37
July 1894	Dec. 1895	Jan. 1896	June 1897	18	18	36
July 1897	June 1899	July 1899	Dec. 1900	24	18	42
Jan. 1901	Sept. 1902	Oct. 1902	Aug. 1904	21	23	44
Sept. 1904	May 1907	June 1907	June 1908	33	13	46
July 1908	Jan. 1910	Feb. 1910	Jan. 1912	19	24	43
Feb. 1912	Jan. 1913	Feb. 1913	Dec. 1914	12	23	35
Jan. 1915	Aug. 1918	Sept. 1918	April 1919	44	8	52
May 1919	Jan. 1920	Feb. 1920	Sept. 1921	9	20	29
Oct. 1921	May 1923	June 1923	July 1924	20	14	34
Aug. 1924	Oct. 1926	Nov. 1926	Dec. 1927	27	14	41
AVERAGE DURATION						
19 cycles 1855 to 1927				25.4	20.7	46.1
13 cycles 1885 to 1927				22.8	16.5	39.3

ments, made on a common time schedule, is even more significant than the first set. Finally, an investigator can express degrees of conformity between specific cycles and business cycles in numerical terms, and classify all the series he uses according to "indexes of conformity" which run in practise from +100, indicating perfect positive conformity, through zero, indicating no conformity, to —100, indicating perfect inverse conformity. Of course, in a theoretical inquiry, series which conform irregularly or not at all to business cycles require quite as careful attention as series which conform perfectly.

Half a dozen illustrations of special cycles and their relations to business cycles are provided by the annexed chart. In each graph a comparison is made between the average behavior of the variable within the periods marked off by its own cyclical turning points and within the periods marked off by the cyclical turning points of general business (standard reference dates). Seasonal variations have been eliminated from all these series except the wholesale price index, which has no regular seasonals. Secular trends also are eliminated from the "index of general business activity" compiled by the American Telephone and Telegraph Company; in the other series they are eliminated in part and in part retained. The process of turning a time series into relatives on the bases of successive cycle segments leaves undisturbed whatever trend is present within the time span of an average cycle, but excludes the trend from one cycle to the next.

All six series show well marked specific cycles. In three cases the specific cycles agree perfectly in number and closely in timing with business cycles. Bank clearings outside of New York City skipped the recession at the close of the late war, and the lawful-money holdings of New York City national banks skipped the revival of 1897. Yet the chart shows a close correspondence between the average cyclical movements of these series and those of general business. Quite different is the case of the one agricultural series. Flour shipments from Minneapolis have clearly marked specific cycles, a little longer on the average than business cycles. However, the relation in time between these specific cycles and business cycles is so irregular that when this series is chopped into segments on the basis of the standard reference dates the specific cycles almost cancel each other. Crop series commonly yield this result when similarly analyzed.

One example is given of an "inverted" pattern. The lawful-money holdings of New York banks before the war declined in periods of expansion and rose in periods of contraction. Other examples of inversion are unemployment, bankruptcies and many records of commodity stocks, though by no means all.

In amplitude of cyclical rise and decline there is a marked difference between the wide fluctuations of pig iron output and the narrow movements of wholesale prices. More extreme contrasts would be provided by taking series of discount rates, stocks of commodities or net earnings on the one hand and retail prices on the other.

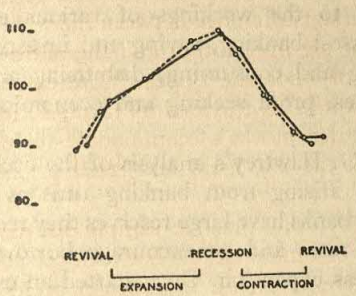
Finally, the present sample illustrates the variety of time relations between specific cycles and reference cycles. The specific cycles of bank clearings outside New York City, partly because of their marked intra-cycle trend, lead the reference cycles by 3.3 months at revival and lag behind the latter 2.2 months at recession. The specific cycles of pig iron production lead the reference cycles by 3.5 months at revival and are virtually synchronous with them at recession. Wholesale prices, on the other hand, lead a bit at revivals and at recessions. In lawful-money holdings of New York banks the inverted specific cycles lag some four months at revivals, decline for a short while and then have an uncommonly long advance. As for flour shipments from Minneapolis, the irregular time relations between the specific cycles and the reference cycles make it impossible to establish significant leads or lags. On the chart the two curves are arbitrarily centered at the same vertical line.

Business Cycles as Wholes. All the statistical analysis so far spoken of applies to individual time series taken one by one. To the theorist the finished results are merely raw materials useful in his effort to understand business cycles as wholes.

This effort has been likened to that of ascertaining changes in the general level of wholesale prices from quotations for individual commodities. The analogy is suggestive but there is a vital difference between the two problems. Price quotations for different commodities can be made into index numbers by some process of summation. But a mere summation of the cyclical fluctuations of time series representing different types of economic activities has no meaning. To understand business cycles it is necessary to understand the relations among the cyclical fluctuations characteristic of different

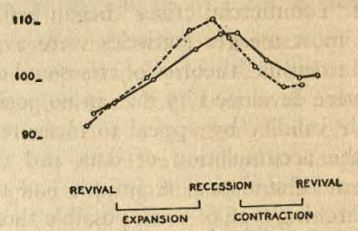
INDEX OF GENERAL BUSINESS ACTIVITY
AMERICAN TELEPHONE AND TELEGRAPH CO.
UNITED STATES-BY MONTHS: 1879-1927

---- 14 SPECIFIC CYCLES
—— 14 REFERENCE CYCLES



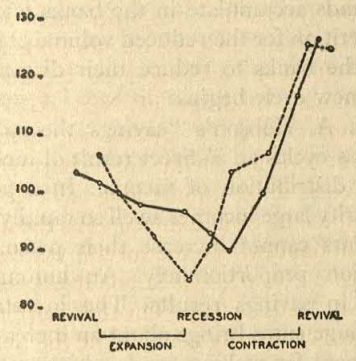
INDEX NUMBER OF WHOLESALE PRICES
U.S. BUREAU OF LABOR STATISTICS
UNITED STATES- BY MONTHS 1892-1927

---- 11 SPECIFIC CYCLES
—— 11 REFERENCE CYCLES



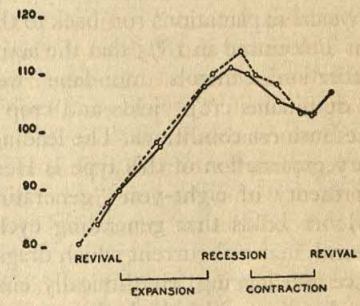
LAWFUL MONEY-NEW YORK CITY
UNITED STATES-BY CALL DATES - 1879-1914

---- 9 SPECIFIC CYCLES
—— 10 REFERENCE CYCLES



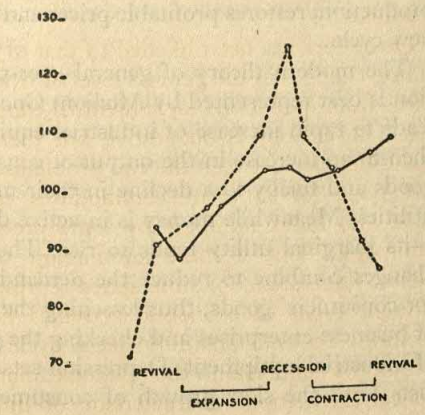
BANK CLEARINGS OUTSIDE OF NEW YORK CITY
UNITED STATES-BY MONTHS: 1878-1927

---- 14 SPECIFIC CYCLES
—— 14 REFERENCE CYCLES



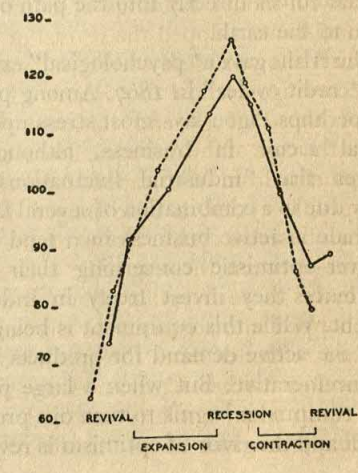
FLOUR SHIPMENTS-MINNEAPOLIS
UNITED STATES-BY MONTHS. 1878-1927

---- 13 SPECIFIC CYCLES
—— 14 REFERENCE CYCLES



PIG IRON PRODUCTION
UNITED STATES-BY MONTHS: 1885-1927

---- 13 SPECIFIC CYCLES
—— 13 REFERENCE CYCLES



processes. Working hypotheses concerning these relations should determine what cyclical measurements shall be combined to get significant indexes and how the individual series or indexes representing different types of activities shall be used.

At this point the quantitative study of business cycles connects with earlier work. We have noted that efforts to explain the frequent recurrence of "commercial crises" began before any but the most meager statistics were available. Hence numerous "theories of crises and depressions" were developed by men in no position to test their validity by appeal to measurements. When the accumulation of data and the development of statistical technique had made a more searching type of work possible those who took advantage of the new materials and methods could avail themselves also of the old hypotheses, as well as of any fresh ideas they got while working with time series.

Leading Explanations of Business Cycles. These explanations may be summarized in three classes according to the nature of the causes stressed most heavily.

(1) Physical explanations run back to the idea of Jevons announced in 1875 that the activity of solar radiation controls mundane weather, weather dominates crop yields and crop yields dominate business conditions. The leading contemporary explanation of this type is Henry L. Moore's theory of eight-year "generating cycles." Moore holds that generating cycles are "the natural, material current which drags upon its surface the lagging, rhythmically changing values and prices with which the economist is more immediately concerned." As for their origin he suggests that weather cycles are caused by the planet Venus, which at intervals of eight years comes directly into the path of solar radiation to the earth.

(2) John Mills gave a "psychological" explanation of "credit cycles" in 1867. Among present writers perhaps Pigou lays most stress upon the emotional factor in business, although he recognizes that "industrial fluctuations" are probably due to a combination of several factors. When trade is active business men tend to become over-optimistic concerning their prospects. Hence they invest freely in industrial equipment. While this equipment is being constructed the active demand for products makes prices remunerative. But when a large part of the new equipment begins to turn out products prices fall and the error of optimism is revealed. The new condition breeds an opposite error of over-pessimism which checks investment until the reduction of carried over stocks and the gradual growth of demand develop a profitable market once more and so generate a new wave of over-optimism.

(3) Institutional explanations trace business cycles to the workings of various economic processes: banking, saving and investing, producing and consuming, disbursing and using incomes, profit seeking and economic innovations.

R. G. Hawtrey's analysis of the cyclical impulses arising from banking runs as follows: When banks have large reserves they reduce discount rates and so encourage borrowing and business expansion. Once started an expansion mounts cumulatively until the growing requirements for cash created by active trade and large wage disbursements impair bank reserves. Then the banks raise their discount rates, thereby contracting loans and hence the volume of trade. Thereupon cash requirements become smaller and funds accumulate in the banks once more. Competition for the reduced volume of business leads the banks to reduce their discount rates and a new cycle begins.

John A. Hobson's "savings theory" makes business cycles an indirect result of inequalities in the distribution of income. In a period of prosperity large incomes swell so rapidly that the recipients cannot increase their personal consumption proportionately. An automatic increase in savings results. The investment of these huge sums brings about an increase in the equipment for making goods which exceeds the growth in the capacity to buy. A check comes when many of the new plants are finished and seek to market their products. Prices fall and large incomes are so reduced that over-saving ceases. Consumption then gradually overtakes production, restores profitable prices and starts a new cycle.

The modern theory of general over-production is best represented by Aftalion. Good trade leads to rapid increase of industrial equipment, then to an increase in the output of consumers' goods and finally to a decline in their marginal utilities. Meanwhile money is in active demand —its marginal utility tends to rise. These two changes combine to reduce the demand prices for consumers' goods, thus lessening the profits of business enterprises and checking the growth of industrial equipment. Depression sets in and lasts until the slow growth of consumers' de-

mand has restored a profitable market for the existing plants—whereupon the cycle repeats itself.

Spiethoff denies that consumers' goods or goods in general are over-produced. He attributes recessions to over-production chiefly of industrial equipment and of the materials from which industrial equipment is made. The construction, steel, cement and similar industries depend for their market upon capitalized income. When steel and cement are made into steel and cement plants they increase the production of steel and cement themselves, forcing down prices and profits in the equipment trades. As matters now go it is practically impossible to maintain for long a tolerable balance between the growth of capitalized income on the one hand and the growth of the industries in which such income is chiefly invested. A relative excess of capitalized income leads to expansion; a relative excess of the goods in which capital is invested leads to contraction.

The income theory is associated with the names of Foster, Catchings and P. W. Martin. If the goods sent to market are to be sold at profitable prices the incomes disbursed to buyers must equal the full selling value of the goods turned out, and buyers must use their incomes promptly in taking goods off the market. But in practise business enterprises do not pay out the full selling value of their products. When times are active they retain a considerable part of their receipts to add to working capital, to provide dividends in lean years and the like. Hence a period of brisk business gradually accumulates an excess of goods offered for sale over the purchasing power of the market. This malproportion might be prevented if producers' and consumers' credit could be expanded in just proportion to the deficiency in disbursed income, business and personal; but that is a feat of economic rationality which no banking system can yet perform.

Veblen and Lescure have organized their explanations around the theme of profits. An increase in the physical volume of sales does not produce a corresponding increase in wages or overhead costs. Hence profits rise and business men seek to enlarge their working funds. Their chief resort is to banks, which are as eager to exploit the favorable prospect as any other group of enterprises. Supported by the increasing volume of credit, the business public bids up prices, enters into heavy future commitments and enlarges its plant capacity. These developments support each other so that business expansion becomes a cumulative process which runs on until one or more of the internal stresses which it accumulates reach the breaking point. Sometimes the first factor to be overtaxed is the banks. Prosperity causes a larger volume of cash to remain suspended in hand-to-hand circulation, and so tends to reduce bank reserves. At the same time demand liabilities grow apace because the expansion of loans increases deposits. If the banks find themselves compelled to restrict the granting of further loans, or even to charge very high discount rates, this check will bring on a recession. Or prospective profits may be undermined by the encroachments of increasing costs of doing business. Though lagging behind wholesale prices, wage rates rise. It is difficult to prevent the efficiency of labor from declining after the élite of the industrial army has already been enlisted, and difficult to prevent an even more menacing decline in the efficiency of management when the rush of business interferes with careful planning. The one way to protect profit margins against increasing unit costs is to raise selling prices. For a considerable time this remedy works; but it has to be applied again and again. And there is an elastic limit beyond which it cannot be carried; for rising prices increase the volume of credit required by business and so add to the strain on the banks. Moreover there are important groups of enterprises which cannot raise their selling prices effectively, such as public utilities, contractors not working on a cost-plus basis, manufacturers who follow a fixed-price policy. And in every period of rapid expansion there are some industries in which the increase of plant capacity so outstrips the growth of demand that selling prices are forced down. Thus expansion itself sets going processes which reduce prospective profits in an increasing number of enterprises. But prospective profits, capitalized at the going rate of interest, are the basic security on which rests the towering structure of credits. The mere rise in the rate of interest, which accompanies the later stages of expansion, forces a downward revision of capitalized values. When to this is added an actual decline in the profits which are capitalized creditors begin to take alarm and call for reduction of outstanding debts. Thus the weakness of a minority of business enterprises sets in operation a new process—liquidation of indebtedness—which leads to recession. In turn, recession leads to contraction. Credit ratings are revised down-

ward; financial obligations are gradually cleared off or readjusted; unit costs are reduced faster than selling prices; and the bulk of enterprises gradually get into a position where their prospects of profits begin to grow brighter—thus laying the basis for a new revival and period of expansion.

Finally, business cycles are held to be a result of the changes in organization which are such a characteristic feature of a business economy. Schumpeter's "innovation theory" may serve as an example. Most business men are "routineers"—systematic people competent to run affairs on customary lines. A few are "innovators"—restless, inventive, daring men whose imaginative minds are ever planning new schemes. Such men produced the "commercial revolution" by reorganizing European methods of production. By exploiting mechanical inventions they made the industrial revolution what it was and still is. Today they are devising ever greater corporate combinations, upsetting selling methods, launching novel products, developing new sources of supply and cultivating new wants. When a wave of innovation mounts, business has a season of hectic activity. Prices of raw materials and of finished products, the kinds of goods demanded by buyers, the competitive position of different enterprises, methods and costs of obtaining capital, financial alliances—indeed most of the elements on which business plans rest, go through a series of changes. These unsettled conditions create difficulties for the mass of routineers. Failures increase, confidence dwindles and there comes a crisis, followed by a period of dull times. Dullness checks innovation because it prevents the disturbers of the business peace from getting the capital necessary for carrying out their hazardous schemes. Dullness also allows the routine business men to work out a passable readjustment of their plans on the new basis. But no sooner is quasi-stability reattained and confidence restored than the innovators are again able to put some of their schemes into effect. Followed by a host of imitators they set going a new crop of changes, which multiply rapidly and bring on another crisis.

The various explanations sketchily presented here, and the numerous other explanations which might be cited, are not to be thought of as contradicting each other. Even from the viewpoints of the authors the differences consist mainly in emphasis. Each writer selects from the cyclical changes going on in modern society the process which seems to him of greatest importance and analyzes that in detail. But he may also make elaborate use of theories presented with an emphasis other than his own. Thus Pigou, who stresses emotional aberrations of business judgment, can take account also of construction, monetary and crop factors; Schumpeter can utilize Pigou's analysis as a side line; and the profits theorists can comprehend any change which appears to affect prospective profits in a rhythmical manner.

This inclusive use of what were originally offered as independent explanations is especially congenial to statistical workers. The task of a theory of business cycles, seen from their angle, consists in finding out what cyclical fluctuations are characteristic of different processes, searching for explanations of the idiosyncracies revealed and tracing the connections among different processes. In seeking to trace these various connections they need and can consistently make use of working hypotheses concerning the numerous processes which are parts of the whole. So far as their effort succeeds it weaves the elements into a common pattern. The end result aimed at is not eclectic patchwork but a systematic account of all the relevant phenomena.

The Phases of a Business Cycle. A systematic account of cyclical fluctuations, taken seriously, becomes an analytic description of the processes by which a given phase of business activity presently turns into another phase. The obvious framework for such a description is provided by the successive phases of the cycle. Historical changes in the character of the phenomena, as well as advances in knowledge, have led to significant modifications in the scheme and names of these phases favored at different periods.

From crises, the first focus of attention, the interest of investigators extended to the subsequent depressions. Prosperity was recognized as a problem when it became clear that the causes of crises are to be sought among the developments of the preceding booms. Somewhat later began definite attempts to find out how business recuperates from depression. Thus the four-phase business cycle of prosperity, crisis, depression, revival, came to be accepted. The suggestion that the transition from prosperity to depression be subdivided into two phases, "financial strain" and "industrial crisis," making a five-phase cycle, encounters two objections. In numerous cycles the phenomenon of financial strain has been conspicuous by its absence; in

other cycles periods of acute financial strain have occurred within the phase of depression instead of during the transition from prosperity to depression.

Moderation in the violence of cyclical changes has led to revision of the old nomenclature. During the 1860's British bankers discovered methods of "panic financiering" enabling them greatly to moderate the credit strains which had been a prominent feature of past crises. Arrangements which assured all solvent borrowers of bank accommodation adequate to their needs, though at a high rate of interest, put an end to panic fears. Adaptations and extensions of the peculiar British measures in other countries, in combination with other lessons learned from past experience, have given many of the later transitions from prosperity to depression so mild a character that the word "crisis" seems scarcely fitting. Nowadays the term "recession" is widely used. Only a recession of a severity now uncommon, like that of 1920, is called a crisis.

Corresponding doubts are beginning to be harbored about the terms "prosperity" and "depression." There have been cycles in various countries in which the phase of increasing activity has not reached the pitch which "prosperity" suggests and in which the phase of declining activity seems not to justify the use of so strong a word as "depression." As substitutes the terms "expansion" and "contraction" are used here.

Even the latter pair may prove to have no more than a passing historical fitness. Statistical studies of cyclical behavior reveal not a few cases in which important processes have shown no actual shrinkage during the contraction phase of mild cycles. A stoppage of expansion is observed, or merely a retardation in the rate of growth. If the many sided efforts now under way to control business cycles succeed gradually, this attenuation of cyclical fluctuations will become common. Then the terms "expansion" and "contraction" will be replaced by some other pair such as "acceleration" and "retardation."

Differences Among Business Cycles and the Task of Explanation. Business cycles, then, are not a fixed species but an evolving one. To the familiar notion that individual cycles differ from each other because each is influenced by a unique constellation of random influences must be added the notion that business cycles are subject to secular changes. Coming into existence gradually with a certain form of economic organization, they have changed as this organization has changed. The geographical and the industrial scope of the oscillations has grown wider; their amplitudes have grown narrower. Needless to say this is a checkered development; but the trend is clear if one compares cycles separated by a century. Further, while the modern business world has a common pattern, every country has its own peculiarities of economic organization and development which affect its cyclical fluctuations.

The secular, national and random differences among business cycles have exercised not a little influence upon theoretical inquiries. The peculiarities of the case with which a writer is most familiar are likely to color his impressions of the general character of the phenomena, much as his personal idiosyncracies color his notions about human nature. The best safeguard against such misconceptions is study of objective records covering numerous cycles which occurred in different times and countries. Such study suggests that a complete theory of business cycles would explain not merely the tendency of all business economies to develop rhythmical alternations of expansion and contraction, but also the secular changes in the manifestations of this tendency, the differences among the cycles of different countries and the roles played by random factors. Though so ambitious a scheme may be visionary it is desirable to consider just what part of the full task any given theory essays to perform.

The following analytic description of a business cycle aims merely to sketch the leading features generally found in the recent cycles of such countries as the United States, England and Germany. It does not dwell upon the characteristic differences among the cycles of these countries, upon the secular changes which can be traced in each or upon the effects of random influences. Even the striking perturbations of the late war are passed over.

The Phase of Expansion. Since revivals are conceived to grow into periods of expansion, expansions into recessions, recessions into contractions and contractions into new revivals, a description of cyclical fluctuations may start with any phase. But whatever phase is chosen as the starting point, the business conditions out of which that phase arises must be taken for granted. How these conditions develop can be shown only by working forward through the cycle until the starting point is reached again. The present exposition breaks into the round of

events at the point where a revival has gotten well under way. How the revival started is the last question to be answered.

Among the fruits of revival are an increase in the physical volume of production and trade, fuller employment, an upturn in commodity prices, brighter prospects of profits, an advance in the prices of stocks, the prevalence of optimism, a desire to expand business enterprises, larger borrowings, heavier investments in industrial equipment and rising interest rates.

For a time each of these developments supports and stimulates the further progress of all the others. Thus the increase in physical production and trade enlarges the demand for labor and swells the stream of income even before wage rates rise. Large wage disbursements broaden the market for consumers' goods and so support the increase in production not merely of goods which families consume but also of the materials and equipment from which and by which they are made. These swelling demands push up the prices of the goods which are being bought freely and of the materials from which they are made. The greater volume of trade betters business prospects and makes men optimistic; the rise of prices reenforces these factors. Optimistic expectations of profits promote the further expansion of production and trade, the employment of more labor and the advance of prices. All these factors combine to encourage investment, which stimulates construction work, which adds fresh impetus to the demand for goods, the rise of prices, the employment of labor, the disbursement of incomes, the growth of retail trade and the optimistic spirit, thus returning through a spiral of reactions to heighten investment itself.

Once started, then, the expansion of business becomes a cumulative process. In the absence of unfavorable random factors, when well under way even in the face of such factors, the movement seems to generate momentum. Nor is there anything mysterious about this appearance. For in modern nations, where most people get their livings by selling services or goods for money incomes and then spending money for goods, everyone helps to make the market for everyone else. The more one man gets the more he buys of consumers' or of producers' goods, and so the more other people are able to buy of what he has to sell. Hence an increase of activity at any point in the whole organization tends to spread and, through a series of reactions, to intensify the activities with which it started.

The Phase of Recession. Because of this interdependence among economic processes, however, expansion in any one process cannot exceed certain limits set by the synchronous expansion in other processes. These limits are neither uniform nor rigid; for economic organization is a rugged affair which does not require precise adjustments among its growing parts. Yet, since there is no adequate provision for keeping a balance, in every period of acceleration the cumulative expansion of different processes is so uneven as to produce a series of minor checks. The difficulties which are overcome reappear or are succeeded by more threatening stresses, and soon or late the cumulation of favorable influences turns into a cumulation of business troubles.

Profits are the focus of economic activities in a business economy. A pervasive but mild check upon the growth of profits comes into operation when expansion reaches the stage at which most enterprises have as much business as they can readily handle with their existing equipment of standard efficiency and with the trained personnel at their disposal. Before this stage was reached every additional order secured at current prices had promised a more than proportionate addition to profits because it distributed overhead costs over more units without raising operating costs per unit. But thereafter unit costs rise. A further expansion of business now requires the use of substandard equipment, the breaking in of new employees, who are likely on the average to be less efficient than the old, and additional overhead commitments. Raw material prices, wage rates and interest charges mount rapidly when business enterprises of many kinds are competing eagerly for supplies, labor and loans. Also it becomes difficult to maintain a high standard of operating efficiency when overtime is common, when discharge is a trifling penalty and when everything must be done in a rush both in the office and in the workshop.

The sovereign remedy for increasing unit costs is to raise selling prices. That remedy can be applied without checking the volume of trade while people expect the rise of prices to continue; but there are enterprises which cannot resort to it readily. Public utilities whose charges are regulated by governmental commissions, contractors who have taken long jobs for fixed sums and makers of goods which are sold at widely advertised prices cannot pass on the mounting costs to their customers promptly and in full. Thus a not insignificant minority of

business enterprises may find their prospective profits shrinking as expansion runs on.

Another way to take business advantage of rising demands and to counteract rising costs is to increase plant capacity and to make the new plants more efficient than the old. That plan contributes to the activity of business for a time, but presently encounters difficulties. A wave of expansion usually brings an increase of contracts for new equipment before the old equipment is all in use; for business men try to anticipate their opportunities. The demand for new business buildings, factories, machinery, rolling stock and the like depends less on the physical volume of production than on changes in this volume. Any check in the rate at which the physical volume of business is growing will bring a positive decline in the contracts for new equipment. Then the equipment trades suffer, and all the more if, as is likely, the plants which themselves make steel, cement, machines, etc. have extended their facilities.

Such a check can scarcely be avoided as business is now conducted; for it is not possible to forecast accurately the growth in consumers' demand for all types of commodities and to adjust to this growth the expansion of industrial equipment, all of which depends in the last resort upon personal consumption for its market. Of course the equipment trades themselves give a powerful impetus to retail demand for commodities while they are disbursing wages for the making of goods which are not sold through retail shops. But when the new equipment is ready for use and begins adding to the supply of consumers' commodities offered for sale, not all the investments will prove profitable. Cases of "over-production" or "under-consumption" occur in every cycle. If they prove numerous they give rise to an impression that industry is "overbuilt" and check new orders for equipment. In any case it is not likely that the growth of physical demand for goods will long maintain the rapid pace characteristic of the early stages of expansion. All the other difficulties accumulating tend to moderate the rate of growth and so to produce acute difficulties in the equipment trades which will augment whatever troubles give rise to the check.

Meanwhile the intricate task of financing the swelling volume of trade at rising prices is becoming a problem. The best available data indicate that Americans spend some 50 to 60 percent of their money incomes at retail shops. Also it appears that individuals and business enterprises together "save" sums which average some 15 percent of the national income—that is, they spend this proportion of their net receipts for income bearing goods. There remains a considerable slice of income for rents, personal service, taxes and miscellanies. To maintain business activity the flow of incomes to individuals and from individuals to retail shops must expand with the dollar value of the consumers' goods flowing into shops for sale. At the same time the flow of "savings" from individuals and business enterprises must be kept growing at a steady pace, or the enterprises which make industrial equipment will suffer a slump.

It is argued that the whole congeries of business enterprises cannot long disburse as income sums which exceed the value of the goods they produce, and that if they disburse any smaller sum, part of the goods they sent to market must remain unsold or be sold at a loss. Prosperous enterprises do not disburse the full value of what they contribute to national production; they require larger working capitals and they deem it wise policy to accumulate reserves, which may not all be invested promptly in ways which sustain the demand for goods. Hence there is danger that the flow of individual and corporate incomes will lag behind the volume of goods seeking sale.

This deficiency of current income may be made up by bank loans, which put additional purchasing power at the disposal of the public. But that raises a new question of adjustment. If the banks extend their loans too freely the chief effect may be to accelerate the rise of prices and so presently to recreate the difficulty of finding enough purchasing power to buy all the goods sent to market. If the banks do not lend enough, or if they do not distribute their advances among different classes of buyers in the proportions required by business needs, some section of trade will suffer. Economists who stress this line of analysis commonly hold that consumers' incomes require supplementing by bank credit on a larger scale than is practised.

There remains the question as to how far the banks can go in furnishing the community with the additional credit required by expanding trade and rising prices. An increase of loans leads to a more or less equivalent increase of deposits and notes. While reserves are usually high in proportion to demand liabilities at revival, the ratio declines in the course of expansion, not only because deposits and notes grow with loans but also because the public keeps a

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greater volume of coin and paper money in its pockets and tills when wages are high and retail trade is active. Banks raise their discount rates; but that does not check promptly the demand for loans. They may get additional gold. But no matter how the banking system is organized there are limits below which it is not safe to let reserve ratios fall. When these elastic limits are approached the banks must discourage new applications for credit by very high discount rates and also set very exacting credit standards for new loans or even for renewals. If many enterprises cannot get loans at rates which leave a margin of profit business expansion will cease and there may be an epidemic of bankruptcies.

Although the preceding list of adjustments which must be maintained among different processes is not complete it suggests that, in the process of expanding, the business system may develop any one of numerous disorders. Neither business history nor business statistics supports the view that the decisive break always comes about in the same way. The sequence in which different time series reach their highest points and turn down varies from recession to recession. Usually several stresses seem to be accumulating during a period of expansion and the only question is which will overtax the factors of safety first. Random influences, such as harvest fluctuations, business conditions in foreign countries, the pet miscalculations of the day and the like, seem to exercise a considerable influence upon that event. And there seem to be secular changes in the character of expansions and recessions. Certain of the wilder excesses which characterized early booms seldom attain prominence today. But the fundamental difficulty remains of keeping all the important processes of a business economy duly adjusted to each other in a period when all are expanding. The more one studies the variety of cyclical patterns characteristic of different processes and the intricate ways in which different processes affect each other the more remarkable it appears that phases of expansion sometimes last several years. Two years is the average term in the United States, though four years was approached during the Civil War and again in the years 1915–18. In European countries the average duration exceeds three years, and periods of expansion outlasting four years are not uncommon.

Once a recession starts it commonly proceeds faster than does a revival, especially when the expansion has been accompanied by a marked growth of interlocking credits. A few conspicuous bankruptcies may alarm creditors and set them pressing for the prompt settlement of their claims. Unless the banks are able to reassure every solvent enterprise that it can get whatever accommodation it is entitled to, the recession will degenerate into a crisis or a panic. Granted this assurance, however, there may be little evidence of financial strain. Indeed, if the preceding phase of expansion has not reached the proportions of a boom and if the banking system is well organized and wisely managed, the recession may be as mild in character as are most revivals.

The Phase of Contraction is in many respects the reverse of the phase of expansion. Optimism gives way to pessimism, prices fall, production shrinks. In this general decline of activity there are significant differences of degree.

Consumers' demand, particularly for non-essentials, falls off appreciably in consequence of shrinking employment, the gradual spending of individual hoards and balances and the reduction of many non-wage incomes. Merchants require smaller stocks and cut their orders more than sales fall off. A similar policy is followed by other enterprises. Thus the reduction in volume of trade is amplified stage by stage as it travels back through wholesale dealers to manufacturers and producers of raw materials. Particularly severe is the decline of orders for new industrial equipment. Few enterprises care to sink money in extensions and betterments while most existing plants are either operating at but a fraction of their capacity or standing idle. Of course these changes react upon one another. Every reduction in production means less employment, less wage disbursements and thus less ability to buy at retail, still less production and less employment.

Similar differences mark the decline in prices. Wholesale prices fall faster than retail, the prices of producers' goods faster than the prices of consumers' goods and the prices of raw materials faster than the prices of finished commodities. The prices of crops may not follow this course because of harvest conditions; raw metal prices show the market conditions best. Wage rates (not wage disbursements) and interest on long time loans decline less than wholesale prices, while discount rates and common stock prices decline more. The one important class of prices which commonly rise in contraction are the prices of high grade bonds.

These developments reduce the profits of

almost all enterprises and bring deficits to many. The number of bankruptcies usually grows larger in contraction than it was during recession, although the average liabilities decline. Losses must be written off and reorganizations submitted to. With the reduction of inventories, current accounts and payrolls, less working capital is required and bank loans shrink.

As in the phase of expansion, so in that of contraction, there is an early period when every change seems to work in the same direction. One shrinkage forces others and is made more drastic by roundabout reactions from its own effects. But in the later phase as in the earlier the concatenated changes presently begin to raise obstacles to their own continuation.

The Phase of Revival. As unemployment increases and retail trade declines men have less money left in their pockets and shops need less in their tills. Idle cash accumulates in the banks and flows from the country districts toward the great financial centers. Combined with the net decline in bank loans, this flow raises reserve ratios. Discount rates fall very low, call rates lower still—sometimes so low that there is a margin of profit in buying gilt edged securities with borrowed funds. Such a condition in the leading money markets presently reinvigorates the demand for stocks and bonds. The stock market often revives in this way while general business is still at low ebb. An increased demand and rising prices of stocks are hailed as an encouraging sign.

Meanwhile the difficulty of making profits has put pressure upon business managements to improve their practise. The wastes, big and little, which often creep in during the rush of prosperity are discovered and eliminated. The reduced volume of business can be handled with the best of existing equipment and the most efficient personnel. There is plenty of time to supervise current operations closely, and also to devise plans for heightening efficiency. Overhead costs are in many cases cut by financial readjustments and operating costs by the fall in the prices of materials as well as by more skilful management. In some cases these changes are sufficient to restore a not unsatisfactory rate of earnings even while selling prices remain low.

An abundance of loan capital to be had at moderate rates has somewhat the same effect upon construction work that it has upon the demand for securities. Building materials can be had cheaply, building labor is eager for jobs, contracting firms will figure closely, prompt deliveries and prompt construction can be counted on. Even though the current demand for new housing or equipment is slight, investors are found who think it well to anticipate revival and build while work can be done at low costs and long time financing arranged on easy terms.

Even the business in consumers' goods must presently look up. When times are dull retail merchants let their stocks run as low as they can without losing too many sales through broken assortments. This possibility of reducing stock was one of the factors which had enabled them to cut their purchases for a time more than their sales fell off. But once their stocks are reduced to the minimum of safety they must order at least as much as they sell. This means some increase of business for wholesale and manufacturing concerns. Indeed, if the rate at which their sales are shrinking becomes smaller, retailers must order more than they sell. Thus the mercantile demand for consumers' goods may begin to increase at the same time that retail sales are still contracting.

Also there are physical reasons compelling an expansion of consumer demand for certain types of goods. Shoes, clothing, house furnishings of many kinds can be kept in use a longer or shorter time according to the state of peoples' pocketbooks. When hard times come many families economize by using these semi-durable goods as long as possible. Hence the demand for such articles falls off more in the early stages of contraction than the demand for staple groceries. But the time comes when an increasing number of the old articles are literally worn out. Then the indispensables at least must be replaced, if money or credit can be had in any wise. And that means another fillip to trade.

A similar observation applies to industrial equipment. Under pressure of hard times repairs, upkeep and renewals may be neglected for a while, not to speak of extensions and betterments. But that can be but a temporary policy. Whatever equipment is used must be kept in running order. The more it is neglected for a time the more work must presently be given to repair shops and equipment houses. Even the hardest pressed and most conservative enterprises are forced into this policy, if they stay in business. The more enterprising in trades which have been growing rapidly sometimes grasp the breathing spell of a slack year to build anew, planning to "junk" their old plants when the more efficient equipment is ready. Thus while

the equipment trades may have an exceedingly lean season they are sure of some increase in business after a while.

Nor can prices keep on falling rapidly for an indefinite time. In the face of threatened bankruptcy an embarrassed house may sacrifice accumulated stocks for what can be had. But men will not buy materials and make up new supplies unless they can get back at least their operating costs. These costs in turn are aggregates of prices, including the prices of labor, and it is difficult to beat them all down. Nor can the still more resistant overhead costs be left out of selling prices for long without disastrous consequences. As prices get lower and lower the rate of decline flattens out. Buyers see less gain in holding off for still better bargains, and begin to fear they may wait overlong and get caught on a rising market. The first sign that the low point has been reached in any line is likely to bring out a flood of orders and to encourage other sellers to resist further concessions.

Business sentiment also becomes less pessimistic. As the liquidation wears on the worst becomes known and proves less serious than many had expected. Bankruptcies grow fewer again; everyone realizes that others are being cautious; the majority of enterprises have proved their solvency; outstanding debts have been reduced. Confidence slowly revives, and men begin to remind each other that every past period of depression has been followed by a revival. How soon business will turn the next corner becomes the question of the day.

None of these encouraging developments has great momentum. Though each favorable change reenforces the other elements of strength, unfavorable random or secular factors may check one slight improvement after another. Thus the phase of contraction is sometimes prolonged in a most discouraging fashion, as has been the case in England, for example, since 1921. In the United States the depression of 1873–79 dragged on for nearly five and a half years, whereas the longest period of expansion in times of peace since the 1850's has not exceeded three years. But cyclical developments of a favorable cast keep cropping up. The time comes when they are not offset by "disturbing causes," or when they are reenforced by favorable developments from outside the realm of business. Then a revival makes itself felt and a new cycle begins. On the average in this country from 1855 to 1927 the phases of contraction lasted some twenty or twenty-one months as compared with twenty-five months for phases of expansion.

WESLEY C. MITCHELL

See: BUSINESS; CAPITALISM; INDUSTRIALISM; BOOM; BUBBLES, SPECULATIVE; CRISES; CONJUNCTURE; FORECASTING, BUSINESS; TIME SERIES; ECONOMICS; ECONOMIC POLICY; UNEMPLOYMENT; PUBLIC WORKS; CREDIT CONTROL; PRICE STABILIZATION.

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(3rd ed. Paris 1923); Mitchell, W. C., *Business Cycles* (Berkeley 1913); Adams, A. B., *Economics of Business Cycles* (New York 1925), and *Profits, Progress and Prosperity* (New York 1927); Clark, J. M., *Studies in the Economics of Overhead Costs* (Chicago 1923) ch. xix; Kuznets, Simon, *Cyclical Fluctuations, Retail and Wholesale Trade* (New York 1926); Schumpeter, Joseph, *Theorie der wirtschaftlichen Entwicklung* (2nd ed. Munich 1926) ch. vi.

BUSINESS EDUCATION. A consideration of any form of vocational education commonly proceeds upon the mistaken assumption that such training is a comparatively new social undertaking. It is thought of as instruction in doing, which in recent years has replaced in some measure instruction in culture. The error in such a view lies in an unduly limited conception of a vocation which subordinates it to a secondary place in life, makes it somewhat, if not wholly, antithetical to culture and confuses it with the specialized occupationalism of recent times. Yet a vocation, as John Dewey said, "means nothing but such a direction of life activities as renders them perceptibly significant to a person, because of the consequences they accomplish, and also useful to his associates." It follows that so far in the past as there was training calculated to aid in rendering life activities perceptibly significant and socially useful there was training in the "business" of practical and social affairs. That such a training is old in race history is evidenced by the instruction in tribal traditions, customs, rituals and tabus with reference to such practical matters as work, war and propitiation which is found among all primitive peoples. The folkways, which are the "right ways," of carrying on the arts of life are handed on from generation to generation.

It was when making a living by business became an outstanding part of the business of making a living that business education in a more definite sense became distinguishable from other vocational education. We may look for the beginning of business education in this restricted sense wherever an economic system based on the effecting of profitable transactions is first to be found. The experiences of the ancient Egyptians, Assyrians, Persians and Phoenicians were first paralleled in modern times in Italy. There is evidence that at least as early as the fourteenth century not only was the practise of commercial arithmetic and accounting well developed in several of the Italian cities but that there was also a literature upon each of these subjects.

The characteristic mediaeval form of business training was apprenticeship. Apprenticeship not only trained in technical skill; it was also an institution designed to give candidates for membership in the guilds the ability to carry on business in a difficult economic and social environment. The problems of a business man, multiplied by the expansion of the business system, were already complex for the mediaeval craftsman. Within shop or store customers must be dealt with, materials bought, production skill had or hired, satisfactory relations with employees attained and capital needs met. Moreover the ordinances of the town relative to wages, discipline, conditions of work, quality of wares and many other matters had to be understood and their provisions met. Apprenticeship prepared the novice for the carrying on of business in this complicated environment partly by formal direction, partly by precept and partly by intimate contact with the life of the master. It continued to be the most significant form of education for business until with the application of steam to industry the machine became more important than the artisan.

With the displacement of the guild system new and more restricted forms of business education developed. The earliest commercial schools and the most advanced types of modern business schools are to be found in Europe; but it is in the United States that business education has developed most extensively. The characteristic forms and the widespread adoption of business education in America were conditioned by the rapid expansion of industry in the nineteenth century. Mass production, the new market created by the tremendous westward movement of population and a large volume of business transacted with distant customers made necessary a vast amount of what have been called the "facilitating processes" of business. Letters had to be written, transactions recorded, extensive calculations of many sorts made. Calculation, accounting and communication were called upon to function as they had not been called upon before. This work did not demand the daring, intelligence or initiative needed by the organizers of expanding trade. What was required was accuracy, exactness and care in the performance of specialized clerical tasks. To provide these habits and skills there appeared—at first in a primitive form and later in a highly organized way—the private commercial school often inaptly called the business college.

Itinerant "penmen" played a part in this development and there are various claims to the honor of founding the first school, but the year 1853 opened a new period in the movement. In that year Bryant and Stratton formed a partnership which developed into a plan for a chain of schools with a unit in every city of over 10,000 population. Uniform textbooks and interchangeable scholarships were to nullify the student's risk in moving before a course was completed. Although the chain did not achieve its purpose before it fell victim to opposing forces, its plan of organization was widely imitated. The success of the private schools led to vigorous demand for commercial training at public expense. Although a beginning in this direction was made in Boston, Philadelphia and St. Louis not long after the middle of the century, it was not until the nineties that the important growth of commercial work in the public high schools occurred.

To the forces already indicated the invention of the typewriter proved an important addition. Following the patenting of various "typographers" the typewriter became a practical tool in the seventies. English systems of shorthand, already widely used in America for court and literary work, had been of less use to business. After a period of experimentation in which the typewriter proved its practicability, business seized upon it for use in combination with stenography. Courses in the use of the typewriter and in stenography as phases of training for business communication soon came to outrank all other types of secondary business courses except bookkeeping. Registration in high school commercial courses increased from 15,000 in 1893 to more than 75,000 in 1900, this increase being almost three times as great as the increase in high school enrolment during the same period. At the turn of the century there were two well developed agencies in business education in the United States, the privately operated commercial school and the commercial course in public high schools. The spirit and in large part the form of the second were in imitation of the first.

In the succeeding years these agencies have expanded in various ways while certain new ones have attained prominence. In private commercial schools the growth has been chiefly in numbers, with the greatest expansion in 1920 when there were approximately 336,000 students enrolled. Since that time there has been a steady decline, the most recent figures indicating that there are about 188,000 registered. The curriculum continues to emphasize bookkeeping, stenography and typewriting, but telegraphy has been included by many schools and there are also courses in selling, advertising and other subjects in imitation of curricula of the collegiate schools of business. A considerable number of private schools purporting to be of collegiate level have sprung up and many of the older commercial schools are including "university" or "college of commerce" in their titles. There is a further tendency among these schools, many of which have always been under criticism, to seek the approval of state departments of public instruction or other accrediting agencies. Such indirect regulation usually effects an improvement in curricula and methods.

Business training in the public high schools has in the last quarter of a century grown to enormous proportions. Toward the close of 1929 a report of the United States Bureau of Education stated that of approximately 1,000,000 students enrolled in business courses in various types of schools two thirds were in the public high schools. Between 1922 and 1928 there was an increase of 72 percent in the enrolments in commercial subjects offered in these institutions, bringing the total so enrolled to 17 percent of all public high school students. Two thirds of these are girls and the proportion of girls is increasing. While a great majority of high schools offer a four-year business course, a two-year course is common. The high school has also developed new departments through which it gives commercial work: high schools of commerce devoted solely to business teaching now exist in a number of cities; high school evening commercial courses are common; short intensive postgraduate technical courses are available in some places. High school commercial courses in general still represent mass production methods applied to the clerk making which the early "penmen" found profitable. But investigations which have disclosed that much of the training has been misdirected and that pupils do not find or remain in the type of work emphasized in the courses given have already led to some reorganization. There is a new emphasis upon a generalized clerical course and upon retail selling; training for the latter is often given in cooperation with department stores. Of broader purpose is the effort of a few persons to reconstruct the work more fundamentally, to make of business teaching in the secondary schools a device for realistic study

of modern economic and social culture. A degree of success resulting from these efforts is shown in the increased interest in social sciences, in business curricula, in the improved textbooks for this work and in the growing demand for college graduates as teachers. Business teaching in the high schools is molded chiefly by a few universities, by teacher training in the normal schools which, however, is recent and limited, by the activities of the federal Bureau of Education and of the federal Board for Vocational Education and by teachers' association meetings.

In the past decade new agencies have become important in business education. One of these is the correspondence school which, with the exception of correspondence extension divisions maintained by a few universities, is a private enterprise like the business college. These schools prepare an educational product, usually packaged in a set of texts or a series of printed lessons or both, which they sell through advertising and personal solicitation. Some such schools offer general courses; others provide specialized training almost as varied as human occupations. A second agency is the company school formerly called the corporation school. Such schools established by business concerns under their own direction are effective in giving detailed instruction in the needs of a particular business.

The collegiate school of business is undoubtedly the most noteworthy of the more recently developed institutions for business education. Its growth during the past ten years has far outdistanced that of all other similar institutions. Enrolment in business curricula in colleges and universities has grown from about 9000 in 1915 to about 60,000 in 1930. In contrast to the situation in secondary schools six out of seven of the students are men. Such schools are parts of colleges or universities, paralleling in university organization schools of law and medicine and to some extent animated by the desire to give similar status to the practise of business. In a sense they grew out of the agricultural and engineering schools which emphasize the production aspects of business. The increasing competition of the second half of the nineteenth century which centered attention on the organization and directive features of business stimulated the appearance of collegiate schools of business. The first school of this type was the Wharton School of Finance and Economy established at the University of Pennsylvania in 1881. No other was founded until 1898, when both the University of Chicago and the University of California announced such schools. There are now between 180 and 200 colleges or universities with some formally recognized business school or unit, most of which are in origin offshoots of departments of economics. Two schools, those of Harvard and Stanford, operate solely on a graduate level; others are chiefly undergraduate schools, but those affiliated with universities usually provide some graduate work. Harvard University and the University of Chicago have been prominent in planning curricula and in producing teaching materials.

The collegiate school of business faced many difficult problems during its distinctly experimental period of growth. It had no curriculum unless it was satisfied to imitate secondary schools; it had no teaching material and no properly trained instructors; the level upon which work should be given had to be determined. There were also difficulties of adjustment to other university divisions, particularly the departments of economics. Relationships with secondary commercial schools had to be established, and an intelligent contact between the new schools and business required development. By no means have all of these problems been solved. An underlying problem of organization remains—that of a social versus an administrative outlook. Most schools have frankly assumed an administrative point of view, but while some have interpreted this to mean chiefly a study of internal control methods others have included a consideration of the social incidence of business and even of its social responsibility. Most schools waver somewhat indefinitely between the two views. The critics of the collegiate school of business believe that as it develops teaching material and a staff distinct from departments of economics its spirit is narrowed and its work made more technical. Its more optimistic friends see in it the source of a new realism for economic study and an opportunity to give to business a more social outlook as well as a better administration. Certainly its vigor, its popularity, its contact with reality and its obvious relationship to a major social interest make it a force of great consequence in the development of higher education and possibly of social organization.

In Europe special commercial schools had a longer history. They sprang up in older commercial centers under the auspices of merchants' organizations or of private enterprise and later were incorporated into state or municipal systems of instruction. In England, however, spe-

cialized commercial education did not develop until the end of the century. E. J. James stated in 1893: "It is not far from the truth to say that there is no such instruction given in England at all." Public commercial education in that country was made possible by the Technical Instruction Act of 1889 which gave local authorities power to raise money for the purposes of technical instruction. The chief agencies at present are the so-called continuation schools, attendance at which is voluntary on the part of those leaving the elementary schools and which make provision for both junior and senior commercial courses. The private commercial school also flourishes in England and in contrast to its position in America appeals to a more exclusive group than do "the provided schools." Training of university grade was first undertaken in Birmingham in 1901 and is to be found usually in a three-year course in some of the universities. In France there is some commercial instruction in schools of primary and intermediate type. So-called superior schools of commerce were recognized by official decree in 1890. Most important of the higher schools is the École des Hautes Études Commerciales, which was established by private enterprise in 1820 and later taken over by the Paris Chamber of Commerce.

The history of special commercial schools is somewhat different in the newer states of Europe, established at the time when the rapid economic development of the nation had already become the prime concern of the statesman. After 1870 Germany built up a system of higher technical schools which included the *Handelshochschule* type for advanced training in business. The latter provide graduate work in social economics as well as in business administration; in some cases they offer better courses in empirical and statistical economic disciplines than those available at the universities prior to the post-war reorganization. Below the *Handelshochschule* are the elementary and secondary commercial schools including the commercial form of continuation school and a variety of types established by states, municipalities and private enterprise. The courses in these schools vary in length from one to three years. Similarly in Italy the trend has been to work downward from the top rather than upward from the bottom. Modern commercial education began with the establishment in Venice of a Commercial Institute of university grade in 1868. Later a number of other higher commercial schools were organized. These greatly influence the types of work done in the "complementary schools," the "commercial schools" and the "commercial institutes."

Of the post-Versailles new countries Czechoslovakia is foremost in vigorous expansion of business education. Before the war such education developed to some degree against the definite opposition of Austria; following independence in 1918 a large number of commercial academies, apprentice continuation schools and two-year business schools were established. The Graduate School of Commerce was founded at Prague in 1919 by a law which stated that its purpose was "to offer to students an advanced training in business and economics so that they may become . . . the organizers of the economic life of the Republic." This statement of the role of an advanced school of business is curiously in line with the most sanguine expressions of opinion that have been put forward in the United States.

LEVERETT S. LYON

See: BUSINESS; BUSINESS ADMINISTRATION; CLERICAL OCCUPATIONS; APPRENTICESHIP; VOCATIONAL EDUCATION; PUBLIC EDUCATION; CORRESPONDENCE SCHOOLS; INDUSTRIAL EDUCATION.

Consult: Pirenne, Henri, "L'instruction des marchands au moyen âge" in *Annales d'histoire économique et sociale*, vol. i (1929) 13–28; Lyon, L. S., *Education for Business* (Chicago 1922), and *A Survey of Commercial Education in the Public High Schools of the United States* (Chicago 1919); Marvin, C. H., *Commercial Education in Secondary Schools* (New York 1922); *The Collegiate School of Business*, ed. by L. C. Marshall and others (Chicago 1928); Addresses by Owen D. Young, Edwin F. Gay and Wallace B. Donham, published in *Harvard Business Review*, vol. v (1927) 385–405; Herrick, C. A., *The Meaning and Practice of Commercial Education* (New York 1904); James, E. J., *Education of Business Men in Europe* (New York 1893); Léautey, Eugène, *L'enseignement commercial et les écoles de commerce en France et dans le monde entier* (Paris 1886); Cahn, Gaston, *Le commerce et les hautes études* (Lausanne 1928); Ashley, W. J., *Commercial Education* (London 1926); Foubert, Auguste, *L'enseignement commercial supérieur en France et à l'étranger* (Paris 1922); Arndt, Paul, *Das Studium auf der Handelshochschule*, Volkswirtschaftliche Zeitfragen series (Berlin 1903); Blum, Theodor, *Das deutsche Handelsschulwesen* (Leipsic 1911); Farrington, F. E., *Commercial Education in Germany* (New York 1914); Buonocore, Giuseppe, *L'insegnamento commerciale in Italia* (Rome 1913); "Proceedings of the International Congress on Commercial Education, Amsterdam 1929" in *International Review for Commercial Education*, 2nd ser., no. 7 (1929) 461–506. The *International Review for Commercial Education*, published since 1926, contains articles on the history and current state of commercial education in Europe and America.

BUSINESS ETHICS. The ethical standards of business have until recently been determined by external agencies. For centuries the church was the chief critic of business methods or, as in Calvinism, provided business with its apologies. Later the state, often at the request of business men themselves, made business ethics coherent and effective in the form of legislation and adjudication. During the last century, however, church and state have failed to keep pace with the changing methods and growing complexities of industry and business, while business men themselves have indicated a willingness and capacity for that self-government which is one of the most characteristic features of present day social phenomena.

The development of business ethics was preceded by the rise of professional ethics, especially in law and medicine. Although professional and business ethics are sufficiently similar to suggest mutually fruitful and provocative problems, there is danger of making the analogy "walk on all fours" to the detriment of both. The professions are engaged essentially in furnishing services, whereas business deals largely in goods; in business sound credit arrangements and fair profits can be emphasized to a greater degree than is compatible with professional practise. The failure to appreciate these distinctions may encourage professional men and others to develop a supercilious attitude toward business practises, a view frequently acquiesced in by business men themselves. The development of business as well as professional ethics, however, is a part of the modern pluralistic social autonomy participated in by churches, labor unions, fraternal organizations and other social groups.

The more obvious problems in business ethics arise in connection with misrepresentations such as misleading advertisements and labels, with trade "piracy" adulterations and substitutions, commercial bribery and excessive "treating," false assertions regarding company affiliations or the source of goods or the process. Many problems in business ethics develop out of the structure of business and the functions made necessary by it. If the corporation is the warp of the business fabric, then the trade association may be likened to the woof. Wholesalers and retailers have been trying through trade associations to maintain their distinctive functions, emphasizing "legitimate" trade channels as opposed to the chain store and mail order house. Price policies involve the ethical problems of price cutting, "resale price maintenance" and discriminatory price schedules under the guise of "trade discounts" or "classification of customers."

The incidence of such practises is not confined exclusively to the purchaser-consumer; the self-damage to the trade as a whole is frequently as serious as it is unrecognized. Hence business ethics takes into account the harm done to the competitor, who has no redress in the courts and who in order to survive must frequently stoop to the tactics of his rival. Furthermore, business ethics becomes identified with sound economic policy: honest cost accounting, adequate and accurate business knowledge, sound credit arrangements and the necessity of securing a fair profit. Whereas the law and morals attach particular significance to motives, business ethics emphasizes the effect of business practises and condemns an ignorant competitor as much as it does a wilfully dishonest one.

In the United States the conscious development of business ethics by business men themselves consisted a decade or two ago in the formulation of so-called "codes of business ethics." Although many of these declarations were only vague generalities or hypocritical camouflage, they were symptomatic of a movement toward improved business relations and have more recently reflected the facts as well as the norms of business. The *Principles of Business Conduct*, a pamphlet distributed by the Chamber of Commerce of the United States, serves as a model to various businesses, especially to trade associations, in applying the spirit of the code to their own particular conditions. Similarly Rotary International has sponsored a code. But such codes at best are mere constitutional frameworks; to function effectively they need amplification and interpretation with reference to particular situations. A supreme court of business and subsidiary arbitration boards are as necessary to business ethics as an even more active Chamber of Commerce with its constituent local branches.

The Federal Trade Commission was established in 1914 to take administrative jurisdiction over cases of "unfair" business practises which did not ordinarily fall within the scope of constitutive law. For a number of years the commission proceeded against individuals or corporations in much the same manner that had previously characterized the activities of church and state. Within the last four years, however, the commission has been encouraging various

trade groups to endorse or condemn current trade practises; the commission then uses these "submittals" as the basis for its subsequent activities. The Department of Commerce has also induced business groups to assume responsibilities which the government could not appropriate without becoming paternalistic and which business men hesitated to undertake because of the fear of government disapproval.

A Better Business Bureau operates in each of over fifty cities in the United States. These bureaus, an outgrowth of the Vigilance Committee of the Associated Advertising Clubs, are financed by merchants and bankers through voluntary subscriptions. A merchandise section checks on advertising claims by following up customers' complaints and by sending out its own shoppers. A financial department is also available to investors, prospective or suspicious, to assist them in distinguishing investments from speculations and frauds. Bulletins are published periodically, reporting quite frankly and in detail the activities and findings of the bureaus, while a number of newspapers give the subject general publicity. Through such agencies business has been setting its house in order, especially as regards the rights of the consumer-purchaser.

Since investment banking occupies the key position in the modern business structure the development of ethical standards in this field is of particular importance. Each investment issue is sufficiently large and unique to warrant a separate ethical analysis, especially as regards fixing the responsibility for its security. The obligation to develop public confidence and financial stability, common to investment and commercial bankers, represents values formerly associated only with artistic achievements, political stability and spiritual immortality. Whether the banker can retain his hold on social confidence depends on his willingness to assume the accompanying responsibilities: determining to what degree an investment house should control the management of a company which it finances, and to what extent reliable and accurate information as to the business should be imparted to others, especially to prospective investors. The financial structure of corporations frequently determines their fate and vitally affects the fortunes of creditors, stockholders, management and workmen. The caveat emptor rule, seriously questioned in the field of marketing, may be even less defensible in the field of investment, where exploitation may lead to an excessive and ruinous appropriation of the savings of many people and the wrecking of their faith in the business structure.

The speculative values of new or reorganized business enterprises soon become tempered into investment values through the agency of an "exchange." The New York Stock Exchange has developed a constitution and rules which are probably more strict than could be attempted by legislation, since legislation if carried to that extent would have to apply generally to all business, large and small, a standard of conduct which is probably impossible of achievement beyond the restricted membership of the exchange. Through the agency of the exchange the capital values of corporations become objective and minutely measurable, thus affording a scientific basis for determining the ethical as well as the economic and business problems which arise.

The self-consciousness of trade interests, exhibited in corporation and association activities and expressed in principles of business ethics, is a social phenomenon analogous to the guild movement of the later Middle Ages. Whereas the mediaeval guild, however, was essentially local in character, with a restricted and yet compulsory membership, the trade association is generally national in scope, with its membership on a voluntary basis and with a consequently less compact organization. The guilds' endeavor to control the product from source to final sales resembled the vertical integrations achieved by the modern corporation. At the time of the guilds, however, national governments and a common law had not yet arisen; hence the guilds filled a very definite need for the protection and encouragement of industries and commerce.

As the development of national laws in Europe supplanted in large part the local and municipal laws and *coutumes*, they assumed the more general regulation of business. On the continent there has resulted a skeptical attitude toward "business ethics": unless the business act falls afoul either of the law or of sound economics, no further regulation seems necessary. In England, similarly, trade regulations were incorporated into parliamentary statutes or, as with the Law Merchant, were absorbed by the common law. Thus the basic business mores, such as good quality of materials, honest workmanship, sanctity of contracts, commercial arbitration and a strict sense of fiduciary relationships, although fundamentally sustained by public opinion, are

effectively sanctioned by law to a greater extent than in the United States, even though in England the doctrine of laissez faire has not yet been qualified by such measures as the Sherman Anti-Trust Act, the Federal Trade Commission Act and the Clayton Act.

It is in part as a reaction to such legal control of business that self-government and ethics in business have become dominant in American corporation and trade association policies. Centralized political control, so characteristic of western civilization during the past few centuries, is giving way to a pluralistic functional autonomy of business groups. This situation has been intensified by the fact that economics has maintained such an abstruse and abstract character as to afford little guidance for the more intricate problems of business behavior; hence the empirical nature of business ethics. The inevitable tendency to become absorbed in law or economics may eventually leave no residuum of business ethics, strictly so called, but at present the field is teeming with rich material.

Methodologically, business ethics is still in a formative state. The "code" stage is definitely a matter of the past, having been superseded by the "trade practise submittal" and the formulation of corporation policies. The latter, however, in spite of their empirical foundation, represent but the beginning of an adequate method of study and control. Business decisions, although devoid of the sanctions vested in the courts and therefore not amenable to the rule of *stare decisis*, are cumulative in that they contribute to the development of certain empirical generalizations as to business policy. Indeed the changing conditions to which business life is constantly subject would make inexpedient as rigid a system of precedent as prevails in the law. The most subtle problem of business ethics consists in discovering the sanctions which prevail in business activities and which therefore must be relied upon in order to effect the appropriate measure of control over business conduct. Whether this control will be relatively extrinsic or intrinsic rests in large part with business men themselves.

C. F. TAEUSCH

See: PROFESSIONAL ETHICS; BUSINESS; BUSINESS EDUCATION; TRADE ASSOCIATIONS; CHAMBERS OF COMMERCE; ARBITRATION, COMMERCIAL; GOVERNMENT REGULATION OF INDUSTRY.

Consult: Taeusch, C. F., *Professional and Business Ethics* (New York 1926); Heermance, E. L., *Codes of Ethics* (Burlington, Vt. 1924); *The Ethical Problems of Modern Finance*, Vawter Foundation Lectures on Business Ethics, Northwestern University (New York 1930); articles by Owen D. Young, W. Lawrence, E. F. Gay and W. B. Donham in *Harvard Business Review*, vol. v (1927) 385–419; Klein, Julius, "Business" in *Whither Mankind*, ed. by C. A. Beard (New York 1928) ch. iv; Richardson, John, "Business Policing itself through Better Business Bureaus" in *Harvard Business Review*, vol. ix (1930) 69–77; Calhoun, G. M., *The Ancient Greeks and the Evolution of Standards in Business* (Boston 1926); Tawney, R. H., *Religion and the Rise of Capitalism* (New York 1926); Henderson, Gerard C., *The Federal Trade Commission* (New Haven 1924); Stevens, W. H. S., *Unfair Competition* (Chicago 1917); United States, Federal Trade Commission, *Annual Reports* (published since 1915), and *Trade Practice Submittals* (1925); United States, Department of Commerce, "Trade Association Activities," *Domestic Commerce Series*, no. 20 (1927).

BUSINESS, GOVERNMENT SERVICES FOR. The concept of the proper relation between business and government has varied with changes in the economic and political fabric of society. The typical economist, political scientist or practical business man of the nineteenth century, influenced by classical economic theory, by the obvious inadequacies and hindrances of mercantilist regulations and by the rapid growth of industry and commerce under unrestricted free enterprise, was convinced that a minimum of state interference was the normal, good course. In fact, however, the span of bona fide laissez faire as an actual policy has been relatively brief. Government has always been concerned with business, although the reasons therefor have varied widely in different ages.

Elaborate regulation of industry and trade by the town councils is a well known aspect of life in the Middle Ages. But the purpose of the strict requirements was service to the consumer rather than to industry as such. The quality of workmanship and of materials was subjected to scrutiny in order to protect the purchaser. While it is true that in some of the town fairs the rules favored local merchants and handicapped foreigners it is fair to say that industry had no significant service from governing bodies during the Middle Ages. With the growth of national states and the beginnings of capitalism the promotion of industry and trade came to be a prime concern of governments. The emphasis, however, was not upon industry but upon the state. The mercantilist doctrines of regulation of production and control of trade, which flourished in the sixteenth, seventeenth and early eighteenth centuries, were based upon faith in gold and a favorable balance of trade as the means to pro-

mote strong national states. Colonial expansion became desirable as a means to secure markets. Great trading companies such as the Dutch West India Company and the (British) East India Company were given enormous land grants and were supported by their governments in matters of direct or indirect territorial aggression. Such activities were regarded as directly contributing to the welfare of the state. Cameralism even more narrowly than mercantilism regarded revenue to the prince (which term was practically synonymous with the state) as the chief aim of economic activity.

The laissez faire reaction of the eighteenth century was based upon a changed concept of national wealth; national riches were no longer identified with riches of the sovereign but with those of the people. With the rise of the bourgeoisie to control of government increase of the national wealth in its new sense became a chief interest of government. The newly acquired power of the industrial classes was used to remove the outworn system of restrictions and regulations and to give business enterprise a free hand. The new philosophy was that the greater the prosperity of the people, the greater would be the prosperity of the state and that the means to both of these happy ends was to unfetter business. The repeal of the corn laws, abolition of bounties on exports, lowering and repeal of tariffs, were manifestations of bourgeois use of political power to secure freedom for business activity, a movement which reached its peak in the twenty years from 1850 to 1870.

After the Franco-Prussian War the spirit of liberalism waned and it came to be believed that the problem of finding markets for the ever growing output of the factories was of increasing magnitude. The bourgeoisie then began to clamor for government assistance and there emerged a new interpretation of the relation between business and government. Business, once regarded desirable principally as a producer of taxable income, gained in relative importance until today commerce is, according to Chamberlain, "the greatest of political interests." The aggressively nationalistic attitude of the later nineteenth century resulted in closer union between business and government as partners in the world struggle.

It was in this spirit that the most conspicuous government services for business were developed. Business received assistance most readily in those phases which were directly affected by international competition. To assist merchants to outsell the foreigner became the primary aim of the governmental departments devoted to the commercial interests of the state. It is not surprising then that the first important examples of specific government aid to industry occur in connection with foreign trade and that from such nuclei has developed a vast network of governmental bureaus, departments and offices whose primary function is the promotion of trade and industry.

Departments or ministries of commerce have been established in practically all industrial and commercial countries. Although their structure and relationship to other governmental departments vary from country to country they engage in similar activities. Virtually every country has a system for maintaining officers in residence abroad who report to a central office at home regarding such details of business conditions as prices, marketing possibilities for specific commodities, tariff and customs policies and harbor and inland transportation facilities in the localities in which they are domiciled. Prior to the nineteenth century fragments of such information came from business men without special training already residing abroad, who were appointed as consuls, and by 1832 there had developed a universal system of trained consular service. The consuls do not represent the state as a political body but are business or commercial agents. Their duties are prescribed by the state which sends them but may be limited by the state which receives them, usually on the basis of already existing consular treaties. Within recent years the consuls have been supplemented by commercial attachés, trade commissioners and other special agents who are particularly effective in securing information regarding trade possibilities. Every possible publicity is given to such information. It is published and circularized in reports and bulletins of the respective ministries or departments. In many countries main and branch consulting offices are maintained where the material can be secured first hand. The foreign agents of the government when home on leave are available at these offices for consultation with business men. Exporters and merchants are invited to enter their names upon private lists which are circularized with material of a specific nature as it becomes available.

The French Ministère du Commerce et de l'Industrie, which assumed its present form in 1886, is an outgrowth of one of the earliest examples of official recognition of needs of

trade. Although a separate ministry to look after the needs of commerce was not created till 1831 its origin dates back to 1588 when all commercial matters were placed under the supervision of Martin Ruze, Seigneur de Beaulieu.

The Office National du Commerce Extérieur, founded in 1898 through the cooperation of the Chambre de Commerce de Paris with the Ministère du Commerce et de l'Industrie, is the distributor of trade information relating both to the foreign and to the domestic market. This Office National maintains fourteen branch offices in France. Commercial attachés and commercial agents under the supervision of the minister of commerce are stationed in foreign countries. In the instructions issued to them the commercial attachés are defined as primarily advisers of the ambassadors and consuls. They must keep the Ministère du Commerce informed of important commercial events and supervise the various trade promoting activities of the government in their territory.

Coordination is brought about largely through the Office National, which is administered by a director assisted by a council of nineteen members variously appointed by the Chambre des Députés, the president of the Chambre de Commerce de Paris, the Assemblée des Présidents des Chambres de Commerce and the minister of commerce.

Great Britain has no actual ministry of commerce. The functions which might be fulfilled by such a ministry are distributed among various departments of state but are chiefly brought under the care of the Board of Trade. It is commonly accepted that the germ of this body may be found in the special committee of the King's Privy Council, which was directed in 1621 "to take into their consideration the true causes of the decay of trade and scarcity of coyne within the Kingdom and to consult of the means for removing of these inconveniences." Under Cromwell a Committee and Standing Council for the Advance and Regulation of the Trade and Navigation of the Commonwealth, composed of more than seventy members and appointed in 1655, gave this committee more permanent form. This council, dissolved in 1674, was reborn in different form under William III and entrusted with the administration of the "plantations." It passed through a period of great prominence from 1747 to 1761 under the leadership of the Earl of Halifax. Declining in importance it was abolished by Parliament in 1782 only to be reestablished with enlarged powers by William Pitt by order in council on August 23, 1786. This order still forms the fundamental instrument from which the Board of Trade derives its general authority. In its early years the board performed largely advisory functions but in later years has become more of an administrative body.

Interimperial coordination of trade promotion in the British Empire has been accomplished by means of trade commissioners appointed by the Board of Trade serving as representatives in the dominions and dominion representatives serving in various other dominions, all making their services reciprocally available. The Department of Overseas Trade, created in 1917 and jointly responsible to the Foreign Office and the Board of Trade, coordinates all the trade promoting activities of the British government. A new Commercial Diplomatic Service, whose highest grade officers are known as commercial counselors, was created to replace the commercial attaché system of trade investigations in foreign countries. In fact, although the preparation of commercial treaties and other agreements with foreign governments is left with the Board of Trade, this function is assigned to a special department, the Commercial Relations and Treaties Department organized in 1919.

In Germany, similar governmental organizations had been created in the several states before the beginning of the centralization movement which found its culmination in the German Empire. When in 1810 the Prussian state was reorganized and ministries established, the interests of commerce were entrusted to the Ministry of the Interior. In 1848 a separate Ministry for Commerce, Industry and Public Works was formed. In addition to this administrative department an advisory body, the Volkswirtschaftsrat, was created in 1880 with seventy-five members chosen by the king, the chamber of commerce and agricultural associations. In the imperial government a Department of Commercial Policy was established in the Ministry for Foreign Affairs (Auswärtiges Amt) and a Commercial Division was organized in the Department of the Interior. The distribution of trade information takes place through a central office for foreign economic information (Zentralstelle für den wirtschaftlichen Auslands Nachrichten Dienst). This office is maintained jointly by the Department of Foreign Affairs (Auswärtiges Amt) and the Ministry of Commerce (Reichswirtschaftsministerium). The field work is in the hands of the consuls under the super-

vision of the Aussenhandelsstelle established in the Ministry for Foreign Affairs. In some cases vice consuls or secretaries of legations are designated to undertake commercial investigation and reporting work. Before the war a commercial attaché service existed but this has now been discontinued.

In the United States the act of February 14, 1903, created a Department of Commerce and Labor, to promote the mining, manufacturing, shipping and fishing industries and the transportation facilities of the United States. Functions developed first in other departments such as the Bureau of Statistics, the Census Office, the Bureau of Labor and the Bureau of Foreign Commerce were brought together to form the new department. By the act of March 13, 1913, the Department of Commerce and Labor was divided into two departments and the newly created Bureau of Foreign and Domestic Commerce became a part of the new Department of Commerce. Although the new department is to some extent an administrative agency its more important functions are concerned with promotion of the nation's industry and trade. It is now comprised of the Aeronautics Branch, Bureau of the Census, Bureau of Foreign and Domestic Commerce, Bureau of Standards, Bureau of Mines, Bureau of Fisheries, Bureau of Lighthouses, Coast and Geodetic Survey, Bureau of Navigation, Steamboat Inspection Service, United States Patent Office and the Radio Division.

The department has been active in promotion of foreign trade. Commercial information supplied by consuls, formerly published by bureaus within the Department of State, has since 1912 been placed under the care of the Bureau of Foreign and Domestic Commerce and since 1915 has been published as the weekly *Commerce Reports*. The Department of Commerce has also inaugurated its own trade information service. Four "special agents" were appointed in 1905 by the secretary of commerce and labor and placed under the direction of the Bureau of Manufactures; one was assigned to Cuba, Mexico and Canada, one to South America and two to China and Japan. In 1914 this service was greatly expanded. Provision was made for commercial attachés, appointed by the secretary of commerce but accredited through the Department of State, who report upon conditions in trade and industry abroad which may be of interest to the business men of the United States. They are assisted by trade commissioners and assistant trade commissioners. These officers perform valuable service in assisting in the settlement of trade disputes and in advising American firms in regard to the methods of overcoming the difficulties of foreign customs and trade regulations. When on leave of absence from their foreign posts trade commissioners and commercial attachés visit district offices established in various American cities, where conferences with local exporters are arranged for them. In order to expedite still further the transmission of trade information to exporters the bureau maintains a list of American firms interested in foreign markets. The firms whose names appear on this exporters' index receive confidential information regarding trade opportunities and receive the benefit of other services "that cannot very well be arranged for in any other way."

Through this expansion of the Bureau of Foreign and Domestic Commerce a new foreign service has been built up which in a sense parallels the consular service. A method has been devised, however, by which the Department of State provides contact between the consuls in the foreign field and the Department of Commerce. Furthermore it is argued that consuls, burdened with routine of their offices and tied to one place, are in no position to serve efficiently as sources of trade information.

The Department of State has several times attempted to create a service less confined to administrative duties. After the disbanding of the Bureau of Trade Relations the office of Foreign Trade Adviser was created. During and immediately after the war the department was in urgent need of expert economic and trade advice in order to be guided in its dealings with foreign problems and in the drawing up of commercial treaties. In 1920 a personnel of almost seventy employees had been built up for this service. The possibility of using this organization for the collection and distribution of information useful to the business interests now became apparent, and consequently the consuls were encouraged to extend their activities along the lines of commercial investigations. By executive order on November 18, 1920, the consular regulations were amended to provide for the designation of a number of consuls as "economic consuls" to serve as assistants to general consuls in economic investigational work. The duties of these newly created officials were almost identical with those of the commercial attachés. This expansion was short lived, for in 1921 the activities of the Office of the Foreign Trade Adviser in the promotion of commerce ended.

The Department of State continues to devote increasing attention to the collecting of trade information, on the principle that diplomatic relations can no longer be considered apart from economic relations.

Attempts to promote trade have not been limited to the confines of single countries. The League of Nations has done some valuable work in promoting "equitable treatment of commerce" among League members. It has appointed committees to examine various practises which clearly violate the principle of equitable treatment. Studies have been made of unfair competition, treatment of foreign nationals and enterprises, customs formalities, import and export prohibitions and restrictions, commercial arbitration and legislation on bills and checks. Recommendations have been put forward for uniformity in statistical methodology with respect to international trade, agricultural production, fisheries, censuses of production and current industrial production. A permanent subcommittee has been formed to consider economic crises and unemployment. The Organization for Communications and Transit holds general conferences at regular intervals to secure and maintain freedom of communications and transit. Between conferences the work is carried on by an Advisory and Technical Committee for Communication and Transit, which is a governmental organization with membership made up of states permanently represented on the council and states selected for the purpose. Its chief work is directed toward mitigating administrative formalities and technical difficulties obstructing easy and rapid transit between nations.

The United States is a party to a number of international agreements formed prior to the appearance of the League of Nations for the promotion of international trading interests. The Inter-American High Commission, organized in 1915 under the auspices of the First Pan-American Financial Conference, aims among other things at uniformity of commercial law and stability of financial relations between the Latin American republics and the United States. The International Hydrographic Bureau, formed in London in July, 1919, on the recommendation of delegates from twenty-two nations, seeks to promote hydrographic research and thus to facilitate navigation. The International Bureau for the Publication of Customs Tariffs was created in Brussels July 5, 1890, and the International Statistical Institute in London June 24, 1885.

The termination of the World War witnessed renewed activity on the part of governments to assist business to survive the difficulties of readjustment. One of the post-war developments was the application of various methods of assisting exporters in financing their exports. Great Britain inaugurated a credit insurance plan in 1920 and established an Export Credits Office in the Board of Trade for its administration.

The German export credit insurance plan was inaugurated in 1926. The plan, worked out under the Reichswirtschaftsministerium, placed the actual insurance in the care of two designated insurance companies which carry two thirds of the risk. The government agreed to indemnify the companies for one half the amount they would lose on "normal" risks. A similar export credit insurance plan was established in Holland in 1923, in which a risk of 40 percent of the invoice value was assumed by the government.

The bonus or bounty offered to exporters is another method which has been increasingly used in recent years to encourage exports in selected products. Australia has paid a bounty on butter since 1928, Latvia on flax, Spain on rice and certain cotton fabrics. Such measures may lead to international economic friction and are therefore resorted to in comparatively few instances.

In the United States the Federal Trade Commission was charged with the administration of the Webb-Pomerene Act of 1918; this act allows American firms which are not permitted to combine in the home market to pool their efforts when dealing with foreign markets.

From the days of Colbert great powers have been solicitous of the merchant marine, partially because of a belief that it promoted trade in general but particularly because of its military significance. Modern governments promote national shipping by loans at low rates of interest, by guaranty of loans from private sources, by assumption of part of the interest charges, by subsidies or subventions to individual shipping companies, by preferential rates on the railroads to exports carried on national steamship lines, by imposition of higher tariff rates on goods imported or exported in foreign ships, by visaing without charge passports of persons traveling on national ships and by granting particularly profitable mail contracts to ships flying the national flag. Great Britain, France, Sweden, Spain, Italy, Japan, Brazil, Chile, Portugal and the United States all make use of one or more of these mechanisms.

A consequence of the extreme rivalry for markets and of the promotion of foreign trade characteristic of the mercantilism of the fifteenth to the eighteenth century, as well as of the later nineteenth and early twentieth centuries, was the development of a certain amount of regulation of domestic industry. One means of insuring a foreign market for goods was to make sure of their superior quality. This latter result supposedly could be achieved by minute regulation, the policy attempted by Colbert, or by various forms of government branding or certification of quality after inspection, a policy employed today.

As early as 1904 the government of Holland originated a governmental certification service for butter exported from that country. The rapid decline of the butter trade with England on account of the failure of the Dutch exporter to maintain quality had led to this attempt at standardizing the quality of the exported product.

In recent years many similar inspection and certification services have been organized in other countries. Inspection of tobacco intended for export takes place in many countries. Mauritius maintains special governmental warehouses where the product is graded and prepared for export. No exports can take place except on government certificate. The Philippine Bureau of Agriculture not only grades and inspects the tobacco but in order to promote the growing of better grades has power to control the planting as well as the methods of cultivating and curing. Of special importance is the inspection, conditioning and certification of silk intended for export by the government of Japan and by the city of Kobe. This service has contributed measurably to increase the prestige of Japanese silk on the world's markets.

Exports of meat from Argentina can take place only if accompanied by an official certificate and if packed to conform with governmental standards. Herring exported from Holland, bananas and tomatoes from the Canary Islands, fresh fruit from Canada, eggs in pulp or in shell from Australia, butter from New Zealand and Ireland, meat products from Esthonia, oranges and castile soap from Spain, are subject to similar inspection.

In some cases goods which have successfully passed inspection are given the exclusive privilege of carrying the national trademark. Thus the Italian government inaugurated in 1928 a national trade mark the use of which is granted to approved firms and inspected products. The Persian government maintains a Belgian expert to examine Persian rugs for the detection of the use of any aniline dyes. The British government guarantees the quality of barrels of herrings cured in Scotland by marking them with the crown brand. Such certification of quality of merchandise which is the chief product of, or is obtainable in, only one country is important in maintaining confidence in values.

Although government service for business started chiefly in connection with foreign trade, governments have of late years given much attention to the promotion of domestic industry. Governmental bureaus and departments similar to those engaged in promoting foreign trade are designed to encourage home industry. Tariffs of most great powers have been substantially raised since the 1870's. Industries important for national self-sufficiency, or frequently simply those powerful enough to exert sufficient pressure upon governments, have been specially favored. With the increased variety of industrial products and the increased complexity of business organization there has also arisen a demand for government standardization and experimentation. Direct government assistance has been granted to those types of industry which could not exist within the nation except for such aid.

The Bureau of Foreign and Domestic Commerce in the early years of its existence was unable to engage upon any important program of domestic trade promotion because of the absence of funds. The act creating the bureau had charged it with the making of comparative studies of the cost of production of certain articles abroad and in the United States, but it was not until the fall of 1913 that funds became available for this purpose. During the next four years about a dozen reports were published on different American industries; in 1917 this important work was transferred to the newly created Tariff Commission. The division of cost accounting, organized in 1917 and intended to serve the business world through the collecting of uniform cost data which could serve as a guide in production, was closed in 1918 when this work was transferred to the Federal Trade Commission. Isolated studies of domestic industries and trade associations were made from time to time but the domestic side of the bureau's work was not of very much importance until the organization of the Division of Domestic Commerce in 1923. This year was the beginning of the bureau's domestic activities on a large scale.

One of the most important and constructive

pieces of work of this new division was the organization of regional surveys, the first of which to be completed was the *Commercial Survey of the Southeast*, published in 1927. Similar surveys have been made of other sections of the country. Each survey deals with merchandising methods, commodity preferences, buying habits, store and plant location and the machinery of distribution of the area studied.

The most recent development is the making of cost of distribution studies. These studies are carried on with the cooperation of individual firms and various trade associations. Little is known at present of the various factors influencing the cost of distribution of commodities and important results may be expected from these systematic cost studies. The division is further active in cooperating with trade associations in the making of commodity marketing surveys especially where the trade is not sufficiently well organized to carry on such investigations on its own initiative.

A special section to serve the interests of the small business man has recently been organized. There is a special inquiry section to serve as a clearing house for business information and to acquaint the business world with the many government bureaus from which they may obtain information.

Besides the Department of Commerce many other government bureaus are engaged in studies of domestic production and distribution methods. The Tariff Commission, organized to provide the government with the necessary data to furnish a sound basis for a tariff policy, carries on studies at home and abroad in order to arrive at comparative costs of production. Its publications dealing with foreign tariffs, commercial treaties and certain domestic and foreign industries form valuable contributions to the field of commercial knowledge. The Federal Trade Commission is another agency which, although organized to control rather than to promote commerce, has produced studies of very great use to business. The published reports dealing with the grain trade, the copper market and a large number of industries contain valuable material for the business man. Of particular interest are the studies dealing with trade associations and with the standardization of trade practises and trade terms. The commission by investigation and recommendation in cases of charges of illegal conduct has performed valuable service in the settling of trade disputes and in eliminating unfair practises.

The Bureau of Standards, organized in the Department of Commerce in 1901 and originally intended to operate largely as a custodian of standards of weights and measures, has expanded its activities until today hardly an industry remains unaffected by its manifold contributions. Its scientific research and testing of materials have resulted in important improvements in engineering and manufacturing technique. From the point of view of the merchant the bureau's activities along the lines of simplified practise and the standardization of products are of the greatest significance. The acceptance of such simplified practise and standardized production by many of the trades has resulted in substantial savings in inventories and production costs and has made for a reduction of charges for obsolescence of machines. Standardization also has contributed greatly in eliminating causes for trade disputes.

Among the industries which could scarcely exist without government aid are fisheries and air transport. In the United States the Bureau of Fisheries engages extensively in the planting of fish in waters suited to their propagation and regulates the fishing seasons to prevent their extermination. It also sends government experts to fishing centers, where they advise and check upon fishing activities.

Aeronautics has been assisted by direct subsidy to commercial air transport, by government research, by development of standard air practises and by circulation of information. Air transport, while it has had a tremendous recent growth, cannot yet be counted upon to operate commercially without artificial financial assistance. In Europe direct subsidies and air mail payments are made to the national monopolistic transport companies. In the United States air mail contracts, provision of lighted airways and information service by the Aeronautics Branch of the Department of Commerce serve to promote commercial transport. Earlier in American history the railroad land grants served the same purpose.

Other industries have the research and advisory services of special bureaus of the government. In addition to the Bureau of Standards, the Bureau of Fisheries and the Aeronautics Branch the Department of Commerce maintains the Bureau of Mines to assist the mining industry to eliminate waste and safeguard lives, the Radio Division to promote and regulate the radio industry and the Chemical Division of the Bureau of Standards, which makes available the

results of its researches to those industries which might benefit thereby; while the Department of Agriculture maintains the Bureau of Plant Industry, Bureau of Animal Industry and Bureau of Dairy Industry.

Government solicitude for business is particularly marked when the economic fortunes of the nation are determined by the welfare of a single industry. The world's chief sources of coffee, sugar and rubber are Brazil, Cuba and the British East Indies respectively. In the decade following the World War the British and Cuban governments engaged in heroic attempts to stabilize the prices of rubber and sugar by the control of supplies going upon the world market. But the ultimate effect of these means an increase in production in other economic areas and both of these valorization schemes have been abandoned. Beginning in 1906 the governments of the Brazilian nation and of the state of São Paulo, at first intermittently but more recently continuously, have participated in the marketing of coffee. Here again price regulation has been attempted through artificial control of supplies moving into the market and although it has not yet been proved a failure it is seriously embarrassed by the failure to restrict the amount of coffee produced.

From 1879 until the retrocession of Alsace Lorraine to France in 1919 the German potash syndicate was sponsored by the Prussian and the German governments, which restricted output and allocated quotas to the various mines; in 1924 an agreement was reached between France and Germany whereby the two countries in combination exercised a similar control of the output of potash. Government officials have participated in the management of the syndicate, prices have been restricted, production has been forcibly curtailed and foreign prices have been forced far above the domestic. All these measures have been undertaken primarily for the enhancement of the profits of the owners and secondarily in the interests of cheap fertilizer for agriculture.

Since 1891 Canada has progressively developed a policy of restriction of export of pulpwood and even of pulp. The primary motive has not been conservation but the promotion of domestic industry. By the restriction of pulpwood exports the pulp mills of Canada are benefited, while the restriction of pulp exports stimulates the developing paper industry of the country. These restrictions appear to have been of genuine benefit to Canadian industry.

As a result of legislation passed by Great Britain in 1903, 1904 and 1916 a prohibitive tax has been placed upon export of tin from the Federated Malay States and Nigeria unless it is destined for smelting in the Straits Settlements, United Kingdom or Australia. From 1902 to 1913 the United States levied a similar tax upon manila exports from the Philippine Islands except those consigned direct to the United States. The British tax has effectively restricted foreign competition in smelting, but the manila tax, repealed in 1913, had little effect other than to eliminate indirect shipments to the United States via Great Britain.

Still other forms of financial assistance to domestic industry, direct and indirect, have appeared since the war. The British Trade Facilities Act of 1921 established a fund intended to facilitate the financing of power plants, harbors, dock works and railway equipment in England and abroad by means of long term loans. The loans were restricted to enterprises which give employment directly or indirectly to British labor. The miners of wolfram and tin in Burma are able to secure loans from the local banks more readily because the government guarantees the credit. Spain and Portugal give financial support to the coal industry and Poland, Belgium, France, Canada and South Africa assist this industry by means of preferential rates on their railroads. South Africa subsidizes its infant steel industry while Japan, under the Steel Manufacturing Industry Encouragement Bill, provides for tax exemption for a period of fifteen years for plants equipped to produce a minimum of 35,000 tons of steel per annum. The Japanese dye industry is similarly assisted, while under the law of 1925 subsidies are also provided for.

Canada has followed this example by granting a subsidy for fifteen years to encourage the establishing of coking plants. More thoroughgoing is the attempt on the part of the Turkish government to bring about industrialization of the country. Selected industries may procure exemption from customs and excise duties on goods imported to be improved in Turkish industrial establishments. Subsidies may be granted to such industries and the national and local governments may be required to purchase the products even at a price 10 percent above the price of imported goods. Tax exemption is frequently found and is a part of the method used by the Brazilian state, Amazonas, to foster new industries.

Compulsory patronage of home industry by central and local governments is another favored method of industrial promotion. Hungary by the ruling of May, 1926, Japan under the decree of March, 1927, and Portugal under a decree of the same year all use this method, while the government of India purchases only railway wagons manufactured within the colony.

One of the most consistently worked out plans for governmental assistance to industry is probably contained in the Spanish royal decree of April 30, 1924; the conditions are indicated under which an industry may become "nationalized" and thus obtain tax exemption, export subsidies, a guaranteed income and, if needed, a state loan as circumstances require.

International as well as national measures have been taken to promote domestic trade. In addition to the work of the League of Nations on standardization there are various international agreements. The North Pacific Halibut Act of June 7, 1924, gave effect to a convention signed March 2, 1923, between the United States and Great Britain for the preservation of the halibut industry. An International Fisheries Commission, composed of representatives of the two governments, is to determine the necessary scientific investigations and practical policies. In 1875 the United States became a member of the International Bureau of Weights and Measures, which maintains standards of measurements and keeps instruments in Paris of which those of the United States Bureau of Standards are copies. The Union for the Protection of Industrial Properties, concluded in Paris in 1883, was proclaimed in 1887, with a revised convention proclaimed in the United States in 1913. It is constituted to protect citizens and subjects of member countries with respect to patents, trademarks and commercial names. The International Trade-mark Registration Bureau, created by convention at the Fourth Pan-American Conference of American States in Buenos Aires in 1910, provides for trademark registration bureaus for pan-American countries.

Government service has also been effective in problems of management and adjustment of labor. The United States Division of Conciliation, although it has not exerted a wide influence, renders a distinct service in so far as its friendly advances may prevent stoppages and the attendant loss to both employers and labor. Public employment exchanges, now universal in England and most of Europe and maintained in the United States by some states and municipalities, are valuable in expediting the hiring of labor and improving the choice of labor. In 1928 a draft convention favoring a uniform system of free public employment agencies was drawn up and has been signed by twenty-three countries but not by the United States.

Technical education has been carried to a very high point by the German government and has resulted in important contributions to industry by trained chemists and engineers. Other continental countries are following the German lead. In America vocational education is receiving increasing attention in state and local systems, and the United States government maintains a Bureau of Vocational Education.

Among the government activities which particularly facilitate domestic trade as a whole are the building or improving of canals, harbors, highways and turnpikes. Germany is outstanding in its highly organized governmental provision for interior transportation and harbor facilities and promotion of transportation by rail. Municipal, state and national governments have worked in close cooperation to provide excellent and cheap transportation, the expenses of upkeep being paid out of general taxation. The railways have favored certain German seaports to enable them to compete with the ports of Holland. In the United States and England there are many municipally owned docks and terminal facilities provided for public use.

Many cities maintain municipal markets where at little expense and under favorable conditions vendors of produce may meet prospective buyers. The adoption of city planning and the enactment of zoning laws in cities benefit local industry in general by concentrating the commercial areas and thus facilitating transactions and transportation. Where public needs call for coordination of government regulations over a wider area than a municipality there has arisen a new type of government authority, one based on an economic area, as for instance the Port of New York Authority and the Sanitary District of Chicago.

A movement which has been of distinct service to business is the attempt to bring uniformity into certain state laws relating to industrial practises. The National Conference of Commissioners on Uniform State Laws was formed in 1892 by representatives of twenty-nine states and now comprises commissioners from every state, the District of Columbia, Alaska, Hawaii, Porto Rico and the Philippine Islands. After careful study of the best practise and of all

existing state legislation it has prepared model acts, including a uniform sales act, stock transfer act, negotiable instruments act, warehouse receipts act, bills of lading act, conditional sales act and aeronautics act. These model acts have been passed verbatim or with very little change by many of the states and hence have helped to simplify interstate commerce. The Conference of Commissioners on Uniformity of Legislation in Canada, organized in 1918, is composed of commissioners from each of the nine provinces, appointed under authority of provincial statutes. It has drawn up and secured adoption by several provinces of such bills as a uniform bulk sales act, warehousemen's lien act, conditional sales act and bills of sale act.

It still remains true that the greater part of the government services for business are concerned with foreign trade. The prime objective is the promotion of exports largely through the provision of elaborate information concerning opportunities for nationals to sell abroad. Little or no complementary attention is given to the provision of information concerning opportunities for nationals to buy abroad advantageously. Implicitly underlying this concern for exports is the same philosophy which defends the protective tariff. With one hand the government erects tariff barriers to impede importation while with the other it appropriates vast sums to facilitate exportation. Both hands are engaged in the promotion of a favorable balance of trade.

Next in importance to those services which promote a favorable balance of trade are those designed to insure military strength. The active promotion of commercial aviation, the solicitude of great powers for the national merchant marine, the attention lavished upon the explosives industry and during the last quarter century the dye industry are examples of government service to business with an ulterior military motive. Many great public works which are a boon to business are likewise of great military importance. As an example the construction of the Panama Canal was an inevitable response to this joint demand.

A few of the government services for business are, however, of a type which unquestionably increases the national dividend. They are generally services which cannot be effectively performed by private persons. Many do not represent a trend away from laissez faire but are adjustments which permit its perpetuation in the essential particulars. Employment exchanges permit mobility of labor; statistical services aid the realization of the long hypothesized universal knowledge of the perfect market; roads, harbors, canals, money and banks contribute to that fluidity which prevents price disparity.

Nevertheless, with some possible exceptions, the prevailing concept of the function of government is essentially a return to the philosophy of mercantilism. If the business man cannot compete successfully alone in world markets it is held that the government should intervene. Such is the accepted doctrine. There exists a widespread faith in the ability of the government to remedy any ills of business which it chooses to attack.

J. ANTON DE HAAS

See: COMMERCE; BUSINESS; ECONOMIC POLICY; COLONIAL COMMERCIAL POLICY; MERCANTILISM; LAISSEZ FAIRE; IMPERIALISM; CONSULAR SERVICE; DIPLOMATIC PROTECTION; INTERNATIONAL TRADE; MARKETING; PROTECTION; BOUNTIES; SUBSIDIES; VALORIZATION; SHIPPING; INSPECTION; GOVERNMENT REPORTING; GOVERNMENT REGULATION OF INDUSTRY; AGRICULTURE, GOVERNMENT SERVICES FOR; LABOR, GOVERNMENT SERVICES FOR.

Consult: Lay, T. H., *The Foreign Service of the United States* (New York 1925) ch. vi; Schmeckebier, L. F., *The Bureau of Foreign and Domestic Commerce*, Institute for Government Research, Service Monographs of the United States Government, no. 29 (Baltimore 1924); Haas, J. Anton de, *Foreign Trade Organization* (New York 1923); Smith, H. L., *The Board of Trade* (London 1928); Serré, Aimé, *L'office national du commerce extérieur* (Paris 1927); Jenks, J. W., *Business and the Government* (New York 1918); Farrer, T. H., *The State in its Relation to Trade* (London 1902); Wallace, B. B., and Edminster, L. R., *International Control of Raw Materials* (Washington 1930); United States, Department of Commerce, *The United States Department of Commerce* (Washington 1926).

BUSINESS TAXES, in the widest sense of the term, may be distinguished from other levies such as general property taxes and general income taxes by the fact that they are collected from the business man as such, and depend directly upon the flow of business. The general category includes customs duties, stamp taxes on commercial bills, checks, transportation documents, taxes on stock and produce exchange transactions, general sales taxes, special commodity taxes collected upon production, sale or transportation, corporation taxes and perhaps even those sections of the general income taxes which apply to business profits. In this article, however, the term will be considered in its narrow sense, as referring primarily to such taxes as the French *patente* and German *Gewerbesteuer*. In this sense a business tax is one levied upon practically all business firms, and

likewise without regard to the personal status of the natural persons connected with the business. Even from this point of view the general sales or turnover tax is one form of business taxation, and much of what is said here applies to it as well as to such a tax as the *patente*.

The business tax is to be found chiefly in continental Europe. It does not exist in England. In the United States the federal tax on corporate net income is a step toward the business tax, and some of the states, those of the South especially, show in their systems of license, occupation or privilege taxes an approach to a general business tax. State corporation taxes exhibit many of the characteristics of a general business tax, especially when accompanied by a tax levied on unincorporated concerns, as in Connecticut—even though the bases of the two taxes differ. In France the *patente*, once a mainstay of national revenue, has since 1917 been restricted to the use of the *départements* and communes. The national government employs, among other types of income tax, a levy on business profits whether received by corporate or by non-corporate enterprises. In Germany the federal government has no general business tax, but the *Gewerbesteuer* of the states and localities is in many instances patterned closely after the *patente*, and in any case may be considered a business tax in the sense employed here. The *patente* has likewise served as a pattern for the general business taxes of Spain, Portugal, Soviet Russia, Poland and Japan.

Various methods may be used for calculating the tax due. Indeed, one of the striking characteristics of the business tax is that the measures employed for different firms may differ, and a given firm may be taxed upon several different bases. The measures used include type of business, population of the locality in which the business is carried on, rental value of business premises (and even of the dwellings of the business owners), amount of floor space in business premises, gross sales, total amount and unit sizes of machinery and equipment employed, number of workers, size of payroll and amount of capital employed. This variety indicates both an unwillingness to probe deeply into the possible economic effects of the tax and a desire to levy as much as possible by easily ascertainable "external signs." The same may be said, however, of many of the simpler occupation taxes of the southern United States, which are often flat taxes on the individual engaged in the business, varying not at all with the size of the enterprise.

The modern tendency in Europe, nevertheless, is toward a closer attention to net income as the measure of taxable capacity. In the French schedular tax on business profits levied for the national government an effort is made to smooth out some of the grosser inequalities in the burdens laid upon various business owners. But even the most refined use of the net income measure falls short of the test of relative ability as among individual owners, because of the failure to consider other elements which make up the owner's economic status, including family burdens, income and losses from other sources, etc.

General business taxes have been defended on various grounds, one of the soundest of these being ease of collection. Business income is concentrated in relatively few hands and is not so readily concealed as many items in personal income. Moreover some part of business income, when distributed among its ultimate beneficiaries, finds its way beyond the jurisdiction of the taxing body. Especially in states or subdivisions of states which draw much of their business capital from without, the argument for business taxes appears compelling. It is urged that businesses enjoying the protection of a state should pay for it through taxation. This argument involves obviously the benefit theory of taxation, which here as elsewhere suffers from the difficulties encountered in attempts to trace and allocate benefits. Consumers as well as producers benefit from business; whether the burden will be shared fairly by both classes depends upon questions of incidence to which the defenders of the tax have given little consideration.

Some attempts have been made to defend the general business tax on grounds of ability to pay. But the faculty theory is essentially applicable only to individuals. If two firms have the same gross receipts, the same amount and structure of capital investment and the same net income, there is yet unequal "ability to pay" if one is solely owned by a natural person who has a large income from other sources and no family burdens, while the other is owned by many comparatively poor people. All that the faculty principle can mean as applied to the business firm as such is that it can pay the tax without being forced out of business or without being hindered too much in efforts to raise new capital. In any event the tax departs from the conventional canon that each citizen should contribute to the state according to his

economic position as a whole. Such a departure may be best understood in the light of the breakdown of existing taxes, such as the general property tax, and of the general uncertainty as to the precise economic effects of many taxes.

It may be argued that the levy of a general business tax is indicative of a vague, usually unexpressed intent on the part of the state to levy a permanent, capitalized rent-charge on the net profits of business firms in lieu of taxation proper. In many states of the United States, in fact if not in law, the real property section of the general property tax has become a tax *in rem* on land and improvements, the personal situation of the owner being entirely disregarded. This tax, at least so much of it as is levied on the land, may be capitalized. One who purchases after the tax is levied takes the future annual charges of the tax into consideration when setting his offering price and is little or no worse off than he would have been had no such tax been levied. Might not a similar situation develop through taxation of going business concerns? It might, if there existed somewhere a relatively tax-free field for investments and if the tax could not be shifted to the consumer. The latter point involves the allowance of imputed interest on ownership capital as a deductible expense. The present federal income tax on corporations can probably be considered to some extent as a capitalized rent-charge.

Not all business taxes are so framed as to be readily capitalized. Much depends upon the degree to which the personal status of the owner is allowed to influence the amount of the tax levied. If, in the calculation of taxes due, allowance is made for the family status of the business owner, as is done in the national tax on business profits in France, accurate capitalization is impossible. The purchaser of a business is not certain as to what his future tax charges may be and the seller of a business knows that its selling value must depend to some extent upon the family status of the future purchaser. To a lesser degree the same difficulty exists in connection with the *patente*, to the extent that the amount of the tax paid is influenced by the rental value of the dwelling of the owner.

The future of business taxes in the United States appears to depend first upon relative ease of collection in comparison with other tax forms, especially the general property tax, and second, upon a willingness to introduce into the tax system an important levy which does not attempt either to trace closely the benefits to individual natural persons or to measure accurately their ability to pay. Present conditions point to an extended use of business taxes, largely because of ease of administration. Corporate businesses are already taxed, and expediency suggests the imposition of a tax on unincorporated businesses, by the states, in lieu of the highly unsatisfactory personal property tax. Those countries in which a business tax is already firmly established face the necessity of deciding whether an attempt should be made to burden the business firms as such rather than the consumers, and of revamping arbitrary and obsolete methods of calculating the tax base.

CARL SHOUP

See: TAXATION; PROPERTY TAX; SALES TAX; CORPORATION TAX; INCOME TAX; CAPITALIZATION AND AMORTIZATION OF TAXES.

Consult: A detailed survey of the business tax of the type of the *patente* and the *Gewerbesteuer* may be found in the *Handbuch der Finanzwissenschaft*, ed. by W. Gerloff and F. Meisel, vols. i–iii (Tübingen 1926–'29) vol. ii, p. 32–53. See also Adams, T. S., "The Taxation of Business" in National Tax Association, *Proceedings of the Eleventh Annual Conference* (New Haven 1918) p. 185–94; Carroll, M. B., *Taxation of Business in Switzerland*, United States, Bureau of Foreign and Domestic Commerce, Trade Promotion series no. 47 (Washington 1927), and *Taxation of Business in Great Britain*, Trade Promotion series, no. 60 (Washington 1928).

BUSTĀNI, BUṬRUS AL-. *See* BUṬRUS AL-BUSTĀNI.

BUTLER, JOSEPHINE (1828–1906), English social reformer. With her husband she advocated educational opportunities for women and was the first president (1867–73) of the North of England Council for Promoting Higher Education for Women. Her first pamphlet, *The Education and Employment of Women*, appeared in 1868 in London, and in the following year she edited the book *Woman's Work and Woman's Culture* (London), by a group of distinguished contributors.

At this time she began her "abolitionist" crusade in behalf of the repeal of the contagious diseases acts (passed in 1864, 1866 and 1869), under which brothels were licensed and compulsory medical examination of prostitutes required. Her famous "Protest of the Ladies" on this subject in the London *Daily News* (1869) was signed by many distinguished women. Contending that these acts worked a grave injustice

to women of the most helpless class and at the same time failed as a public health measure she secured in 1870 a royal commission of investigation. There was no woman member, but Mrs. Butler was called as a witness and made a deep impression, the commission reporting in favor of a repeal of the acts. In 1871 she published *Sursum corda* (Liverpool) and *The Constitution Violated* (Edinburgh), which advanced most convincing arguments against the official licensing of immoral houses and the state regulation of prostitutes. During the seventies she published more than a score of related books and pamphlets. She believed that this system was also connected with the international white slave traffic and carried on a vigorous controversy regarding the traffic between England and Belgium. In 1874 she opened correspondence with the opponents of the regulation system on the continent, and the next year took the lead in founding the International Abolitionist Federation with headquarters at Geneva. In England the Select Committee of the House of Commons to Inquire into the Operation of the Contagious Diseases Acts (1879–82) delayed action, but in 1883 the House of Commons finally passed a resolution condemning the "C. D. Acts," which were suspended and repealed in 1886.

Mrs. Butler also directed a demand for the amendment of the criminal law to secure greater protection for children and young girls. The Criminal Law Amendment Act was passed in 1885 with the somewhat spectacular assistance of W. T. Stead. During the last twenty years of her life she directed her efforts to the agitation for reform of conditions on the continent and to the situation in India. *A Doomed Iniquity* (London? 1896) was her authoritative condemnation of the state regulation of vice.

She was a very persuasive and convincing advocate of an equal moral standard for men and women; she also had great qualities of leadership; and her "repeal movement" remains a remarkable and successful example of public agitation in the field of social reform.

EDITH ABBOTT

Consult: Butler, Josephine E., *Personal Reminiscences of a Great Crusade* (new ed. London 1898); *Josephine Butler: An Autobiographical Memoir*, ed. by G. W. and L. A. Johnson (Bristol 1909); Fawcett, Millicent, and Turner, E. M., *Josephine Butler, Her Work and Principles* (London 1927); Hay-Cooper, L., *Josephine Butler and Her Work for Social Purity* (London 1922); Stead, W. T., *Josephine Butler: A Life Sketch* (London 1888).

BUTLER, SAMUEL (1835–1902), English social critic, philosopher and novelist. Butler was born in a rectory at Langar, Nottinghamshire, where he passed his early years under pious parental bullyragging which produced a life long distaste for parents, parsons and churches. This found expression in his novel, *The Way of All Flesh* (ed. by R. A. Streatfeild, London 1903), which he began in 1873 although he refrained from publishing it during his lifetime. It was one of the earliest and best of the now common enough novels of the misery of childhood and youth.

After a period at school and four years at Cambridge, during which he formed impressions of schoolmasters and dons no more flattering than those he had already acquired of fathers, mothers and rectors, he spent about five years on a sheep ranch in New Zealand and returned to England with his capital doubled. When in 1872 his *Erewhon* (a disguise for Nowhere) appeared anonymously, it was clear that he had found a way of discrediting the mores and institutions of his day by contrasting them with the by no means utopian scheme of life in Erewhon. Butler has been known as a satirist and a jester, one who in Joad's words "took the portentous lay figure of Victorian complacency by the throat and shook it until the stuffing came out." But he took his jesting very seriously and had always something of high import to make fun of. He refused, however, to be solemn, and so confused and irritated his contemporaries. As a commentator he was at his best in his *Notebooks* (a volume of selections has been compiled by H. F. Jones, 4th ed. New York 1926), in which he reported his day by day reactions to the serio-comic world in which he lived. Since his death Butler has come into his own. He can be easily understood and heartily relished by those who lived through the World War.

On his sheep ranch Butler had read Darwin's *Origin of Species* with admiration and then with increasing reservations and criticism. He was dissatisfied with Darwin's theory of accidental variations as the basis of natural selection and survival and accused Darwin of having wilfully neglected earlier researchers in the field of evolution. In 1877 Butler published *Life and Habit*, followed by three other books on the subject. He contended that the offspring was "identical" with the parents and unconsciously participated in their memories. Little attention was paid by the biologists of the time to his protests against the prevalent mechanistic theories, but in the

twentieth century Semon (in his *Mneme*) and Bergson made clear that the mechanistic assumptions were by no means self-evident or adequate. Butler was without knowledge of the strange discoveries being made just before his death in regard to inheritance and the nature of matter, but he said plainly enough: "We should endeavour to see the so-called inorganic as living in respect of the qualities it has in common with the organic, rather than the organic as non-living in respect of the qualities it has in common with the inorganic" (Joad, p. 76). The novel doctrine of "emergence" would have cheered his heart.

JAMES HARVEY ROBINSON

Works: *The Shrewsbury Edition of the Works of Samuel Butler*, ed. by H. F. Jones and A. T. Bartholomew, 20 vols. (London 1923–26).

Consult: Jones, H. F., *Samuel Butler*, 2 vols. (London 1919); Joad, C. E. M., *Samuel Butler* (London 1924); Kingsmill, Hugh, *After Puritanism* (London 1929) p. 57–107; Stoff, Rudolf, *Die Philosophie des Organischen bei Samuel Butler* (Vienna 1929); Cavenagh, F. A., "Samuel Butler and Education" in *Monist*, vol. xxxii (1922) 307–13; Grendon, Felix, "Samuel Butler's God" in *North American Review*, vol. ccviii (1918) 277–86.

BUṬRUS AL-BUSTĀNI (1819–93), leader of the modern Syro-Arabic national renaissance. Buṭrus was born in Lebanon, Syria, and studied at the Maronite college of ʿAyn Waraḳa. Converted to Protestantism by American Presbyterian missionaries he assisted them in organizing in 1846 a school at Abeih and later in making an Arabic translation of the Bible. He became interpreter at the American consulate in Beirut, settling there permanently in 1848. Buṭrus now devoted all his energies toward arousing the national consciousness of the Arabs, and through journalistic propaganda and educational activities helped more than anyone else to pave the way for the Arab national movement. In 1860 he founded the *Nafīr Sūriyya* (Syria's clarion) and in 1870 the *Al-Jinān*, a political and scientific journal with the motto, "Love of fatherland is an article of faith." He founded a higher secular school in 1863 for the study of Arabic language and literature and six years later published a dictionary of the Arabic language. In 1875 he began the publication of his great Arabic encyclopaedia, by means of which he sought to popularize learning among the great masses of the Arab population. He himself completed only six volumes, although five more were published from his notes. Buṭrus condemned the use of alcoholic beverages, defended the freedom of thought, sought to elevate the position of women and defended their rights to education. As teacher, linguist, translator and as founder and head of literary, ethical and religious societies his influence extended to all regions and classes of the Orient.

K. T. KHAÏRALLAH

Consult: Khaïrallah, K. T., *La Syrie* (Paris 1912) p. 49–51.

BUTT, ISAAC (1813–79), Irish politician and economist. He studied at Trinity College, Dublin, where in 1836 he was appointed to the Whately chair of political economy. He was also a practising lawyer, being a member of the Irish and later of the English bar. Regarded at first as the rising hope of the Conservative party in Ireland Butt subsequently led the Home Rule movement and formulated the doctrine on which was based the program of the Irish Nationalist party. His plan called for a federal arrangement with England whereby an independent Irish parliament was to rule Ireland, while the English Parliament, including Irish representatives, retained its jurisdiction over national defense and foreign affairs. He was also a protagonist of the far reaching Irish land legislation of the latter part of the century. In this connection he published the *Practical Treatise on the New Law of Compensation to Tenants in Ireland* (Dublin 1871).

Butt's range as an economic thinker was limited and he did not pretend to originality. His ideas on the subject of value are borrowed from Nassau Senior and Say, while at other points he acknowledged his indebtedness to Longfield. He wrote also on a number of other subjects, among them the poor law for Ireland, sea fisheries and education.

W. H. DAWSON

Consult: MacNeill, J. G. Swift, "Isaac Butt, the Father of Home Rule" in *Fortnightly Review*, n.s., vol. xciv (1913) 448–59; Seligman, Edwin R. A., *Essays in Economics* (New York 1925) p. 118–19.

BUXTON, THOMAS FOWELL (1786–1845), English humanitarian and reformer. After his marriage in 1807 to Hannah Gurney, a sister of Mrs. Fry, the prison reformer, he lived at Spitalfields, where he took an active interest in the welfare of the working classes. In 1818 he entered the House of Commons as member for Weymouth and immediately attracted attention by his earnest advocacy of criminal law

reform. His *Inquiry, whether crime and misery are produced or prevented by our present system of prison discipline* (London 1818) resulted in the formation of the Prison Discipline Society.

In 1822 he became Wilberforce's active coadjutor in the antislavery crusade and three years later succeeded him as the recognized advocate of the cause in Parliament. In the final decade of struggle to build up an English public opinion in favor of emancipation Buxton made speeches, gathered and arranged statistics, marshaled evidence and directed the parliamentary tactics of his group. Defeated in his campaign for reelection to Parliament in 1837, he divided his time between prison reform and agitation for the abolition of the African slave trade. He founded a society for abolition in 1839 and wrote *The African Slave Trade* (London 1839) and *The Remedy* (London 1840). He also urged the naval expedition to the Niger, which was undertaken with a view to suppressing slavery by the introduction of agriculture and trade, but which ended disastrously.

W. H. DAWSON

Consult: *Memoirs of Sir Thomas Fowell Buxton*, ed. by Charles Buxton (rev. ed. London 1872); Klingberg, Frank J., *The Anti-Slavery Movement in England: a Study in English Humanitarianism* (New Haven 1926).

BY-ELECTIONS. By-election is the term applied to a special election held in a single constituency in order to fill a vacancy in the legislature. Such vacancies may occur before the expiration of the term, when a member dies or resigns or is expelled by the assembly; sometimes an election may be declared void or a seat automatically vacated when a member accepts another office incompatible with membership in the assembly. At times the resignation of a member is engineered by a political party in order to make room for some person whose membership in the legislature is considered desirable. Generally the vacancy must be filled before the next general election to avoid the difficulty of leaving a constituency without the representation to which it is entitled. The methods of filling such vacancies differ. In many states of the United States the governor appoints congressmen or senators to hold their seats until the next election day. In a country like Germany with a "list" system of proportional representation, a member who drops out is succeeded by the next candidate on the same list. In this fashion representation is restored to electors who have by accident lost a member. On the whole, special local elections are found practicable only in countries with small, single member constituencies. They are held at present in Great Britain, France and certain states of the United States. Because of certain features of parliamentary government and of the party system the by-elections in Great Britain are at times of major political significance.

A vacancy in the House of Commons may occur not only in such circumstances as have been described, but it may also be created in a manner peculiar to British government. Although a member of Parliament cannot relinquish his seat during the continuance of a Parliament to which he is elected, he may evade this rule by applying for one of certain offices, e.g. the stewardship of the Chiltern Hundreds or of the Manor of Northstead, offices under the crown which automatically vacate his seat. Application for one of these offices has sometimes under exceptional circumstances been refused, but ordinarily the Treasury will give the office, the duties of which are merely nominal, to any member who applies. The office is resigned as soon as its purpose is served, or retained only until the appointment is revoked in order to make way for another applicant. Another peculiarity is that until recently under the Statute of Anne (1705) the acceptance of a ministerial appointment rendered the holder's seat vacant but did not disqualify him for reelection. This statute, however, proved inconvenient in practise, since ministers of the crown had to submit themselves for reelection at a time when they were or ought to have been fully occupied with the duties of their new offices, and it was abolished by act in 1926 with the general approval of all parties and the public.

By-elections in Great Britain have always been regarded as matters of great importance. It is held that they indicate the trend of public opinion, and a succession of results unfavorable to the government of the day is taken to herald its approaching defeat at the next general election. Conversely a success or series of successes for the government has a heartening effect upon its supporters, and there is at least one instance in which a government was led to dissolve Parliament prematurely in consequence of an unexpected success at a by-election. In 1880, because of a conservative victory in a by-election at Southwark, Lord Beaconsfield as prime minister of a Conservative

cabinet dissolved the Parliament elected in 1874, although it had nearly another year of its term unexpired, only to find that "one swallow does not make a summer." His large majority in the House of Commons was entirely swept away in the general election which followed, and his place as prime minister was taken by his rival, Gladstone, leader of the triumphant Liberal party.

In some cases the polls for municipal councils and state legislatures may be taken as indicative of the trend of electoral opinion on national issues and thus have the same significance as by-elections. For example, in Germany, where an efficient party machinery functions throughout the year, the results of an election to a state diet reflect very clearly the relative strength of various parties in the particular territory. Generally, however, local elections are held on issues different from those important in a national election and the voters are not apt to follow the national party alignments. On the whole the same is true of congressional elections in the mid-presidential years in the United States. Time and again during an uninterrupted succession of Republican administrations the Democratic representation in Congress has increased in these elections. Only under exceptional circumstances may they be taken as significant of impending change in office or policy. A vivid recent example is furnished by the congressional elections preceding the retirement of Woodrow Wilson in connection with the League of Nations issue. The fate of the Democratic candidates was generally interpreted as a repudiation of the policies of President Wilson. It must be noted, however, that on this occasion the president had taken the rather unusual step of issuing a personal appeal for the candidates.

F. W. GALTON

See: ELECTIONS; CONSTITUENCY; LEGISLATIVE ASSEMBLIES; CABINET GOVERNMENT; CONGRESSIONAL GOVERNMENT; PROPORTIONAL REPRESENTATION.

Consult: Anson, W. R., *Law and Custom of the Constitution*, 3 vols. (5th ed. Oxford 1907) vol. i, p. 86–88, 98–99, 143–44; Rogers, F. N., *Rogers on Elections*, 3 vols. (19th ed. London 1919) vol. ii, ch. ii; Seager, J. Renwick, *Parliamentary Elections* (London 1918); Touche, Gordon C., *The Law of Parliamentary Elections* (London 1925).

BY-LAW. The term by-law, by derivation the law of the borough, but early applied to the local legislation of manor, vill or guild for the regulation of the trade and agriculture or of the health, safety and morals of the community, has gradually been extended and now includes, first, public laws enacted by governing bodies of municipal corporations; second, executive regulations of local application (*cf.* By-Laws under the Salmon Fisheries Act of Great Britain); and third, the rules of private corporations or associations enacted by the members for their governance in the transaction of business and for the definition of their relations to the association and to each other. In the United States the tendency has been to restrict the term to this last category and to use the terms ordinance for the legislation of municipal corporations, and rules and regulations for that of executive bodies.

The inexact logic of analogy by which the meaning of by-law was extended in Anglo-American jurisprudence has made it a term which cuts across the more precise categories of continental law, where it finds no counterpart. In the Anglo-American system different legal rules have necessarily been applied to the various forms of by-laws. The underlying concept of by-laws as rules or laws effective only for a locality or for a group explains the different uses of the term. In the case of associations by-laws are a mechanism of self-government by contract; among legislative forms they become an important device for flexibility in local government.

Originally by-laws were formulated by the appropriate local courts in the exercise of their feudal jurisdiction, independently of charter rights, and could with difficulty be distinguished from a simpler form of local legislation, the declaration of custom by those courts. As legal theory crystallized, by-laws were "presumed" instead of being regarded as equivalent to custom, and later with the triumph of central government "presumptions" of lost charters and of municipal incorporation often furnished their sanction. Today, except for unincorporated associations, by-laws are issued under enabling statutes or charters, which define their scope and in the field of government have become a form of delegated or subordinate legislation.

Doctrines of judicial control of by-laws developed during the struggle for centralization in England and took color from it. The king's court early claimed the right of review of local legislation and formulated the pregnant rules that by-laws must be reasonable and in accordance with the law of the land. These rules were

applied to corporations, private and municipal, with the additional requirement of conformity to a strictly interpreted charter, and the doctrine of delegated powers of local officials—a direct contrast to the continental theory of general powers—was formulated. In England, by statute, an executive check is usually placed upon governmental by-laws through the requirement of approval by a central official. Since the American invention of the contract theory of charters was not extended to municipal corporations, to which the doctrines of agency do apply, legislative control of municipal by-laws may be exercised in the United States by the alteration of the powers granted by charter. On the continent such control is executive and is exercised by central officials or administrative courts.

ELEANOR BONTECOU

See: LEGISLATION; DELEGATION OF POWERS; CORPORATION; MUNICIPAL CORPORATION.

Consult: Holdsworth, W. S., *A History of English Law*, 9 vols. (3rd ed. London 1922–26) vol. ii, p. 378, vol. ix, p. 60–61; Pollock, F., and Maitland, F. W., *The History of English Law before the Time of Edward I*, 2 vols. (2nd ed. Cambridge, Eng. 1899) vol. i, p. 624–27, 660–62; Webb, Sidney and Beatrice, *English Local Government from the Revolution to the Municipal Corporations Act: The Manor and the Borough* (London 1908) p. 39, 533–34; Redlich, Josef, and Hirst, F. W., *Local Government in England*, 2 vols. (London 1903) vol. i, p. 325–33, vol. ii, p. 79–83; Allen, C. K., *Law in the Making* (Oxford 1927) ch. vii; Munro, W. B., *Municipal Government and Administration*, 2 vols. (New York 1923) vol. i, p. 209–14; Morawetz, Victor, *A Treatise on the Law of Private Corporations*, 2 vols. (2nd ed. Boston 1886) vol. i, sect. 491.

BY-PRODUCT. A by-product may be defined as a product or material which is produced, or the production of which is materially facilitated, as an incidental result of the production of something else. It is a minor element in a system of joint products. Meat packing affords an outstanding list of examples, including hides, leather, fertilizer, glycerine, glue bristles, etc. The chemical products of the distillation of coal afford another list of amazing extent and variety. Examples of a different sort include freight to fill cars which would otherwise move empty, special uses of electrical current at times when the central station has spare capacity and the expansion of large packing houses into the distribution of general foodstuffs as an incident to utilizing the system of refrigeration and distribution built up for the sale of meat products. By-products in the stricter sense result from utilizing the varied constituents found together in products of nature. In a wider sense they result from utilization of spare capacity in plant or organization.

The utilizing of by-products has progressed from the stage in which only the more important materials are recovered and, in most cases, sold to separate concerns for manufacture, to the present stage in which substantially every material is typically worked up into finished form in departments of one concern.

The modern types of by-product recovery afford a powerful stimulus to large scale production, since the gains are only available when even the least plentiful constituents are present in quantities sufficient to pay for processes of recovery which are often more complex than the main process and involve a larger minimum investment of capital. They must also often reimburse the heavy expenditures on organized chemical research which have made the modern developments possible.

The classic statement of the law of value in such cases is that of John Stuart Mill ("Of Some Peculiar Cases of Value," *Principles of Political Economy*, ed. by W. J. Ashley, London 1909, bk. iii, ch. xvi): "Cost of production does not determine their prices, but the sum of their prices . . . their natural values relatively to each other are those which will create a demand for each, in the ratio in which they are sent forth by the productive process." To fill out this basic principle it is necessary to take account of: the special cost of working up each product; cases in which the demand will not take the whole quota of a given product and therefore the special cost becomes the only cost affecting value; the existence of marginal producers who handle only a part of the products; and the possibility of altering the proportions of the different products, as by selecting breeds of sheep for wool or for mutton, or by "cracking" oils to increase the yield of gasoline if its value will cover the costs of the cracking process and the sacrifice of other products.

Cost accounting divides the costs of the basic material and process among the various products, even though such division may be economically illogical. Such divisions may become matters of public interest: witness the charge that American meat packers reduce their apparent profits on meat by arbitrarily low "transfer prices" on materials to the by-product departments. This problem is intensified if one

element becomes a "public utility" subject to price regulation, as in the case of "giant power."

JOHN MAURICE CLARK

See: VALUE; COST; PRICE; LARGE SCALE PRODUCTION; COST ACCOUNTING; WASTE.

Consult: Koller, Theodor, *Handbuch der rationellen Verwerthung, Wiedergewinnung und Verarbeitung von Abfallstoffen jeder Art* (2nd ed. Vienna 1900), English translation (3rd ed. London 1918); Pennsylvania, Giant Power Survey Board, *Report* (1925) p. 99–116 and 394–96, containing bibliography; Slosson, Edwin E., *Creative Chemistry* (New York 1919) chs. iv–vi, x; Talbot, F. A. A., *Millions from Waste* (New York 1920); United States, Federal Trade Commission, Food Investigation, *Report on Meat Packing Industry* (Washington 1918–20) pt. i, chs. ii and v, pt. iv, pt. v, especially p. 55–56.

BYNKERSHOEK, CORNELIUS VAN (1673–1743), Dutch jurist. After ten years devoted to the study and practise of law Bynkershoek was appointed judge in 1703. In 1724 he rose to the position of presiding judge of the Supreme Court of Appeals for the provinces of Holland, Zeeland and West Friesland, serving until 1743. He was thus brought into practical contact with problems of international maritime commerce and of diplomatic rights and immunities, upon which subjects he was to write with enduring effect.

Bynkershoek is to be considered one of the founders of modern international law. In 1702 he wrote *De dominio maris dissertatio* (2nd ed. Leyden 1752; photographic reproduction with tr. by R. V. D. Magoffin in Classics of International Law series, vol. xi, Oxford 1923), in which he largely followed Grotius' doctrines of *Mare liberum* as modified by the more mature *De jure belli ac pacis*. In 1721 he published *De foro legatorum* (Leyden, French translation by Jean Barbeyrac as *Traité du juge compétent des ambassadeurs*, The Hague 1723) and in 1737 *Quaestiones juris publici* (2nd ed. Leyden 1752; book i tr. by P. S. Du Ponceau as *A Treatise on the Law of War*, Philadelphia 1810). Bynkershoek's method varies somewhat with his subject, but in general he relies more upon the custom of nations and Roman law and less upon the law of nature than did his predecessors. *Usus* and *recta ratio* are to him the chief supports of international jurisprudence. However, it is usually only when custom is lacking or its weight of authority uncertain that he is a strenuous advocate of right reason as a source. *Recta ratio* is then *juris gentium magistra* but it is a *ratio* more reliant upon Roman law than upon the law of nature. His work has a logical lucidity not present in the writings of some of the previous civilians. Although he was not a complete systematizer he revealed great strength in the treatment of specific doctrine, and many of the principles enunciated by him are to be found in international law today. It was he who supplied as a basis for the doctrine of marginal waters physical control to the point "where the power of men's weapons ends," that is, by cannon shot of the then range of three nautical miles from shore. This was the origin of the "three mile limit" rule. Bynkershoek's other noteworthy works are in the field of Dutch and Roman law.

HAMILTON VREELAND, JR.

Works: *Opera omnia*, ed. by B. P. Vicat, 2 vols. (Geneva 1761; reprinted in 1 vol., Leyden 1767).

Consult: Numan, O. W. S., *Cornelius van Bynkershoek. Zijn leren en zijhe geschriften* (Leyden 1869); Nys, Ernest, "Histoire littéraire du droit. Corneille van Bynkershoek" in *Revue de droit international et de législation comparée*, 3rd ser., vol. iii (1922) 67–81; Phillipson, Coleman, "Cornelius van Bynkershoek" in Society of Comparative Legislation, *Journal*, n.s., vol. ix (1908) 27–49; Heijnsbergen, P. van, *Geschiedenis der rechtswetenschap in Nederland* (Amsterdam 1925) p. 68–88.

BYRON, LORD, GEORGE GORDON (1788–1824), English poet. Although he left no body of political writings he always concerned himself with politics. His career has a double interest for the social scientist. First, as the youthful champion of the Luddites during his brief appearance at the House of Lords, as the friend of Burdett, Hobhouse and other gentlemanly radicals, as a Carbonaro in Italy and finally as the Promethean hero and victim of Missolonghi, Byron gave fire and color to a liberalism whose Benthams and Mills had very little of either. The memory of his life and the reality of some of his poems (notably the *Prisoner of Chillon* and the lines beginning 'They never fail who die in a great cause" from *Marino Faliero*) inspired suppressed nationalists and other underdogs throughout the century. The crop of Byrons which sprang up in other European literatures—Pushkin, Espronceda, Heine—was usually politically in revolt, sympathetic with the oppressed, contemptuous of "legitimacy." Second, Byron was the poet of social as well as of political revolt. In this second role he was less known on the continent than in his liberal and nationalist role; otherwise men like Treitschke could hardly

have admired him so much. But in England the poet of the *Vision of Judgment* (1822) and of *Don Juan* (1820–24) was known as a menace to society. These satires are directed against what seemed to Byron the smugness, sentimentality, intellectual laziness and economic selfishness of the English middle class. Byron attacked Victorianism while Victoria was in her cradle; his "cant" is an anticipation of Matthew Arnold's "philistinism." These poems are of course purely satirical; there is no attempt to put anything in the place of the English middle class.

CRANE BRINTON

Consult: Raymond, Dora N., *The Political Career of Lord Byron* (New York 1924); Brinton, Crane, *The Political Ideas of the English Romanticists* (London 1926) ch. iv.

BYZANTINE LAW. *See* LAW.

CABANIS, PIERRE JEAN GEORGE (1757–1808), French physiologist and moral philosopher. After varied literary efforts Cabanis chose medicine as his profession and from 1795 until his death taught at the École de Médecine at Paris. He was one of the group of *idéologues* who met at the salon of Mme. Helvétius at Auteuil and was the intimate friend first of Mirabeau and later of Condorcet. It was he who wrote the four tracts on education found among Mirabeau's papers. Cabanis published many books and pamphlets on scientific, philosophical and political subjects, but his great contribution to social thought was his anticipation of naturalism and positivism in sociology. In a series of six memoirs, read before the Institut de France in 1796 and 1797, he was the first to maintain and to attempt to prove that moral and social facts are linked to causes and that the same methods must be employed in the "moral sciences," which he considered "no more than a branch of the natural history of man," as in the physical sciences. These memoirs, with six others relating to the same subject, were published as *Rapports du physique et du moral de l'homme* (2 vols., Paris 1802; new ed. by L. Peisse, Paris 1844). Here is to be found Cabanis' analysis of the effects of age, sex and climate on morals. Through his disciple Richerand he exercised great influence on Stendhal, Saint-Simon and especially on Auguste Comte.

RENÉ MAUNIER

Consult: Picavet, Fr., *Les idéologues* (Paris 1891) p. 176–292; Rémusat, Charles de, "Philosophie de Cabanis" in *Revue des deux mondes*, 5th ser., vol. viii (1844) 316–49; Labrousse, F., *Quelques notes sur un médecin philosophe P. J. G. Cabanis* (Paris 1903).

CABET, ÉTIENNE (1788–1856), French communist and social reformer. Cabet was educated as a lawyer, became a director of the Carbonari and devoted himself to democratic propaganda. In 1830 he was appointed *procureur général* of Corsica but was removed on account of his radical attacks on the French government. Elected deputy in 1831 he founded the *Populaire*, a newspaper of wide circulation among the working classes.

Because of his inflammatory denunciations against the government Cabet was exiled; he lived in England for five years, where he came under the influence of Robert Owen, and returned to France a convert to communism. He expounded his theories in the famous *Voyage en Icarie* (Paris 1840, 5th ed. 1848), a description of a utopia in which the government alone engages in commerce and supervises work and education. The only unit outside of the government is the family, which remains under the leadership of the head of the family.

Ardent disciples rallied about Cabet and raised subscriptions to finance a vanguard which sailed for Texas in 1848 to establish an Icarian city after Cabet's model. Cabet joined his disciples the next year, bringing with him new converts, and the Icarian city was created at Nauvoo, an old Mormon town in Illinois. A fifty-year transition period was supposed to precede the establishment of complete communism. At first the colony prospered but disagreements developed and in 1856 the founder and two hundred of his followers abandoned the settlement. After Cabet's death the colony moved to Cheltenham, Iowa, and later to Corning, continuing to follow in large measure Cabet's ideas. But economic difficulties cropped up continually and finally in 1895 New Icaria, the last community inspired by Cabet, was abandoned.

There is little that is original in Cabet's thought. He was opposed to all violence and expected his utopian communism to triumph over the existing order by force of example and conversion.

ANDRÉ LICHTENBERGER

Important works: *Histoire populaire de la révolution française*, 4 vols. (Paris 1839–40, 3rd ed. 5 vols., Paris 1851); *Colonie icarienne aux États-Unis d'Amérique* (Paris 1856); *Le vrai christianisme suivant Jésus Christ* (Paris 1846, 3rd ed. Paris 1848).

Consult: Prudhommeaux, Jules, *Icarie et son fondateur*,

Étienne Cabet (Paris 1907); Weill, G. J., *Histoire du parti républicain en France 1814–1870* (new ed. Paris 1928); Shaw, Albert, *Icaria: A Chapter in the History of Communism* (New York 1884); Carré, Paul, *Cabet: de la démocratie au communisme* (Lille 1903).

CABINET, in government, is a council composed typically of chiefs of administrative departments, functioning as advisers of the head of the state on questions of policy and administration. The British cabinet was the model more or less closely followed by others. Originally it was a committee of the Privy Council which had become so large that committees were necessary in order to get business done. Until after the revolution of 1688 the cabinet, as an institution, was inchoate. Under William III and Anne the principal officers of state designated by the crown constituted a cabinet, but cabinet government—i.e. responsibility to the legislature—was yet to develop. Under the Hanoverians this group of high officials increased and by 1761 it included twenty-one persons. This was partly due to the fact that when a post was once raised to cabinet rank there was a tendency to continue it and partly to the fact that the sovereign by making a personage or post of cabinet rank could extend his influence. Hence the real business of government came to be largely transacted by an inner cabinet, as in the "private meetings" at the home of Sir Robert Walpole, who was the first real prime minister. This inner cabinet was a group of five—the first lord of the Treasury (who at that time was also chancellor of the Exchequer), the two secretaries of state, the lord president of the Council and the lord chancellor. The membership of this group was approved by the king and by 1783 when the really important officials had been taken into it—the first lord of the Admiralty, the chancellor of the Exchequer and the Lord Privy Seal—it had completely supplanted the larger cabinet.

As the business of the state became more complex the cabinet inevitably increased. The elder Pitt had only six or seven colleagues. Peel had twelve. The Derby cabinets of 1853 and 1867 numbered thirteen and fifteen. Lord Salisbury's cabinets had from sixteen to twenty members. Asquith's pre-war cabinet had twenty members of whom seven were peers. During the war the number reached twenty-three. When Lloyd George took office in December, 1916, he made some sharp departures from accepted practises. He created a war cabinet of five persons of whom two were ministers without portfolio. The war cabinet coordinated and directed the work of the administrative departments, but it did not include such important officials as the secretaries of state for war and for foreign affairs. There had long been a distinction between the ministry, that is, the whole group of executive officials, and the cabinet, a selection of this group, collectively responsible to the legislature. In Lloyd George's administration executive decisions were taken by the small war cabinet and communicated to the members of the regular cabinet.

Meetings with neither formal agenda nor minutes had long been a distinctive characteristic of the British cabinet. Freedom in discussion and informality in decision had been considered indispensable to efficiency. The informal functioning of the cabinet was in part due to the fact that the king did not attend its meetings. This had not always been the case; royal absenteeism resulted from the inability of George I to speak English—a tenuous thread on which was hung an important constitutional convention. In France some informality has been sought in the Conseil de Cabinet, which is not attended by the president of the republic and which considers political matters that do not concern the titular executive. A Conseil des Ministres, however, is held at the Élysée and the president presides.

The war made the maintenance of the British cabinet traditions impossible. A cabinet secretariat was set up, which kept a record of decisions and was of much importance during Lloyd George's coalition government of 1918–22. The importance of the secretariat was greatly reduced when the Conservatives came into power, but it has been retained as a recording agency.

In Great Britain cabinet ministers are almost invariably selected from Parliament, but there have been a few exceptions to this rule. Thus Gladstone was without a seat for six months in 1846–47 while he was colonial secretary. In continental countries membership in the legislature is not required for membership in the cabinet. In France a number of non-parliamentarians have been ministers—principally for war and marine. Cabinet making on the continent, moreover, is somewhat simpler than in Great Britain because ministers have the right of access to both branches of the legislature. British ministers may attend and speak only in the House to which they belong and are represented in the other chamber by proxy, i.e. by under secretaries. For this reason it is important that there be certain cabinet members in the House of

Commons to answer the criticisms of the body to which they are responsible. Since Walpole was chancellor of the Exchequer in 1715, that office has always been held by a member of the House of Commons because of the special interest of the elected chamber in the control of the purse.

Walpole's government included only one other commoner, and in the younger Pitt's cabinet all members except the head were peers. With the development of the system the Commons has been more and more heavily represented. Since the Reform Bill of 1832 only seven peers have been prime ministers, the last being Lord Salisbury. In view of the fact that the House of Lords has been shorn of much of its authority and that labor is inadequately represented there, it is probable that all future prime ministers of Great Britain will sit in the House of Commons. French prime ministers give most of their posts to the Chamber of Deputies, for the confidence of that body is of more importance to the administration than that of the Senate. Under the Third Republic there have been four times as many deputies as senators in cabinet posts.

Under the cabinet system British politics has developed two powerful groups, those in the cabinet and those in the opposition, which hopes to and probably will eventually become the government. Only when a new party comes into power is there a wholly new cabinet personnel, as in MacDonald's government of 1924. When MacDonald returned to power in 1929 he made up his cabinet largely from the membership of his earlier administration. Over a period of fifty years Gladstone was a member of nine cabinets. Many of his colleagues served with him in successive cabinets. It is true that in 1880, after Gladstone's party had been long out of power, he had ten new colleagues, but in 1886 he had only four, and only five in 1892.

In France rotation in office is rapid because of frequent changes of government. The range of choice of possible cabinet members is far wider than in Great Britain, where through their positions in the party, their standing in the country or their ability as debaters and administrators certain politicians inevitably become cabinet members. In France no cabinet can be formed except by a coalition of several political groups of the chamber. Several different kinds of coalitions are possible. The same Chamber of Deputies may support one cabinet oriented to the Left and a succeeding one oriented to the Right. Persons of "cabinet timber" in France are called *ministrables*, and the number of *ministrables* who have served as ministers is large.

In both the British and the continental systems the return of a party to power means as a rule a cabinet composed in large part of experienced ministers. A politician who has once been prime minister is fairly certain to head the government again on the return of his party to power. Thus in France sixteen presidents have headed fifty-one administrations. In seventy-eight cabinets the average member has served in three. Briand has served in twenty-one cabinets; Bourgeois, Eynac and Leygues each in fourteen; Barthou, Delcassé, de Freycinet and Loucheur each in thirteen. Occasionally a number of changes of government may occur and the position of a particularly important minister will be unaffected. Thus Briand remained as foreign minister in France under several different premiers, and Stresemann's post at the Wilhelmstrasse was undisturbed by cabinet crises.

There is in European systems no tradition that a president of the council shall not figure in a later cabinet merely as a minister. Not since Lord John Russell has a British prime minister been a member of a subsequent cabinet (the case of Balfour during the war was exceptional) but there is no reason why it should not happen again. In France and other continental countries ex-premiers frequently become ministers.

In the United States the cabinet differs widely from the European type. When the heads of the principal departments of the government meet with the president they are called a cabinet, but here the resemblance to the English body ends. The members of the cabinet have no connections with the legislature. They have no collective responsibility. Each member is individually responsible to the president, but the president has no control over departmental policy except through the removal of a secretary and the appointment of another who will act in accordance with presidential wishes. The president can, if he likes, treat cabinet members as chief clerks rather than as associates. He can make cabinet meetings purely perfunctory or dispense with them altogether.

Under the constitution the president was empowered to "require the opinion in writing of the principal officer in each of the executive departments." "Heads of departments" were apparently contemplated, for the constitution allows Congress to vest in such heads the appointment of inferior officers. On this slight con-

stitutional authority and on the custom, unbroken since its establishment by Washington in 1792, of consulting with the principal officers of the government, rests the institution of the American cabinet. The term itself did not appear in a federal statute until 1907.

Three departments, for state, war and the treasury, were established by the first Congress in 1789. Another important official, the attorney general, the legal adviser of the president, was necessary from the beginning, but not until 1870 was he made head of the Department of Justice. Almost at once Washington brought these four officials together in an advisory council. By 1793 this council had been dubbed the cabinet. Vice President Adams attended one of the early meetings, but apparently the vice president was thereafter excluded until President Harding invited Vice President Coolidge to attend meetings of his cabinet in 1921, a practise which was not long continued.

The threat of war with France in 1798 led to the creation of a separate Navy Department as distinct from the War Department. In 1829 the postmaster general was raised to the dignity of a department head. The Department of the Interior and the Department of Agriculture were created in 1849 and 1889 respectively to take over the work of previously existing bureaus and commissions. A Department of Commerce and Labor was established in 1903, and ten years later was divided into the two departments of Labor and Commerce.

The American cabinet meets in secret and no records are kept; only brief *communiqués* are issued to the press. One can learn what cabinets do only from such sources as the memoirs of John Quincy Adams, the diary of James K. Polk, the diary of Gideon C. Welles and similar records. From the Civil War to the World War practically nothing was published on cabinet business, but revelations made by certain members of President Wilson's cabinet—Franklin K. Lane, David F. Houston, A. S. Burleson and others—throw light on President Wilson's indisposition to consult his cabinet on questions of policy.

Presidents cannot permit one section of the country to be overrepresented in their cabinets, even though selection from the various sections may involve the acceptance of men of mediocre ability. Nevertheless six states have contributed more than half of the incumbents (New York, 45; Pennsylvania, 38; Massachusetts, 31; Ohio, 23; Virginia, 19; Maryland, 15) and ten of the states have never furnished a member of the cabinet. Only rarely is a secretary chosen from the opposite political party. The Post Office Department is politically the most important position and frequently goes to the chairman of the National Committee. Occasionally the State Department is entrusted to an unsuccessful candidate for the nomination. The custom is growing that the Department of the Interior should be assigned to a westerner.

In the American cabinet brevity of tenure is the rule. One in seven of the cabinet appointees since the time of Washington has sat in more than one cabinet. Less than one half of these has previously served in the House or the Senate.

The president can recruit his cabinet much as he wishes and is restrained only by a fear of popular disfavor or senatorial objections; the Senate as a rule allows the president a rather free choice in the selection of his heads of departments. Only on four occasions has the Senate actually rejected nominations. From 1868, when it refused to confirm Judge Stanbery as Johnson's attorney general, down to its two refusals to confirm Charles B. Warren as President Coolidge's attorney general in March, 1925, the Senate has interposed no veto on cabinet appointments. On three occasions the Senate has objected to secretaries who were given recess appointments. That the president is allowed such independence of choice, limited only by party pressure, exigencies and personal considerations, is at once an application of the separation of powers theory and an indication of the subordinate position of the cabinet.

LINDSAY ROGERS

See: GOVERNMENT; LEGISLATIVE ASSEMBLIES; CABINET GOVERNMENT; CONGRESSIONAL GOVERNMENT; ADMINISTRATION, PUBLIC.

Consult: Laski, H. J., *The British Cabinet: A Study of its Personnel 1801–1924* (London 1928); Mennesson, René, *L'organisation des services de la présidence du conseil en France* (Angers 1928); Guggenheimer, J. C., "The Development of the Executive Departments, 1775–1789" in Jameson, J. F., *Essays in the Constitutional History of the United States* (New York 1889); Learned, H. B., *The President's Cabinet* (New Haven 1912); Hinsdale, N. L., *History of the President's Cabinet* (Ann Arbor 1911); *The Constitutional Year Book* (London 1929); Ogg, F. A., *English Government and Politics* (New York 1929); McBain, H. L., and Rogers, Lindsay, *The New Constitutions of Europe* (New York 1922).

CABINET GOVERNMENT. Modern constitutional government presents two sharply distinguished and opposed types: the cabinet

system which obtains in Great Britain, the British self-governing dominions and in western Europe generally; and the congressional system which is found throughout the Americas. As the government of the United States is the purest example of the congressional type and has served as the pattern for other governments which have adopted this form, so the government of Great Britain is the most perfect example of cabinet government and has constituted the model which has been widely copied by the British dominions and by other European countries. These two types embody fundamentally antithetical political theories. Congressional government is based upon the doctrine of the separation of executive, legislative and judicial powers and operates through an elaborate scheme of checks and balances. The distinctive characteristic of cabinet government is the union in a responsible collegiate ministry of the supreme direction over both law making and administration; in contrast to a system of checks and balances it embodies the principle of concentrated authority under strict control. The cabinet in this type is the central shaft to which all the other agencies of government are geared. The individual members of the cabinet are the heads of the several departments of the administration; collectively it shapes the program of legislation which is submitted to parliament; and from it emanate the broad and general public policies with respect to both foreign and domestic questions. In this system the head of the state occupies a position of great dignity, but practically all authority, nominally vested in him, is in effect exercised by the ministry, which assumes full responsibility for acts performed in his name. The unity and collective responsibility of the cabinet are achieved through the prime minister, who is the keystone to the cabinet arch. His associates in the ministry are appointed on his nomination, and his death or resignation immediately results in their surrendering their offices.

In cabinet government the ministry is collectively responsible immediately to the legislative body, or particularly to its more popular branch, and ultimately to the electorate. Upon a vote of lack of confidence or the definite defeat of an important ministerial measure by the parliament the ministry either resigns as a body and gives place to one drawn from the opposition party or exercises the prerogative of parliamentary dissolution whereby it brings the sitting parliament to an end and through a new election appeals to the voters upon the issue which has been raised. If the result of such an election is favorable to the ministry it remains in power; otherwise it surrenders control to a ministry formed from the opposition. Ministerial tenure depends at all times upon the maintenance of a majority in the popular branch of the legislative assembly. Within any party there are always somewhat divergent elements. In a legislative assembly the majority party always includes some whose adherence to the ministry is somewhat tenuous. These more or less independent members may on the occasion of a vote on some specific measure withdraw and assist in transforming the majority into a minority. Or such a considerable defection may occur on some major question of policy as to result in the successful passage of a vote of lack of confidence. Casual ministerial defeats on minor questions are likely to be disregarded, unless cumulatively they indicate such a definitely growing opposition as to lead the ministry to voluntary resignation.

Parliamentary control of the ministry is, however, balanced by ministerial leadership and control of parliament. The ministers are as a rule members of parliament and leaders of the party in the majority. Under the rules of procedure ministerial or government measures have precedence. Indeed the entire program of legislation is largely shaped and dominated by the ministry. Through the threat of dissolution the ministry can often preserve its control over a restive parliament. Dissolution involves an election with all the attendant expense to individual members and the possibility of their failing of reelection. Thus the threat by the ministry to dissolve is a powerful instrument in holding supporters in line and in reducing the vigor of attacks from the opposition. It is, however, a weapon which becomes less and less effective as the term for which the legislative body is elected draws toward its close, and proximate dissolution is anticipated as inevitable in any case. In France, although the constitution vests the power of dissolution in the president and senate, this power has not been invoked since 1877. Practically it does not exist. The lack of this check constitutes one of the chief causes for ministerial instability in France.

Cabinet government functions satisfactorily only where certain conditions are present. It is essentially party government and presumes the existence of two, and only two, great rival parties between which the pendulum of power swings. The party which is in a majority in the legisla-

ture is vested with the full authority of government and responsible for achieving a political, legislative and administrative program. The party in opposition performs the role of critic and seeks at all times to put the government in a minority and thus secure the reins of power. Politics thus assumes the character of a great game in which two teams compete, the one the team of the "ins," the other that of the "outs." Where, as on the continent, a group system of parties obtains, no one of which possesses an independent majority, the ministry rests upon the unstable basis of a coalition of partisan groups. The shifting realignment of such groups results in frequent and rather meaningless changes in the ministry.

Not only is a two-party system essential to the normal operation of cabinet government, but each of the two parties must include within its membership representatives from all substantial sections of the community. Parties must cut across the various class, racial, occupational, confessional and geographical divisions of society. Otherwise the divisions into parties will remain static and every transfer of power will involve a crisis which may seriously disturb the whole legislative and administrative process. It is an essential feature of cabinet government that there shall be an effective opposition which shall subject the government to criticism at all times, with respect to both administration and legislation, and which is ready to take over the reins of government whenever a shift in political sentiment in the legislative body, or ultimately in the country, permits. When parties are based upon economic interest, or upon social, confessional or sectional attachments, such shift in sentiment does not occur. Only by the slow process of social change is the relative strength of parties altered. If an agrarian party is in power it retains control until the process of industrialization has transformed the social structure of the community. There can be no normal swing of the pendulum. A condition of party fluidity is found only in societies of a high degree of social homogeneity. Permanently dissident groups, such as the Irish Nationalists in Great Britain before 1922 and the French Canadians in Quebec, always present impediments to the proper functioning of cabinet government. Where the entire party structure consists of such inflexible and rigid social strata, as is frequently the case upon the continent, cabinet government is theoretically quite anomalous.

A further condition for the perfect working of cabinet government is a unicameral legislature, or such a complete subordination of the upper chamber to the popularly elected house that the latter's will can within a reasonably short period be made absolutely effective. The relationship of control and responsibility between the ministry and the legislature which characterizes cabinet government is largely nullified where two chambers, differently constituted and often committed to quite antagonistic policies, equally claim the right to reverse a ministry. Responsibility under a bicameral system is diffused and scattered. Either the ministry under such conditions recognizes responsibility to both houses and consequently is weak and incapable of exerting real leadership or it takes advantage of the divided parliament to rise above effective control and becomes practically irresponsible.

Even in Great Britain, where cabinet government functions most satisfactorily, these theoretical conditions do not fully obtain. The Irish Nationalists constituted for a period of fifty years, prior to the establishment of the Free State, a third party which at times seriously embarrassed the working of the cabinet system. In the later phases of the Great War party lines practically disappeared and a coalition ministry governed almost without parliamentary control. The emergence of the Labour party in recent years has raised the pertinent question as to whether British government will not have to adapt itself to a permanent system of three parties. Both the first and second Labour ministries have lacked a Labour majority in the House of Commons, and their tenure of office has been extremely precarious, depending upon sufferance of the two other parties, particularly the Liberals. The Labour governments have frequently been defeated in the Commons. The opposition in inflicting these defeats has not, however, desired to bring about the retirement of the ministry. A minority government holding power through the forbearance of the opposition is, however, at best a weak government, unable to achieve its program effectively. It is constantly hampered by the necessity of conciliating the opposition. Whether this situation will persist or whether the Liberal party will eventually disappear as an effective factor in British politics is a matter of speculation.

In France the kaleidoscopic range of political groups from extreme right to extreme left has in recent years been somewhat stabilized by the formation of blocs consisting of a number of such groups. During the decade following the

war two such blocs, the Union Nationale, composed of moderate and conservative elements, and the Cartel des Gauches (Left Bloc), seemed to offer a possible basis for a permanent two-party system along Anglo-American lines. But the Left Bloc, after winning the election of 1924, dissolved in the succeeding years when faced with the serious problem of stabilizing the franc. The victory of the Union Nationale in the election of 1928 was in reality a personal victory for Poincaré, and with the accomplishment of his work of financial stabilization this bloc also gives evidence of speedy disintegration. Extreme fluidity and instability are fundamental characteristics of French political parties and explain in large measure the relative failure of cabinet government in that country.

Cabinet government in its normal operation is a strong form of political organization, capable of speedy and effective action. In emergencies the cabinet is able to draw to itself all the powers of the state. This strength lies largely in its simplicity, and since the government rests upon the public opinion of the community the danger of despotism is slight. Under cabinet government reliance is placed upon understandings and a common willingness to play the game according to the rules rather than upon a complex system of legal arrangements and determinations. It necessitates on the part of the people a high degree of political education and capacity.

W. J. SHEPARD

See: CABINET; GOVERNMENT; LEGISLATIVE ASSEMBLIES; CONGRESSIONAL GOVERNMENT; BICAMERAL SYSTEM; BLOC, PARLIAMENTARY; COALITION; PARTIES, POLITICAL; ADMINISTRATION, PUBLIC.

Consult: Bagehot, Walter, *The English Constitution* (new ed. London 1872); Anson, W. R., *The Law and Custom of the Constitution*, 3 vols. (5th ed. Oxford 1922); Blauvelt, M. T., *The Development of Cabinet Government in England* (New York 1902); Garner, James W., "Cabinet Government in France" in *American Political Science Review*, vol. viii (1914) 353–74; Jenks, Edward, *Parliamentary England: the Evolution of the Cabinet System* (London 1903); Keith, A. B., *Responsible Government in the Dominions*, 2 vols. (2nd ed. Oxford 1928); Lowell, A. Lawrence, *The Government of England*, 2 vols. (rev. ed. New York 1912), especially chs. ii, iii, xvii, xviii, and xxiii; Hasbach, W., *Die parlamentarische Kabinettsregierung* (Stuttgart 1919).

CACHET, LETTRE DE. A lettre de cachet was, in general, a document by which the king of France gave an order to an individual on a matter affecting his own service; it was countersigned by a secretary of state and sealed (*cacheté*) —hence the name, in contrast to letters patent which were not sealed. In the narrower and more common sense, however, the expression had reference particularly to orders by which the government, on its own authority and without judicial formalities, imprisoned or exiled an individual.

Theoretically this practise was justified by the principle that the king was the sovereign judge from whom emanated all law and justice. He could therefore, when he chose, pronounce judgment on one of his subjects without being compelled to observe the forms prescribed for ordinary judges and without having to indicate the reason for his decision. The kings of France early made use of this right, but it was in the seventeenth and eighteenth centuries under the absolute monarchy that imprisonment and exile by lettres de cachet were most frequent. They were used for crimes against the safety of the state, for crimes of opinion, even for family affairs—thus a father might shut up a prodigal son or a daughter who refused the suitor he proposed; a husband might obtain the incarceration of his wife of whom he had reason to complain; a great lord might have a relative imprisoned for disgracing the family by his conduct.

Delinquents were usually imprisoned in the Bastille, which became famous on that account, but there were numerous other "royal castles" to house prisoners of lesser importance, such as the Château de Vincennes, the For-l'évêque in Paris (for actors), the Château d'If near Marseille, Pierre-Scize near Lyons, the Tour de Constance at Aigues Mortes or the Mont Saint-Michel. Hospitals and convents were used for the same purpose.

It is easy to understand how this convenient method of disposing of its enemies came to be abused by the government. It has been estimated that nearly 150,000 lettres de cachet were dispatched during the reign of Louis XV. The king, who was supposed to sign them himself, as a matter of fact allowed his name to be signed by a scribe; the minister who sent them, unable to investigate everything to which the letters referred, had to rely on his subordinates, clerks, superintendents or chiefs of police. Sometimes these subordinates actually received letters signed in advance, with the name of the addressee in blank so that a mere clerk might, in the name of the king, imprison anyone who displeased him. This was the principal method of prosecuting crimes of opinion. Jansenists, Quietists, Protestants, *philosophes* were im-

prisoned for having expressed opinions disapproved by the government. Voltaire, Mirabeau, Helvetius, Linguet were confined in the Bastille and their books burned. Lettres de cachet in powerful hands were a formidable weapon against liberty of thought and person.

Those whom it threatened soon protested against this practise. Voltaire, Montesquieu, Mirabeau, the *encyclopédistes*, repeatedly demanded its suppression. But it was primarily the expostulations of the *parlements*, of the *cours des aides* and of the *chambres des comptes* which created a wave of opinion against the lettres de cachet. "The result is, sire," declared the *cour des aides* of Paris to the king in 1770, "that no citizen of your realm is guaranteed against having his liberty sacrificed to revenge. For no one is great enough to be beyond the hate of some minister, nor small enough to be beyond the hate of some clerk." Among the attempts at reform under the reign of Louis XVI was the project formulated by Minister Malesherbes to abolish lettres de cachet, but this project failed. His defeat served only to discredit the monarchy still further and there is no doubt that this practise was important among the immediate causes of the revolution. The general condemnation of it by the three estates was revealed in the *cahiers de doléances* of 1789. It explains, moreover, why the Bastille served as a symbol of oppression to the Parisian populace. In August, 1789, the Constituent Assembly definitively condemned lettres de cachet in France when it proclaimed the principle that no man can be accused, arrested or detained except in cases fixed by law and according to the forms prescribed by law.

ED. ESMONIN

See: POLITICAL OFFENDERS; CIVIL LIBERTIES; FRENCH REVOLUTION.

Consult: Funck-Brentano, F., *Les lettres de cachet* (Paris 1926), *Les lettres de cachet à Paris* (Paris 1903), *La bastille des comédiens: le for l'éveque* (2nd ed. Paris 1903); Marion, M., "A propos des lettres de cachet en blanc" in Académie des Sciences Morales et Politiques, *Séances et travaux*, n.s., vol. i (1898) 124–33; Fling, F. M., "Mirabeau, a Victim of the *Lettres de Cachet*" in *American Historical Review*, vol. iii (1897–98) 19–30; Joly, A., *Les lettres de cachet dans la généralité de Caen au XVIIIe siècle* (Paris 1864); Haegen, Ph. van der, "Mémoire sur la lettre de cachet dans le Languedoc sous Louis XV et Louis XVI" in *Messager des sciences historiques de Belgique* (1881) 80–123, 221–44 and 349–69; Gaffarel, P., "Les lettres de cachet en Provence" in *Revue historique*, vol. cxvi (1914) 1–46; Dupont, Étienne, *Les légendes criminelles et l'histoire: La bastille des mers: Les exilés de l'ordre du roi au Mont-Saint-Michel (1685–1789)* (Paris 1920).

CADBURY, GEORGE (1839–1922), English social reformer. With his brother Richard he inherited from his father a small cocoa manufacturing business in Birmingham and together they developed it into an industry employing many thousands and operating all over the world. Concurrently with this achievement they both devoted themselves to social experiments, Richard on traditional lines, George more originally and adventurously. During his work in connection with the Adult School he became impressed with the degrading effect of crowded city life, and when in 1880 he and his brother removed their works into the country four miles outside of Birmingham he founded Bournville, which was destined to become the archetype of the garden city. Through this enterprise he attacked scientifically the problems of housing, town planning and land monopoly. He disclaimed any philanthropic purpose but sought to show how industrial England could be reconstructed on enlightened and economic principles. Ultimately he handed over the developed experiment to a trust on behalf of the nation as a working model of the fulfilment of his ideas. The modern movement in housing and town planning reform, not in England only but on the continent, especially in Germany, has derived largely from Cadbury's experiments.

Meanwhile he promoted and financed a movement that culminated in the establishment of national old age pensions with its corollary of national insurance, and he helped by his purse and by his influence through the *Daily News*, of which he had become the proprietor, to abolish the scandal of sweated industries. His benefactions were innumerable. They included a home for cripples, a resthouse for convalescents, many Quaker meeting houses and the Woodbrooke Settlement. The latter became the home of "modernism" in the Quaker movement and the nucleus of the Selly Oak colleges, which constitute a new type of social and religious university. His personal benevolences were ceaseless but they always aimed at a regenerative or constructive purpose. His greatest pleasures to the end of his days were his work in the Adult School at Birmingham and the almost daily dispensing of hospitality to the thousands of the poor of Birmingham, to whom his grounds at Northfield were always open for sports and fêtes. He took little part in public life and declined all honors.

A. G. GARDINER

Consult: Gardiner, A. G., *Life of George Cadbury*

(London 1923); Wood, H. G., "George Cadbury" in *Christian Social Reformers of the Nineteenth Century*, ed. by Hugh Martin (London 1927) p. 185–203.

CADET PARTY. *See* PARTIES, POLITICAL.

CAESAR, GAIUS JULIUS (102 or 100–44 B.C.). He was by birth a Roman of an unimportant patrician family, by political affiliation an adherent of the popular party. The support of the *Populares* secured his advance through the lower magistracies and his election as pontifex maximus in 63 B.C. Becoming consul (59 B.C.) with the backing of Pompey and Crassus, he displayed an utter disregard of constitutional practises, which incurred the undying hostility of the senatorial faction. By securing an extraordinary command in Cisalpine and Transalpine Gaul for a period of five years, later extended to ten, he was able to develop his latent military talents, create an efficient army devotedly loyal to himself and amass a huge fortune, as well as exercise an enduring effect upon the cultural history of Europe by adding the "Three Gauls" to the Roman Empire. Fear of his power led the Senate and Pompey to unite in an effort to procure his ruin, whereupon he appealed to arms to protect his life and his position (49 B.C.). Caesar emerged victorious from the civil war (46 B.C.), became master of the Roman world and was forced to face the problem of reorganizing its government.

Despite his previous championship of the *Populares* he now disassociated himself from all ideas of democratic rule and treated the commons as unfit to share in the government of the state. He abandoned completely the old Roman ideal of city-state imperialism and frankly accepted as the solution of his problem a world empire ruled by a deified autocrat of the Hellenistic type. This explains his acceptance of the permanent dictatorship and other unconstitutional offices and powers, his welcoming of divine honors, his degradation of the senate to a position of subservience to himself, his generous admission of provincials to Roman citizenship, his courting the title of king and his plans for the expansion of the Roman dominions into a world empire. In his system there was no place for the institutions and traditions of the republic, and it was the realization of this by the senatorial aristocracy which brought about his assassination.

Caesar's most important legislative measures were those affecting the reform of the calendar, the regulation of the grain dole, the restriction of the guilds, the employment of free rural labor, municipal organization and extensive colonization enterprises. Many of his projects, however, remained for later ages to accomplish. Caesar's chief contribution to contemporary history was his preparation of Roman society for the principate established by his grandnephew Augustus; his legacy to the future was his imperial ideal which obtained full realization in the autocracy of Diocletian.

A. E. R. BOAK

Consult: Holmes, T. R. E., *The Roman Republic and the Founder of the Empire*, 3 vols. (Oxford 1923); Meyer, Eduard, *Caesars Monarchie und das Principat des Pompejus* (2nd ed. Stuttgart 1919); Groebe, P., and Klotz, A., in Pauly, A. F. von, *Realencyclopädie der klassischen Altertumswissenschaft*, vol. x, cols. 186–275; Drumann, W. K. A., *Geschichte Roms in seinem Übergange von der republikanischen zur monarchischen Verfassung*, 6 vols. (2nd ed. by P. Groebe, Berlin 1899–1929) vol. iii, p. 126–752.

CAIRD, JAMES (1816–92), British political economist and pioneer in the development of scientific agriculture. He was influential in English agricultural circles for nearly half a century, first as writer, then as member of Parliament and finally as the incumbent of many offices in the governmental agricultural services. His report upon the condition of agriculture in England in the year 1850–51 was the most valuable since that of Arthur Young. This study convinced him of the desirability of reliable agricultural statistics and it was as a result of his unceasing efforts that the government finally began to issue such data in 1866. As a practical farmer Caird believed that English agriculture could be saved, despite the repeal of the corn laws, by the practise of high farming, i.e. by larger capital investment in manures and draining, a greater emphasis upon livestock and the intelligent use of scientific methods. The period of agricultural prosperity from 1853 to 1875, due in large part to the Crimean and American civil wars, appeared to substantiate Caird's opinion. But he failed to foresee the factors, such as cheapened transportation, which finally brought on the depression following 1875. It has been the contention of many that high farming was in the long run more harmful than helpful to English agriculture.

W. H. DAWSON

Important works: *High Farming under Liberal Covenants, the Best Substitute for Protection* (London 1849, 7th ed. Edinburgh 1850); *English Agriculture in 1850–*

51 (London 1852); *Prairie Farming in America* (London 1859).

Consult: Craigie, P. G., in *Economic Journal*, vol. i (1892) 196–98.

CAIRNES, JOHN ELLIOT (1823–75), Irish economist. Cairnes graduated from Trinity College, Dublin, in 1848 and upon the advice of a friend some years later began to read political economy. In 1856 he won the five-year appointment to the Whately professorship at Dublin University. He was admitted to the Irish bar in 1857 and appointed professor of political economy at Queens College, Galway, in 1859, and at University College, London, in 1866. *The Character and Logical Method of Political Economy*, the title under which he published his first course of lectures (London 1857, 2nd ed. 1875), was followed in 1862 by *The Slave Power* (2nd ed. London 1863), which was intended, in the author's words, "to show that the course of history is largely determined by the action of economic causes," and which was, at the same time, in the words of Leslie Stephen, "the most powerful defense of the cause of the Northern States ever written." He published numerous articles, on educational policy, the Irish land situation, and money and prices, some of which were embodied in his *Political Essays* (London 1873) and his *Essays in Political Economy Theoretical and Applied* (London 1873); and as his reputation grew, he came to exercise great influence upon public opinion and upon important public issues. The appearance of his chief economic work, *Some Leading Principles of Political Economy Newly Expounded* (London 1874), and the death of John Stuart Mill left Cairnes, in the judgment of his countrymen and of many others, the foremost living economist.

Cairnes' main purpose in writing *Some Leading Principles* was to defend Ricardian doctrines against the increasing attacks of critics and particularly against the final utility conception of Jevons. He always regarded himself as a disciple of J. S. Mill (see dedication to first edition of *The Slave Power*) and a member of the "orthodox" classical school. This was also the opinion of his earlier admirers among conservative theorists, such as J. L. Laughlin and Francis A. Walker. A different view was foreshadowed by Alfred Marshall, who from the first feared that Cairnes' effort to amend the classical doctrines was really aiding to overthrow them. As J. N. Keynes said later, the theoretical work of Cairnes helped "to shake faith in the finality of the Ricardo-Mill doctrines." Yet in wide circles it considerably retarded the development of more consistent and tenable views.

Cairnes' narrow advocacy, in his earliest work, of the deductive and abstract method was refuted by his own best studies in historical causes, such as *The Slave Power*, and in statistics and observation, such as the essays on the Australian gold episode. His attempt to revive the wage fund doctrine after J. S. Mill had repudiated it was ingenious but futile. His discovery of the ambiguity in the term "cost of production," his rejection of Mill's use of the term in the sense of entrepreneur's monetary outlays, and his attempt to restore it to the meaning of sacrifice, pain or trouble only made confusion worse confounded. The "doctrine of non-competing groups," Cairnes' best known contribution to economic theory and terminology, owes its wide vogue to its eclectic, compromising character. Although superficially it appears to preserve the essence of the cost-of-production doctrine it virtually concedes the validity, over a large part of the field, of the value-of-produce explanation of price. It is in fact Mill's doctrine of reciprocal demand extended from foreign to a large portion of local and domestic trade.

FRANK A. FETTER

CALENDAR. A calendar, in the words of Durkheim, "expresses the rhythm of the collective activities, while at the same time its function is to assure their regularity." Even on the lowest stage of culture some time reckoning is a necessity to man. In the ever recurring changes of seasons, in animal and plant life and in the celestial phenomena, nature provides means for such measurement. The time of the day can be indicated by reference to dawn, sunrise, the position of the sun in the heavens; the time of the year by seasons and more precisely according to natural events—the sprouting and falling of the leaves, the appearance and rutting time of certain animals. Among nomadic peoples the time when the young are born is important; among agricultural peoples the cycle of agricultural occupations serves as a natural calendar. Although the year as the cycle of the seasons is well known to most peoples, by many it is not conceived as a period of a definite length. Thus agricultural peoples have sometimes an incomplete "year," from the beginning to the end of the agricultural occupations; the interval is passed over without counting. Social and reli-

gious life are regulated by, and come to center around, such natural calendars; fairly common are New Year festivals at sowing and especially at harvest times; in the far north winter, during which labor rests, is the time of festivals, hence the popularity of the yuletide; and half Africa assembles to dance on the nights of full moon. Among slightly more civilized peoples a short period not depending on natural phenomena but on the exigencies of social life may become a means of time measurement Thus the market week of four to eight days is common; a well known historical example is the *nundinae* of ancient Rome. The Jewish sabbath was also probably a market day originally. Market weeks are sometimes comprised in cycles forming a kind of year as in West Africa and old Mexico, but among most peoples the year cycle long remains vague. Years are counted by counting seasons: he who has seen ten winters or harvests is ten years old. The years are not numbered but are referred to in terms of outstanding events: a war, a disease, in more developed civilizations such as Egypt or Babylonia the reigns of kings or annual changes in magistrates and public officers. Still later is the introduction of eras such as the Olympiads, the era beginning at the mythical date of the founding of Rome and that dated from the birth of Christ, which was introduced by the Christian calendariographer, Dionysius Exiguus, about 525 A.D.

As festivals and religious observances acquire a life and an importance independent of their connection with seasonal occupations, and as social life increases in complexity, a more exact system of time measuring becomes necessary. Time reckoning in the proper sense involves not only observation of changing events but calculation of units of time of a definite length. A moon month is the most easily observed, continuously repeated period of fixed length and may readily be subdivided into days distinguished by the shape and position of the moon. These traces of the use of a moon month may be found in almost all calendrical systems. Greater definiteness is achieved by the adoption of a list of month names covering the year. But the changes of natural life depend ultimately on the course of the sun and are consequently related to the risings and settings of the stars. The divergences between the lunar and the solar reckonings have caused difficulty to all calendar makers. A method of determining the true length of the solar year was early discovered by a few primitive peoples, and the Egyptians knew it probably in the fifth century B.C. The calculation is based on the fact that the stars culminate every day four minutes earlier than the sun; consequently a day of the solar year is determined fairly accurately by indicating it as being the day of the first appearance of a certain star in the morning dusk (its heliacal rising), and the measurement of the time between two heliacal risings of a star fixes the length of a solar year. Since the solar year is approximately 365 days in length, while a twelve-month period (of the $29\frac{1}{2}$-day month from one new moon to another) comprises 354 days and a thirteen-month period $383\frac{1}{2}$ days, some adjustment is necessary to keep the months in their places in the year. Peoples who have a twelve-month system commonly add a month (intercalation) and those who have one of thirteen months leave out a month (extracalation) when needed, at regular or irregular intervals. Certain peoples have gone even farther in basing their calendars on the solar rather than on the lunar year. The Egyptians very early observed the heliacal rising of the star Sirius, called by them Sothis, which then corresponded with the beginning of the Nile flood, and thus conceived the idea of the solar year and introduced it, probably in 4241 B.C. Their twelve months, numbered but not officially named, each had thirty days, thus becoming subdivisions of the solar year rather than moon months. The year was completed [$(12 \times 30 + 5 = 365)$] by five epagomenal days belonging to no month. Even the 365-day year, however, does not correspond exactly with the time period of the earth's revolution, being nearly six hours too short. It is therefore necessary to insert an extra day about every fourth year to keep seasons and months in correspondence. Although Egyptian astronomers quite early understood these relationships of the various time periods, they were not actually embodied in the calendrical system, and their year remained a "vague" year.

Few early peoples developed so complex and exact a system of time reckoning as did the Egyptians, although the influence of their calendar can be traced widely throughout the world. The Babylonian calendar was a lunar calendar, adjusted to the solar year by intercalation. The Hebrews may have derived the practise of intercalation from the Babylonians; certainly after the Exile they adopted the Babylonian names of the months as well as some of their ritual features. The Persian calendar, which still prevails in those parts of the old

Persian empire independent of Moslem rule and which was carried into India by the Parsees, shows definite traces of Egyptian influence after the Persian conquest of Egypt under the Achaemenides. In particular it is based on the 360 + 5-day year. In India the enormous mass of local cults and festivals is based on a lunar year and a lunar zodiac, which was adjusted by early Hindu astronomers through the use of a five-year cycle with the insertion of an intercalary month in the second and fifth years. It is more difficult to reconstruct the early Chinese calendrical system, for the board which issued the official calendar yearly until the revolution of 1912 had undoubtedly been influenced by contact with western ideas introduced by the Jesuits in the seventeenth century. It is clear that the Chinese have had from early times a lunar month of 28 days named after the 28 lunar stations. In the official calendar, however, the lunar month has $29\frac{1}{2}$ days and the solar $30\frac{1}{2}$. In the measurement of longer periods of time the Chinese employ a curious sexagesimal cycle, traditionally based on a combination of the five elements with the twelve animals of the zodiac. The same cycle is applied to the day, which is divided into sixty parts.

Of recent years interest has centered in the problem of the origin of the Mayan calendar. Based on a cycle of 260 days, called the Tonalamatl, which had a magic significance as yet unexplained, and combined with the solar year in a 52-year cycle, the Mayan calendar is said to exhibit a high degree of scientific knowledge. Its analogies with the Chinese calendar have led such scholars as W. J. Perry and Elliot Smith to hypothesize a close connection of the Mayan culture with that of Asia, but this claim is widely disputed.

The development of any such complex calendrical system requires not only the discovery of scientific principles but the continued application of expert skill in the management of the system. The control of the calendar naturally fell first into the hands of the priests, who were not only the possessors of knowledge but the directors of those religious festivals on which the calendar rested. Long after the Exile it remained the privilege of the Jewish high priest at Jerusalem to announce the intercalary months and thereby to fix the time of the celebration of the chief feasts, sending messengers to the Jews of the Diaspora. Powerful rulers usually took over the privilege. From the time of Hammurabi until 538 B.C. the Babylonian kings issued edicts inserting intercalary months at the advice of the astronomers, who were probably priests. The creation of the Chinese board for the official calendar is attributed to the Emperor Tao (*c.* 2400 B.C.). Control of the calendar, with all its implications as to the control of religious rites and popular festivals, has been an important instrument of political centralization as well as of cultural change. A variety of local calendars, based on local cults, existed in the old Sumerian cities. During the supremacy of Babylon the calendar was unified and thus a calendar brought into general use which combined the features of various of the older calendars and was of no small importance in the maintenance of the political supremacy of Babylon.

The very importance of the calendar to the whole social system makes almost inevitable the lapse of considerable periods of time between the progress of astronomical knowledge and change in the method of time reckoning. The calendar has repeatedly been an important cause of social conservatism. Even in Egypt, although knowledge of the astronomical cycles was widespread, the religious calendar was only irregularly adapted to it. Of the earliest Greek calendar we know nothing except that it had moon-months. The well known Greek luni-solar calendars of the historical age had a religious character and were circulated from the oracle in Delphi in the seventh and sixth centuries B.C. They comprised a cycle of eight years with three leap years of thirteen months.

This year cycle of $365\frac{1}{4}$ days, which emanates from Egypt, has become through its adoption as the basis of the Julian calendar the fundamental calendrical system of the Occident. The early Roman calendar had been of the luni-solar type, administered by the pontifices. They had used their control of its correction for personal and political motives. One of the steps taken by Julius Caesar in the building up of his power was the reform of this calendar. Relying on the technical aid of the Alexandrian astronomer Sosigenes in 46 B.C. he introduced the Egyptian solar year, improved by the addition of an intercalary day every fourth year and subdivided into months of somewhat unequal length with Roman names. Quintilis and Sextilis were renamed Julius and Augustus in honor of Caesar and Augustus respectively. About this same time the seven-day week became popular, and with the prescription of the celebration of Sunday Christianity introduced over a wide area the boon of regularly recurring

rest days. It was also due to the Christian church that a troublesome feature of the luni-solar system survived. For Christianity inherited from Judaism the movable Easter festival and its connection with the full moon. The Jewish rule was remodeled so that Easter was celebrated on the first Sunday after the first full moon after the spring equinox. This permits variations of 35 days in the date of Easter; the stabilization, or "fixing," of this religious festival has concerned all calendar reformers of the modern world, and a solution of the difficulty is still to be found. Even the year of $365\frac{1}{4}$ days does not correspond exactly to the length of the true solar (tropical) year, being about eleven minutes too long. All long established calendrical systems have had to face this difficulty. Its recognition was involved in the various cycles of time periods which have characterized most developed systems. The Egyptian Sothis cycle of 1461 years, representing the time which elapses between each exact correspondence of the heliacal rising of Sothis with the New Year's day of the vague year, was of this character. The Metonic cycle of 19 years, traditionally inaugurated in Greece in 432 B.C., forms the basis for a cycle aiming to bring about an exact correspondence between the lunar and the solar reckoning. But in practise few calendars have been adapted to such cyclical variations, and consequently intermittent "corrections" of existing calendars have been necessary. In Persia an accumulated discrepancy was disposed of by a reform in 1079 A.D. In the western world the discrepancy had become marked by the sixteenth century and was corrected by Pope Gregory XIII in 1582 by the omission of ten days from that year. For the future the difficulty was to be obviated by the omission of three intercalary days in 400 years. This new Gregorian calendar was adopted but hesitatingly by the Protestant countries—it was not accepted in England until 1752; and the Greek orthodox countries, Russia and Greece, kept the old style until after the Great War. The difference between the Julian and Gregorian calendars amounts now to 13 days. The rules for calendar construction adopted by the orthodox church in a synod in Constantinople in 1923 still differ from those of the Gregorian calendar, chiefly in the location of Easter.

A bothersome confusion was introduced into the calendars of many peoples by the Mohammedan religion. Before the time of Mohammed the Arabs had used a luni-solar year, but in 631 A.D., shortly before his death, Mohammed imposed on his followers a lunar year of twelve lunar months of an average of 29 days and forbade the practise of intercalation. This anachronism spread with the Moslem religion over a large part of Africa and the Far East, even into Polynesia. It remains a stumbling block in the way of any international calendar reform.

The Gregorian calendar of the western world has certain irregularities and inconveniences which have become increasingly evident, and with the growth of secularism proposals for reform are heard with increasing frequency. Many projects were advanced throughout the eighteenth century. During the French Revolution an attempt was made to revert to the Egyptian system, with the retention, however, of intercalary days and the division of the month into three ten-day periods. Auguste Comte proposed a year consisting of thirteen months each with 4 weeks of 28 days and one, in intercalary years two, blank days (364—1 or 2 respectively). Of recent years an increasing pressure for change has come from business groups and social statisticians, who find the irregularities of accepted month intervals a serious obstacle to the achievement of regularity and comparability of records. It is thought by many groups that a fixed calendar with equal time units and the days of the week occurring always on the same date of the month would be far more convenient for a complex commercial organization. But the problem of making any such fundamental change of habits acceptable to the majority of the people of one country or of the world is indeed great. Certain isolated but increasingly numerous industrial groups in the United States, such for instance as Sears, Roebuck and Company, have placed their own business on a thirteen months basis, hoping for an eventual widespread acceptance of the system. In 1923 the League of Nations set up a technical committee to consider calendar reform; this body has gathered suggestions from religious and business groups throughout the world, concentrating attention, however, upon a reform acceptable to western peoples. It has eliminated more drastic proposals for change but has failed to find a generally acceptable solution. Meanwhile, the U. S. S. R. has adopted a five-week calendar combined with a system of rotating holidays for different industrial groups. Whether or not this system will find wide acceptance elsewhere, some form of stabilization of the calendar may perhaps be expected to follow a sufficient widening of the spread of industrial-

ization and mechanization, even though it lag far behind.

MARTIN P. NILSSON

See: HOLIDAYS; FESTIVALS; PRIESTHOOD; WEIGHTS AND MEASURES; SCIENCE; CHANGE, SOCIAL; SOCIETY.

Consult: Ginzel, F. K., *Handbuch der mathematischen und technischen Chronologie*, 3 vols. (Leipsic 1906–14); Nilsson, M. P., *Primitive Time-reckoning* (Lund 1920); Webster, H., *Rest Days* (New York 1916); Philip, A., *The Calendar* (Cambridge, Eng. 1921); Hooke, S. H., *New Year's Day* (London 1928); National Committee on Calendar Simplification for the United States, *Report Submitted to the Secretary of State* (Rochester 1929); League of Nations, Special Committee of Enquiry into Reform of the Calendar, *Report*, Publications Series VIII, no. 6 (Geneva 1926). There are many classic studies of specific calendars; for further references see the article on this subject in Hasting's *Encyclopaedia of Religion and Ethics*, vol. iii, p. 61–141.

CALHOUN, JOHN CALDWELL (1782–1850), American statesman and social theorist. Calhoun's political career was closely tied up with the economic interests of his state, South Carolina, and of the entire South; his principal significance in American history lies in the cogency with which he framed syllogisms of political theory which rationalized these interests. In the early years of his political career, from 1807 to 1827, until the economic interests of the South and the rest of the country diverged sharply, Calhoun found it possible to be a Whig, a militant nationalist and at times even an advocate of a national bank, internal improvements and a protective tariff. But as the incidence of the tariffs on the South became clear Calhoun shifted his position and in the *South Carolina Exposition* (*Works*, vol. vi, p. 1–87) and his letter to Governor Hamilton (*Works*, vol. vi, p. 144–93) framed the doctrine of nullification. When the drift of events began to indicate that slavery rather than the tariff would divide North and South, Calhoun made explicit the forces making for cleavage and consolidated the theoretical position of the South. He viewed slavery as the foundation of the existence of the South and opposed abolition and all attempts by the North to upset the balance of power in the Senate as striking at the only possible basis on which the Union could continue. The clear cut nature of this position was, in the rapidly shifting political manoeuvres and alignments of the time, a political disadvantage; and though Calhoun held with conspicuous success the posts of senator, vice president, secretary of war and secretary of state he never reached the presidency.

As a political theorist Calhoun ranks among the very greatest that American thought has produced. His political theories are contained in his *Disquisition on Government, and a Discourse on the Constitution and Government of the United States* (*Works*, vol. i) and his numerous public utterances. These do not embody a complete theory of the state, but set forth the doctrine of states rights as it came to be accepted in America.

The central concept in his political philosophy is his notion of the "concurrent majority," through which an organism is created to obtain the sense of each interest or portion of the community that may be unequally and injuriously affected by action of the government. The sense of each interest or division thus taken shall be expressed through its appropriate organ and shall be necessary in making or executing the laws or shall constitute a veto on their execution. Thus Calhoun opposed the principle of the numerical majority by a principle which regards interests as well as numbers. According to Calhoun the United States constitution originally established a government of the concurrent majority composed of two elements—the states in their corporate character and their representative population—which exercise separate but concurrent action. But the United States government is only part of a system of governments. Each state has its own government, which is its exclusive and representative organ as to all powers which have not been delegated to the United States government. It was to the people of the several states that sovereignty devolved upon the separation from Great Britain, and it was through the exercise of this sovereignty that the state constitutions as well as the United States constitution were created.

Since Calhoun viewed the constitution as a compact between sovereign political communities, he insisted that the individual states enjoy a veto on the proceedings of the government of the United States. The exercise of this negative is possible because sovereignty resides in the people of the several states. It therefore follows that a state may reject, within its own borders, any measure which it deems inconsistent with the terms of the constitution. If three fourths of the states support the action of the United States government, the nullifying state is not bound to acquiesce, but may secede from the Union. The right of secession results necessarily from the nature of a compact between sovereign parties.

Calhoun's work was a powerful attempt to formulate democracy in terms of minority rule.

It failed because it overlooked the growth of the country, in which an identity of interests between its various parts, reconcilable with the principle of majority rule, was already established. The South alone stood outside the influence of economic forces which were welding the West and the older states of the North together. But Calhoun's theory of the concurrent majority profoundly influenced the thinking of many southern statesmen and found practical embodiment in the constitution of the Confederacy.

WILLIAM SEAL CARPENTER

Works: *Works*, ed. by R. K. Cralle, 6 vols. (New York 1851–56).

Consult: "Correspondence of John C. Calhoun," ed. by J. F. Jameson, in American Historical Association, *Annual Report, 1899*, vol. ii (Washington 1900) p. 71–218; Merriam, C. E., *A History of American Political Theories* (New York 1903) p. 267–88; Carpenter, William S., *The Development of American Political Thought* (Princeton 1930) p. 143–52; Hollis, Christopher, *The American Heresy* (New York 1930) p. 82–117.

CALIPHATE. The caliphate is a Mohammedan office or institution involving, theoretically, successorship to the position of the founder of the religion and uniting in a peculiar way functions of church and state. The word *Khalīfah* was used in the Koran in a number of connections, none of which clearly signified succession to the position of Mohammed, and it has since been used by Moslems in various senses besides this central one. Other titles used as more or less synonymous with caliph have been *imām*, referring especially to supreme leadership in worship, and *amīr al-mu'minīn* (commander of the faithful), referring to military authority.

During thirteen centuries of existence the caliphate has met with widely varying fortunes. Its theoretical character, as formulated in Islamic lands and elsewhere, has usually differed widely from actuality. The chief phases of its history include the Medina caliphate, 632 to 661 A.D.; the Omeyyad caliphate at Damascus, 661 to 750; the Abbassid caliphate, 750 to 1258 (at Bagdad regularly from 762); the caliphate under the Mamelukes, 1261 to 1517; and the caliphate under the Ottomans, 1517 to 1924. The apparent continuity of this schedule is deceptive; it suggests a single historical function exercised over all Moslems, whereas after the first phase universality began to disappear. After about 800 A.D. parts of the Moslem world were permanently separated under rival caliphs or under no caliph, and the theory has been intermittently held in all parts of the Moslem world that the only true caliphs were the first four and that the application of the name to later Moslem rulers was a misuse. Important minor phases are the caliphate of Cordova, the Fatimid caliphate at Cairo and the Shiite and Khawārij schisms.

Mohammed, by combining the traditional limited authority of the sheik among the Arabs with a new absolutism derived from his accepted claim to be the one God's unique spokesman, built up a position in which he acted not only as prophet but as leader in religious worship, chief executive, sole legislator, supreme judge, military commander and treasurer. Advised by a small council of his earliest and most able followers he ruled the life of his community in a unified way, neglecting such distinctions as those between sacred and secular or between religion, government, law, ethics and etiquette.

He died without having made plans for a successor and his followers, stunned by the unexpected event, recognized immediately the desirability of continuing unified headship. A crude form of election, held at an informal meeting of the council and followed by approval on the part of the community, placed the aged Abu Bakr in the position of successor or caliph. Abu Bakr allowed himself to be called only *Khalīfah rasūl Allah* (successor of the apostle of God).

Abu Bakr nominated Omar to succeed him, but the element of election was preserved in that the consent of the Moslem community at Mecca was obtained. Apparently Omar was the guiding mind during both Abu Bakr's and his own period of leadership, and during these twelve years he established the first phase of the institution of the caliphate. The four early caliphs remained regularly at Medina, striving to make all their decisions as Mohammed would have made them and claiming no higher spiritual functions than those of other believers. Extraordinarily rapid conquests carried forward the worldly fortunes of the Moslems. The "prophet's fifth" of all booty as well as of regular revenue after the establishment of conquest was poured into the caliph's hands at Medina and by him distributed to the community. Besides presiding over religious worship and acting as chief executive and judge Omar appointed the commanders of the increasingly large armies, and the governors of provinces far richer than the Arabian home land. After the assassination of Omar, Othman was

chosen by a process resembling Abu Bakr's election, and when he likewise suffered death by violence the Meccan group chose 'Ali, the cousin and son-in-law of Mohammed. The election of 'Ali did not, however, receive unanimous consent. In the civil war which ensued 'Ali was unsuccessful and was slain at Kufa in 661. In later years Shiite Moslems adopted the theory that 'Ali had been the only lawful caliph and that the office was continued by divine appointment to his descendants, rival caliphs being usurpers. The majority of Mohammedans, however, have at all times held that the caliphate passed to Mu'āwiyah and his line at Damascus.

The Omeyyad caliphate at Damascus was a line which became regularly hereditary, since each ruler during his own lifetime designated his successor, usually his eldest son. The principle of election was considered to be maintained in that the caliph procured the consent of his leading subjects to the heir apparency of his appointee. The caliph's function of religious leadership diminished greatly with the rulers of this dynasty and devolved upon a rising group of men learned in the Koran and the traditions of Mohammed. These caliphs lived like exalted sheiks—being personal military leaders and patrons of art and letters, they were easy of access and without Moslem exclusiveness. They carried civil war even to the Holy Cities of Mecca and Medina, where the local Moslems attempted to set up caliphs of their own choosing. The power of this dynasty came to an end partly through personal decline but more from the development of opposition among partisans of the family of 'Ali. With the overthrow of the Omeyyads the shrewder politicians of the family which was descended from 'Abbās, another of Mohammed's uncles, seized the prize of the caliphate.

The new Abbassid caliphs possessed by intermarriage a portion of Persian blood and by association an even larger share of Persian governmental ideas. These caliphs, established after 762 in the new city of Bagdad, were served with the pomp and submissiveness to which the former Persian emperors had been accustomed. Apparently very religious, they nevertheless increasingly employed learned advisers to adapt the sacred law to their desire. Actually their religious leadership was almost entirely formal and their effective duties chiefly administrative. The Moslem church (if such a word with its Christian associations can, without too much confusion, be applied to the total Mohammedan religious institution) had become nearly self-sufficient in its mosques, with their *imāms* and their *'ulama*, or learned men, who knew the *shar'*, or sacred law. *Qudāt*, or judges, and *muftūn*, or counselors, were selected from those versed in the law to aid the secular authorities on the side of justice. Their power was very great in all Moslem lands down to the nineteenth century, since in theory legislation had ceased with Mohammed and those who interpreted his law and adapted it to the conditions of the time were exercising a portion of his authority. In fact, by applying the Koranic principles to new circumstances and by codifying the legislation scattered through the Koran as well as the traditions and the decisions of judges, the Moslem learned men exercised in a concealed and limited way an actual function of legislation. Even to the present in most Moslem lands the laws of marriage and inheritance remain as developed a thousand years ago and are applied by judges trained in an undifferentiated body of theology and law. In this legislative process the caliph had no recognized part.

Within less than a hundred years from the establishment of this dynasty its secular power began to be taken over by individuals or lines drawn from Turks, Persians, Kurds, etc. Considerable wealth, splendor and dignity remained to the caliphs but their authority became slight in both church and state. For the *amīr al-umara*, commander-in-chief, ruling at Bagdad or warring in various provinces, the constant existence of a powerless caliph was a legal support and a cover of authority. For Moslem secular rulers as far west as Morocco and as far east as India the caliph was likewise a bestower of lawful authority, since diplomas of investiture, granted by him in exchange for costly gifts, confirmed such rulers in their place and power. The caliphs thus possessed without effort the right to invest secular rulers with office, a right which the great mediaeval popes strove in vain to establish for their successors.

In the eleventh century A.D., when the caliph's actual authority had been very much reduced, apparently sincere theorists set up for him most extensive claims as the "source of all authority and power in the Moslem world." He was in the view of many the sole representative on earth of the power of God, entitled to command the unreasoning obedience of all believers. Noteworthy among these legists was Mawardi, who affirmed as qualifications to be required in a caliph: membership in the tribe of the Quraysh (the Prophet's kin), male sex,

full age, good character, freedom from physical and mental defects, comprehensive legal knowledge, administrative ability and courage and energy in the defense of Moslem territory. Mawardi stated as the functions of the caliph: the defense and maintenance of religion, the decision of legal disputes, the protection of the territory of Islam, the punishment of wrongdoers, the provision of troops for guarding frontiers, the waging of holy war against those who refused to accept Islam or to submit to Moslem rule, the organization and collection of taxes, the payment of salaries, the administration of public funds, the appointment of competent officials and personal attention to the details of government. A glance at this list of functions shows them to be not at all spiritual and only in the first and second items what might be called religious or ecclesiastical. The description is almost entirely that of an ideal secular ruler. Strangely enough the contemporary writer Alberuni affirms, more realistically for his time, the opposite view that the caliph controlled only matters which concerned religion and dogma and that he had no authority in the affairs of this world. The fact appears to be that the actual position of the caliph was from the middle of the ninth century ordinarily of very small consequence, but that as in the case of the emperor of the Holy Roman Empire men saw around him the vast shadowy outline of past greatness, which assumed different aspects according to the mentality of the observer. In later centuries both theorists and practical men continued to see the caliphate as very great, but with shifting and often intangible content. Nevertheless, it was granted, an individual caliph could be deposed by action of the believers, supported by a *fatwah* or decision of a *mufti*, if proved to have violated an essential point of the sacred law.

After the Mongols captured Bagdad in 1258 and exterminated all members of the Abbassid family upon whom they could lay hands, the Mameluke sultans in Egypt took advantage of an exceptional opportunity to obtain sanction for their power by maintaining in Cairo a real or pretended descendant of Abbas. These caliphs claimed wide jurisdiction and vast authority, but exercised no more real power than had the later Bagdad caliphs. Some of the fifteen were very poor but at the proper times they installed the Mameluke sultans with great pomp and ceremony. Their position in the eyes of the remainder of the world was greatly reduced, and it was during this time that the great fourteenth century legist, Ibn Khaldūn, wrote that the caliph, once a secular ruler, later a religious leader, had become but a name. The last of these caliphs was captured by Sultan Salīm I of Turkey and kept in Constantinople from 1517 to 1523. Sulaymān appears to have sent him back to Cairo, where he lived from 1523 until his death in 1543, continuing to style himself caliph.

There have been at least two erroneous conceptions of large import which have prevailed until recently in the western world, and to some extent even in the Mohammedan world, as regards the Ottoman caliphate. The first of these is that Sultan Salīm I bought the title of caliph from the last Abbassid at Cairo, or had it left to his house by will, so that from about the year 1517 the Ottoman chiefs were both sultan and caliph. The second misconception is that the office of Ottoman caliph was very similar to that of pope by reason of its supreme spiritual authority over all members of a numerous and widely spread religious organization.

Recent investigations have shown that some of Salīm's predecessors used the title caliph as regards themselves and were so addressed by other Moslems, the word having a limited meaning which might perhaps be compared to the complimentary use of the word caesar. It appears also that Salīm I and his son the great Sulaymān avoided apparently with care the use of the word caliph. Ottoman legists of their time inclined to the view that the caliphate had lasted only thirty years until the death of 'Ali. The first diplomatic document known which applies the words caliph and *imām* to the Ottoman sultan is the Treaty of Kuchuk Kainarji with Russia in 1774.

At this time the erroneous comparison of the caliph's position with that of the pope began to receive general acceptance in both the East and the West. It has been pointed out that of the powers exercised by the pope (performing mass, forgiving sins, promulgating dogma, judging finally the dogma and the liturgy, canonizing saints, granting indulgences and acting as supreme judge in certain cases) no trace can be found in the caliphate; nor was the caliph ever held to be the depository of divine truth. The sole valid point of comparison lay in the claim, revived from earlier centuries, to the undivided allegiance of a great religious community. To the extent that the caliph functioned at all he seems to have been an official much closer in character to the imperial than to the papal status.

In the course of the nineteenth century the

Ottoman Turks came to believe in the theory of the universal authority of their sultan as caliph. The constitution of 1876 proclaimed that "the sublime Ottoman sultanate, which possesses the supreme Islamic caliphate, will appertain to the eldest of the descendants of the house." Sultan 'Abdul-Ḥamīd II made use of this theory to stir up sympathy in many Mohammedan lands; the construction of the Hedjaz railway to facilitate the Meccan pilgrimage was in part an outcome of this theory, in which some force remained as late as 1923, when the Moslems of India expressed their interest in the caliph at Constantinople. But the post-war government of Turkey, having previously canceled the sultanate, acted in conformity with fact when in March, 1924, after a fifteen months' trial during which 'Abdul-Majīd II sought to perpetuate his office as a sort of papacy but could discover no real duties to perform, it abolished the office of caliph.

King Ḥusayn of the Hedjaz made an attempt to appropriate the title, for which there seemed to be no demand, and according to some affirmations British officials or individuals lent him encouragement. However that may be, the speedy loss of his temporal authority and his departure from the Holy Cities in 1925 put an end to his dream. Here and there hints have been dropped to the effect that King Fu'ād, as head of the largest Moslem state claiming independence, might well be made caliph. Fu'ād's Albanian descent and westernization, however, make this idea absurd. The suggestion has also been made that King Ibn Su'ūd of the Hedjaz and Nejd, an independent Arab and actual ruler of the Holy Cities, is the logical candidate. Ibn Su'ūd seems, however, to have no desire to assume the title. The word is still used by certain lesser officials in the modern world, such as the sultan of Morocco and some chiefs in Java, but inasmuch as these personages are neither independent nor of the tribe of the Quraysh they clearly can claim no universal authority.

The deposition and exile from Turkey of the Ottoman caliph do not in legal theory affect the existence of the office, which theoretically awaits a new incumbent. Indeed some Moslems have maintained that the Turks were but showing proper respect to the office by turning out of it a man and a dynasty unable longer to fulfil the task of defending the faithful. While a few Indian Moslems (Aga Khān and Amīr 'Ali) protested the deposition of Islam's "spiritual leader," most non-Turks, if not coldly indifferent, accepted the deposition and concentrated on the task of finding a new incumbent for the office. A conference was held at Cairo in May, 1926, in which the qualities of the caliph were reaffirmed in a form not unlike that of Mawardi with particular emphasis upon descent from the Quraysh and political independence. But no candidate could be presented who possessed the necessary qualifications, and the conference proved inconclusive.

Similarly the proposals of "regionalists" favoring local caliphs, of "reformers" favoring an all-Islamic council with a caliph as its executive and of the Indian Caliphate Committee, which formerly supported 'Abdul-Majīd but latterly has leaned toward Ibn Su'ūd, have all come to nothing. Although the important book by 'Abdul-Raziq, *Al Islam wa usūl al-ḥukm* (Islam and the foundations of sovereignty, Cairo 1925), was condemned by the Cairo conference for its denial of the obligatory character of the caliphate, the Mohammedan world seems as a whole to have accepted the view that the caliph is nothing if not the secular head of the Moslem community and that since no Moslem ruler can pretend to wield authority commensurate with the caliph's duties the institution is for the present defunct.

An interesting question arises as to the extent to which such movements as pan-Islamism, pan-Arabism and pan-Turanism can take the place of the religious unity formerly symbolized by the caliphate. While all these include chiefly peoples of the Mohammedan religion they look toward monarchies or federations of a purely secular character. 'Abdul-Ḥamīd II was somewhat interested in the notion of pan-Islamism, but the thought of uniting under one government all the Moslems of the world, spread from Morocco to the Philippines and from central Africa to southern Russia and western China, does not belong in practical politics. Pan-Arabism is scarcely more possible when Moslems speaking the Arabic language are ruled in such diverse ways as in French North Africa, Egypt, Syria, Iraq and the divisions of Arabia. There is also a small but intelligent and active minority of Christians and of Jews who speak Arabic as their primary language and who have therefore a place in pan-Arabism. The pan-Turanians are similarly under very diverse governments, in Turkey, in several republics of Soviet Russia, in China and perhaps among the Mohammedans of India. The people which showed for a time some enthusiasm in this cause, the independent and progressive Ottoman Turks, have set their

faces firmly toward the West. None of these movements therefore seems destined to replace the caliphate as a unifying idea for Islam.

The caliphate is gone and may never be revived. Nevertheless there is a growing feeling of unity within Islam which perhaps descends in a direct line through the generations of learned men, from those who first began in the time of the Omeyyads to take over the religious leadership for which the caliphs of that dynasty were not temperamentally qualified. The world wide improvement in means of communication and the extension of the use of printing have operated among Mohammedans to increase physical contact and have enabled them to realize the possibilities of religious cooperation. The annual pilgrimage exists actively for bringing together Moslems from all quarters. True, there are among Mohammedans extreme ranges of opinion, from conservatives in dogma like the 'Ulama of Egypt and conservatives in practise like the Wahhabis of Nejd to extreme liberals in practise like the ruling group in Turkey and liberals in doctrine like the Ahmadiyyah of India. Complete organic unity in Islam is at least as impracticable as unified church organization would be within Christianity. But further unification of feeling and perhaps increase of organization seem likely to take place without a serious attempt to reestablish a personal center in a restored caliphate, at least for a long time to come.

ALBERT H. LYBYER

See: ISLAM; EMPIRE; ISLAMIC LAW; 'ULAMA; PAN-ISLAMISM; PAN-TURANISM; PAN-ARABISM; NEAR-EASTERN PROBLEM.

Consult: GENERAL WORKS: Arnold, T. W., *The Caliphate* (Oxford 1924); Becker, C. H., "Barthold's Studien über Kalef und Sultan" in *Der Islam*, vol. vi (1915–16) 350–412; Mawardi, Ali ibn Muhammad al, *Les statuts gouvermentaux*, tr. from the Turkish by E. Fagnan (Algiers 1915); Muir, William, *The Caliphate: its Rise, Decline and Fall* (rev. ed. by T. H. Weir, Edinburgh 1915); Sanhoury, A., *Le califat* (Lyons 1926); Tschudi, Rudolf, *Das Chalifat*, Philosophie und Geschichte series, vol. x (Tübingen 1926); Wittek, Paul, "Islam und Kalifat" in *Archiv für Sozialwissenschaft und Sozialpolitik*, vol. liii (1925) 370–426.

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CALL MONEY is the term applied to funds which are loaned on demand in the open market. It is used by domestic banks as secondary reserves, by foreign banks for the employment of international balances and by corporations for the investment of surplus cash. It is borrowed by brokers and dealers to finance their operations. To a lender call money represents an outlet for the productive employment of temporarily idle funds without sacrifice of their availability for other uses; to a borrower, an opportunity to adjust his indebtedness to daily fluctuations in his need for funds. The largest market for call money in the world is in New York City, where brokers in securities on the stock exchanges are accustomed to finance a large proportion of their dealings through call loans. Smaller call markets of a similar character are found in other financial centers, notably Boston and Chicago, London and Berlin. There is a small market for call money based on acceptances in New York but the principal use of call money by bill brokers occurs in London, where dealings in acceptances form the framework for the short term open money market.

There are three major requirements for a true call money market: the availability of readily marketable collateral as security for call loans; a broad open market to insure their liquidity; and day to day fluctuations in the demand for funds on the part of both borrowers and lenders. Funds on call must be readily available to lenders when they are needed elsewhere. Call money markets, therefore, have developed around securities and acceptances as collateral, both of which can be instantly disposed of, when necessary, in organized markets. The relationship between lenders and borrowers of call money, furthermore, must be impersonal. Call loans do not include demand loans made in the course of established customer relationships These latter loans are common throughout the

banking system of the United States but are not in fact callable on demand since the convenience of the customer, his ability to finance himself elsewhere and his value as a future client must be considered before a loan is called. A broad open market is also necessary for the borrower to have reasonable assurance that he will be able to transfer his loans to new lenders when they are called. For these reasons call money markets are of necessity confined to the larger money centers. The underlying transactions may take place elsewhere but the actual conclusion of the loan must be in central organized money markets, such as New York and London, that are broad in character, impersonal in their relationships.

There must also be a genuine need for day to day loans. There is no accident in the fact that call money is dealt in more extensively in New York than in London. The American commercial banking system consists of thousands of independent unit banks with the consequence that clearing operations between banks are large and are reflected in a rapid shifting of balances from bank to bank. It is a part of the American banking tradition, therefore, for banks to invest a large proportion of their funds in liquid interest bearing assets, such as call loans, that can be converted into cash at short notice. The basis of the demand for call loans from brokers rests on the widespread American custom of carrying securities on margin. Since the bulk of the transactions in the New York security markets is settled on a daily basis, individual brokers have wide day to day fluctuations in their demand for funds.

Practically all call loans in New York are made by, or through the agency of, large banks which are close to the market and in a position to scrutinize and safeguard the collateral. Formerly the call market depended largely on direct loans from these banks, but in recent years it has drawn a great volume of funds from interior banks and from other sources such as corporations and foreign banks. On October 1, 1929, call loans in New York amounted to nearly $8,000,000,000, more than half of which was loaned by others than domestic banks. After the market collapse of 1929 loans from domestic banks again became the chief factor in the supply of call loans. The call market has always been attractive to correspondent banks in New York because they hold large deposit balances from interior banks, which are particularly subject to immediate withdrawal. Prior to the establishment of the Federal Reserve system pressure on the call market was extreme when these deposits were withdrawn, and on occasions when heavy interior withdrawals coincided with an unfavorable gold position call loans became frozen and helped to precipitate a financial crisis.

Day to day fluctuations in call rates are frequently wide and apparently erratic, but the average renewal rate on call loans on a monthly basis is more sensitive than any other money market rate to changes in credit conditions. Any change in the supply of readily available funds is quickly reflected in a flow of funds into or out of the call market, where rates are depressed or raised as the supply becomes adjusted to the demand. Periods of easy credit conditions, therefore, are characterized by a fall in call rates to among the lowest in the money market, and periods of credit stringency by a rapid rise to a position above other rates. Under normal circumstances call rates have found a level close to, but slightly above, the discount rate of the Federal Reserve Bank of New York and below quotations on prime open market commercial paper. These fluctuations are of particular concern to operators in the security markets, partly as an element in the cost of carrying on their transactions and an index of the availability of credit for future operations, but also because they indicate the trend of underlying credit conditions.

Two rates are quoted on call loans at the present time, a renewal rate and a rate for new loans. The new loan rate is the quotation applying to the most recent loan made on the floor of the stock exchange and often fluctuates hourly in response to changes in the supply and demand for funds. To prevent fluctuations in this rate from affecting rates on the whole body of loans a renewal rate is agreed upon daily which is not compulsory but customarily applies to all loans holding over from the preceding day.

WINFIELD W. RIEFLER

See: BROKERS' LOANS; MONEY MARKET; BANKING, COMMERCIAL; NATIONAL BANKS, UNITED STATES; FEDERAL RESERVE SYSTEM; SPECULATION; STOCK EXCHANGE.

Consult: Griffis, Bartow, *The New York Call Money Market* (New York 1925); Owens, R. N., and Hardy, Charles O., *Interest Rates and Stock Speculation* (2nd ed. Washington 1930); Meeker, J. E., *The Work of the Stock Exchange* (New York 1922); Dice, C. A., *The Stock Market* (Chicago 1927).

CALLENDER, GUY STEVENS (1865–1915), American economic historian. His chief contributions are contained in the series of intro-

ductory essays which form part of a volume of readings which he edited—*Selections from the Economic History of the United States, 1765–1860* (New York 1909).

He is probably best known for his emphasis on internal improvements as the central theme in American economic development. Accordingly he stressed the building of railroads as a phenomenon of far greater importance than the establishment of textile mills on the eastern seaboard. This attempt at synthesis, however, discloses his weaknesses: his tendency to see things too schematically and to seek simple explanations of complicated series of events, his readiness to ignore institutions not primarily economic and his failure to appreciate the role of ideas in economic development.

The freshness of his approach is more clearly evidenced in stray bits of interpretation and in the questions he asked. Callender saw, for example, that the American labor problem was not the English labor problem transplanted to a new world. Accordingly he looked upon trade unions in early American history as foreign ideas and devices which an enthusiastic people at a time of great social and moral ferment attempted to apply to a "society almost completely free from the ills those devices were designed to cure in Europe." He observed also that the American has turned a large part of his energies into the production of wealth. He wondered why the Anglo-Saxon has developed differently in the United States than in other new countries such as Canada and Australia. He raised a host of questions about the effects of slavery on the North as well as on the South and the reason for its spread in the United States at the very time it was dying out elsewhere. It was this type of question which showed his originality, his interest in the non-European quality of American problems and at the same time his ability to think of America as part of a larger whole.

HELEN R. WRIGHT

CALVERT FAMILY, English colonial administrators. The members of the Calvert family, George (*c.* 1580–1632) and his two sons, Cecilius (1605–75) and Leonard (*c.* 1610/11–47), projected the province of Maryland in 1632 and directed its affairs until 1675. George Calvert prepared himself for public life by an Oxford education, a "grand tour" and service as private secretary to Sir Robert Cecil while that statesman was directing the policy of King James. He gained years of experience as legislator in the House of Commons, and as administrator and diplomatist from six years of service as a principal secretary of state. In the face of pending measures for the persecution of the Catholics he became a convert to their faith and resigned the secretaryship. His remaining years, 1625–32, were devoted almost wholly to efforts to found a colony in the New World. Soil and climate defeated him in Newfoundland, where he had planted a colony in 1620 and labored with it until 1629. Protestant opposition confronted him on the south Atlantic coast, but shortly before his death he received the assent of King Charles to the grant of the province of Maryland on terms that revived in his son Cecilius the powers of a great feudal lord and at the same time guaranteed civil rights to the colonists. Cecilius Calvert, who, like his father, was a capable administrator, remained in England to promote emigration to his province and to protect it from Catholic as well as Protestant foes. His brother Leonard administered the government in Maryland under his direction, and while he lacked some of the qualities of leadership he was often discreet and always faithful to his trust. Although both brothers were Catholics, no measures were ever adopted to make Maryland solely an asylum for the persecuted of that faith. Protestants were always welcome, and from the very beginning Cecilius insisted that Catholics give no offense to Protestants. When this policy had been successfully pursued for fifteen years it was embodied in the Toleration Act, which was passed by the Maryland Assembly, April 21, 1649. Until 1638 Cecilius insisted on retaining the sole right to initiate legislation, but in that year his brother persuaded him to yield, and this was the first step in an orderly development of democracy in one of the best governed of the English colonies in America.

NEWTON D. MERENESS

Consult: *The Calvert Papers, nos. 1–3*, Maryland Historical Society, Fund Publications nos. 28, 34–35, 3 vols. (Baltimore 1889–99); Hall, C. C., *The Lords Baltimore and the Maryland Palatinate* (2nd ed. Baltimore 1904); Steiner, B. C., *Beginnings of Maryland, 1631–39*, Johns Hopkins University Studies in Historical and Political Science, 21st ser., nos. 8–10 (Baltimore 1903); Mereness, N. D., *Maryland as a Proprietary Province* (New York 1901); Beard, C. A., and M. R., *The Rise of American Civilization*, 2 vols. (New York 1927) vol. i, p. 59–65.

CALVIN, JEAN (1509–64), leader of the Protestant Reformation in Geneva. He was primarily a theologian and his social thought is

in the main a by-product of his religious ideas. Calvin's Protestantism, although thoroughgoing, was differentiated from that of Luther both by his conception of God as the absolute sovereign who while infinitely removed from a wholly sinful world had yet created its every detail for the increase of His glory and by the doctrine of predestination in its most drastic form of the double decree. This theology, while it insisted on salvation by grace not works, shut out mystical contemplation and drove the believer into an active, strenuous life directed toward the realization of Christian ideals of conduct. Calvin's objective conception of religious truth precluded toleration and caused him to retain the ideal of the universal church to which even the unregenerate must be made to conform. The combination of these elements led to the church discipline of Geneva.

From his hypothesis of the immediate dependence of all worldly events on God's will Calvin derived his doctrine of the divine ordination of the principal institutions of society—church, state, property, family. He was thus a strong upholder of authority. The state is coordinate with the church in promoting God's kingdom on earth; the two have a common purpose but different spheres of influence. Underneath his conservative authoritarianism, however, lay a revolutionary principle which after his death was to become of great importance: although a strong defender of passive resistance he conceded that in extreme cases obedience to God's will was an obligation transcending all other duties and abrogating all other allegiances.

The general tenor of Calvin's own system in Geneva was an authoritarian Christian socialism strictly subordinating individuals to the one great aim of increasing the glory of God. But later developments of Calvinism, by bringing out its latent anti-authoritarian tendencies, favored a democratic individualism, tinged, however, as a consequence of the doctrine of predestination, with a conservative anti-equalitarianism. During Calvin's lifetime the civil government in the city-state of Geneva, as represented by the Civil Council, was nothing more than a subordinate body, a coercive agency, for enforcing on the community the strict church discipline promulgated by Calvin and the ecclesiastical committee known as the Consistory. The policy of complete separation of church and state which was later forced upon Calvinism was the result not of any recognition on its part of relativity in religious truth but of the fear of political interference by a more powerful civil authority.

Calvinism, which at the outset found its greatest support in urban centers, was the first of the Reformation movements to recognize the existence of a new economic society characterized by the commercial rather than the mediaeval agrarian viewpoint. Calvin's justification of moderate interest, which hitherto church moralists had condemned, reveals him as among the first to understand the productive functions of capital. Rejecting monasticism Calvin dignified ordinary economic activities by designating them as "callings," as tasks set directly by God. For hedonistic motives to labor he substituted the glory of God and the general good; the economic virtues of thrift and industry he identified with the moral virtues. In no sense did he encourage moral laxity in economic relations. On the contrary, he tried to moralize as never before all phases of social life.

The very rigor of its standards made Calvinism a constructive rather than a hindering force in modern economic development. The idea of "calling" reinforced by the psychological effect of the doctrine of predestination gave a religious sanction to the most strenuous, rational, systematic labor for impersonal ends. Labor thus became a means of serving God and of proving one's own state of grace through ascetic self-discipline. Slothfulness became the deadliest of sins and fear of self-indulgence made the Calvinist a small consumer and a large saver. In Geneva this resulted in an extraordinary system of church discipline, but with the change of emphasis from church to self-discipline it later powerfully furthered the development of individual capitalistic acquisition, especially after worldly success came to be recognized as a token of grace.

TALCOTT PARSONS

Works: *Christianae religionis institutio* (Basel 1536), tr. by John Allen, 2 vols. (6th American ed. Philadelphia 1928). His *Opera quae supersunt*, ed. by J. W. Baum and others, 59 vols. (Brunswick and Berlin 1863–1900) have been partly translated by the Calvin Translation Society, 48 vols. (Edinburgh 1843–55).

Consult: Doumergue, É., *Jean Calvin, Les hommes et les choses de son temps*, 7 vols. (Lausanne 1899–1927); Choisy, Eugène, *La théocratie à Genève au temps de Calvin* (Geneva 1897), and *L'état chrétien calviniste à Genève au temps de Théodore de Bèze* (Geneva 1902); Allen, J. W., *Political Thought in the Sixteenth Century* (London 1928) chs. iv–v; Troeltsch, Ernst, *Die Soziallehren der christlichen Kirchen und Gruppen*, in his *Gesammelte Schriften*, vol. i (3rd ed. Tübingen

1923) p. 509–12, 605–794; Weber, Max, "Die protestantische Ethik und der 'Geist' des Kapitalismus" in *Gesammelte Aufsätze zur Religionssoziologie*, 3 vols. (2nd ed. Tübingen 1922–23) vol. i, tr. by Talcott Parsons (London 1930); Tawney, R. H., *Religion and the Rise of Capitalism*, Holland Memorial Lectures, 1922 (London 1926) p. 102–32; Hunt, R. N. C., "Calvin's Theory of Church and State" in *Church Quarterly Review*, vol. cviii (1929) 56–71; Hauser, Henri, "A propos des idées économiques de Calvin" in *Mélanges d'histoire offerts à Henri Pirenne*, 2 vols. (Brussels 1926) vol. i, p. 211–24.

CALVINISM. *See* PROTESTANTISM.

CALVO, CARLOS (1824–1906), Argentine diplomat, historian and publicist. Calvo's diplomatic achievements were many. He assisted in settling the differences between Buenos Aires and the other Argentine provinces; he helped to bring about an agreement between Paraguay and Great Britain on the Cronstatt question; he played an important part in the famous *Alabama* arbitration; and he made significant contributions to the work of the Congress of Berlin. But the great reputation which he achieved at home and abroad was the result rather of his prodigious labors as historian and publicist.

Calvo's work exhibits a practical historical positivism rather than analytic strength, and it has been said that he is often no more than a compiler. As a historian he is certainly to be classed as a chronicler. But he greatly influenced the development of international law and widened its orbit immensely. He came to represent in international law the Latin American tradition and aspirations. His importance in this connection is obvious from his enunciation of the Calvo Doctrine against the forcible collection of private debts. In general he stood for the principles of arbitration and non-intervention in Latin American affairs. The progressive editions of his classic treatise indicate its increasing scope. His voluminous collection of treaties has taken rank with Dumont's and Marten's, and was largely intended to provide a body of material which might aid in the settlement of Latin American disputes concerning boundaries. Calvo's services to Latin America were formally recognized by the third Pan-American conference, which met at Rio de Janeiro shortly after his death.

Calvo was much influenced by the work of Henry Wheaton, who had brought American claims to international attention after the Revolutionary War, particularly as they related to the rights of maritime commerce. The analogous role of Calvo is evident. He translated Wheaton's *History of the Law of Nations* and through him derived his own historical positivism. It is strange that both these champions of the emerging but hardly established rules of international law should have based their work theoretically upon positivism and attributed so much weight to the "actual usages" of the law of nations.

A. S. DE BUSTAMANTE

Important works: *Colección completa de los tratados . . . y otros actos diplomáticos de todos los Estados de la América Latina desde 1493 hasta nuestras días*, 11 vols. (Paris 1862–69); *Anales históricos de la revolución de la América Latina*, 5 vols. (Paris 1864–67); *Dictionnaire de droit international public et privé*, 2 vols. (Berlin 1885); and his masterpiece, *Derecho internacional teórico y práctico de Europa y América*, 2 vols. (Paris 1868; 5th ed. 6 vols., 1887–96).

Consult: Limantour, José Yves, in Académie des Sciences Morales et Politiques, *Séances et travaux*, vol. clxxii (1909) 689–718; Peralta, Manuel de, in Institut de Droit International, *Annuaire*, vol. xxi (1906) 486–91; *Handbuch des Völkerrechts*, ed. by F. von Holtzendorff, 4 vols. (Berlin 1885–89) vol. i, p. 514–16; Bordwell, Percy, "Calvo and the Calvo Doctrine" in *Green Bag*, vol. xviii (1906) 377–82; Carbia, Romulo D., *Historia de la historiografía argentina*, vol. i– (La Plata 1925–) p. 149–51.

CALVO AND DRAGO DOCTRINES. During the nineteenth century the countries of Latin America were frequently subject to pecuniary claims on the part of foreigners. These claims were based upon injuries received during civil wars, acts of violence, such as false arrest or imprisonment and expulsion, or breach of contracts concluded with the governments. While requiring and seeking foreign investments and immigration the Latin American countries sought to maintain the usual prerogatives of sovereignty; thus they endeavored to find a legal means of preventing the too frequent diplomatic interposition of foreign governments in behalf of their citizens and to deny to foreigners the advantageous status which they had been deemed to enjoy. These efforts were expressed in constitutions, statutes, treaties (where obtainable) and in contracts concluded with foreigners. These instruments all look to the propositions that the foreigner is bound by the local law, that he cannot make claim for injuries arising out of civil war or mob violence under conditions not available to nationals, that in his private litigation he must exhaust his local remedies and establish a "denial of justice" before invoking diplomatic protection, and that in his litigation with the government arising out of concession

contracts or franchises he must make the local courts his final forum. Where the system of political administration is such that political outbreaks, disturbances and arbitrary violence are merely spasmodic and fortuitous events and the government is not chargeable with negligence and where the system of judicial administration is such that notorious perversions of justice are exceptional and rare, it may be said that these principles, apart from foreclosing interposition in the event of denial of justice, approximate the prevailing rules of international law.

The whole doctrine of the final jurisdiction of the local courts over the complaints of aliens, with a denial of the privilege of diplomatic recourse, has been called the Calvo Doctrine after a celebrated Argentine jurist who enunciated these views as early as 1868. Calvo maintained that apart from treaty it was contrary to fundamental principles of international law to give foreigners in some countries a more favored position than in others, and that it was an abuse of physical power for stronger states to exact pecuniary indemnity from a weaker state under circumstances which would not allow them to make such claims upon each other. The Calvo Doctrine has in application been commonly restricted to concession contracts concluded between the government and an alien and in this sense has received the name "Calvo clause"; it provides (either in constitutions, statutes or the contract itself) that the foreigner "renounces all right to prefer a diplomatic claim in regard to rights and obligations derived from the contract" or else that "all doubts and disputes" arising under it "shall be submitted to the local courts without right to claim [the] diplomatic interposition" of the alien's government.

As a general rule, a government does not interpose, except by the use of good offices, to bring about the execution of contracts voluntarily concluded by its citizens abroad unless there be established a denial of justice in the foreign courts. Thus interpreted the Calvo clause would be merely confirmatory of international law and unobjectionable. But at times it has been maintained by Latin American countries that the committal to resort to the local courts exclusively and to forego diplomatic protection is without exception or qualification, especially when the committal is given in return for a favor or concession by which the foreigner agrees to consider himself, for the purposes of the concession, a citizen of the local country and to waive his rights as a foreigner, including the right to invoke diplomatic protection. This position, though it has its merits, is not admitted by the United States or by most European countries.

The position of the United States is perhaps best expressed in an instruction of Secretary of State Bayard in 1888: "This government cannot admit that its citizens can, merely by making contracts with foreign powers, or by other methods not amounting to an act of expatriation or a deliberate abandonment of American citizenship, destroy their dependence upon it or its obligations to protect them in case of a denial of justice" (Mr. Bayard, Sec'y of State, to Mr. Buck, Minister to Peru, Feb. 15, 1888, Moore's *Digest*, VI, § 918). Secretary of State Gresham, in interpreting in 1893 a Calvo clause in the Venezuelan constitution, took the position, which the latest arbitral decisions have supported, that the stipulation to resort to local remedies must be carried out, but that it will not excuse a denial of justice—a wrong which would still justify diplomatic interposition (Moore's *Digest*, VI, § 918). This question was submitted to the governments by the preparatory committee of jurists which laid the ground for the Hague Codification Conference of 1930. The replies of the governments (League of Nations, Conference for the Codification of International Law, *Bases of Discussion . . . Drawn up by the Preparatory Committee*, vol. iii, p. 133–35 and supplement) for the most part sustained the views expressed by secretaries Bayard and Gresham, as does Basis of Discussion No. 26 proposed by the Committee of Jurists, a proposition which, however, was not reached for discussion prior to the adjournment of the conference.

There have been twenty-one notable cases involving the validity of the Calvo clause which have come before international tribunals, and in which exhaustive opinions have been written. Ten of these, including the two latest, uphold the binding character of the stipulation to resort to the local courts, whereas eleven have denied the validity of the stipulation. In the main, the latter rest on one or other of the following grounds: that it is beyond the competence of an individual to contract away the superior right of his government to protect him [Rudloff (U. S.) *v.* Venezuela, Ralston 819–41 (1903); Martini (Italy) *v.* Venezuela, Ralston 183, 187 (1903)]; that where the government had annulled the contract without first appealing to the local

courts such action relieved the claimant from the stipulation not to make the contract the subject of international claim [Milligan (U. S.) *v.* Peru, Moore's Arb. 1643 (1868); North and South Amer. Const. Co. (U. S.) *v.* Chile, Moore's Arb. 2318–22 (1892)]; that the claim arose not out of the contract itself, but out of some violation of property right, and is based on tort [Selwyn (Gr. Brit.) *v.* Venezuela, Ralston 322, 323 (1903); Rudloff *v.* Venezuela, *supra*].

In the two most recent cases, before the United States-Mexican Commission under the treaty of 1923 and the British-Mexican Commission of 1926, it has been held that the clause made it essential for the foreigner to resort to his local remedies in the first instance and that until he did so he had no standing before an international commission, and this notwithstanding the fact that in certain articles of the treaties of 1923 and 1926, under which the commissions were established, the usual requirement of exhausting local remedies was dispensed with as a condition of the admissibility of a claim [North Amer. Dredging Co. of Texas (U. S.) *v.* Mexico, 20 A.J.I.L. 800 (1926); Mexican Union Railway, Ltd. (Gt. Brit.) *v.* Mexico, 24 A.J.I.L. 388, 394 (1930)]. This interpretation indicates that the effect given to the clause is to emphasize the usual requirement of international law that local remedies must be exhausted (thus canceling in these cases the waiver of the treaty) and that a claim may be admitted only when, after such practical exhaustion, a denial of justice can be established. As thus interpreted the clause represents merely a well established rule of international law, and its utility lies mainly in that it enables the defendant country to rely upon an express stipulation when it insists that local remedies must be employed.

The joint intervention of Great Britain, Italy and Germany against Venezuela in 1902 on the erroneously supposed ground that they were seeking merely to collect unpaid bonds held by their citizens led Luis Drago, minister of foreign affairs of Argentina in 1902, to submit a note to the United States Department of State proposing a policy, intended to be a corollary of the Monroe Doctrine, that "the public debt [of an American state] can not occasion armed intervention nor even the actual occupation of the territory of American nations by a European power" (U. S. For. Rel. 1903, p. 1–5). Drago's protest lay solely against the use of armed force in the collection of public debts and was not directed against diplomatic interposition in general. He also added that he did not intend to make his doctrine a defense "for bad faith, disorder, and deliberate and voluntary insolvency." Drago argued that the purchaser of a foreign bond buys with open eyes and in the price paid takes account of the value of the security, the credit of the debtor government and all the other factors which enter into the bargain. He added that the emission of the loan and bond is an act of "sovereignty," that the creditor knows that payment may be refused or the debt reduced by similar act, that the usual civil remedies are barred and that the state is the sole judge of its ability to pay. He maintained that it is unfair to the people of both states to make this voluntary contract the subject of armed political action involving whole nations and to make the government, in effect, the guarantor of its citizens' bonded investment.

The Drago Doctrine is thus narrower than the Calvo Doctrine, for it relates only to public bonds and decries only armed intervention. There has been a difference of view among European powers and publicists as to the propriety of intervention to collect public debts, though armed force has rarely been used except in cases of bad faith or fraud. The preponderant view is that intervention is not warranted in the event of an honest inability of a state to pay its debts, but only when, with means at hand, there is a wilful refusal to pay; or when foreign creditors are illegally treated, especially if they are discriminated against in favor of national creditors; or if improper preferences are given; or when special funds assigned as security for the debt are arbitrarily diverted to another purpose: in short, when bad faith may be considered the moving cause of the default. Despite this disagreement as to a formal rule, to the extent that law is deducible from practise it may be said that armed intervention is not sanctioned except in cases of bad faith, and even in such cases it has been extremely rare. TheVenezuelan interventions had as their foundation a persistent refusal of Venezuela to settle tort claims, and the bonds were drawn in only collaterally and incidentally. The Drago Doctrine is mainly of interest because it calls attention to the political danger and the undesirability of armed intervention on behalf of private claimants of all kinds, not because the evil which Drago feared was particularly notorious.

The Drago note had the effect of inducing the United States to place on the agenda of the Third American Conference of American States

at Rio de Janeiro in 1906 and of the Hague Conference of 1907 the consideration of the question of national policy in the pursuit of contract claims. Although it had not been the policy of the United States or of other countries generally to use force to collect contract claims, distinctions between "fraud and wrong-doing or violation of treaties" and "simple non-performance of a contract with a private person" engaged major attention, with the result that the use of force, while deprecated in the latter case, was implicitly and conditionally approved in the former. At The Hague General Horace Porter, for the United States, proposed that the use of force for the collection of contract debts is not permissible until after the justice and amount of the debt, as well as the time and manner of payment, shall have been determined by arbitration. After several amendments, a convention was voted by thirty-nine states, making the use of force conditional upon (1) a refusal by the debtor state to arbitrate; or (2) obstruction by the debtor state of the formulation of a *compromis* after arbitration is accepted; or (3) failure to carry out an award. Perhaps these terms are more definite than "bad faith," or "deliberate and voluntary insolvency." Seven Latin American states made reservations in line with the Venezuelan objection to the convention, to the effect that arbitration should be permitted only in case of a denial of justice after judicial remedies have been exhausted—a proposition entirely sound, for when the debt is not denied arbitration has no purpose. Drago made a reservation on behalf of Argentina, in which he was joined by seven states, that "public loans with bond issues constituting the national debt cannot in any case give rise to military aggression nor to the occupation of the soil of American states."

The Porter Proposition is at once narrower and wider in scope than the Drago Doctrine. In that it actually sanctions the use of armed force in a type of situation in which the United States and most other powers have, as a matter of policy, declined armed intervention, the Porter Proposition is narrower than the Drago Doctrine, which would deny absolutely the use of force, at least in the collection of public bonds. As a definite check upon the use of force in first instance and a public profession of faith in arbitration, it is to be welcomed, for pacific blockades, threats of hostilities and rumors of warlike preparations have a disturbing effect on peace and commerce. The Porter Proposition is wider in scope than the Drago Doctrine in that it applies to all contractual debts and not merely to public bonds. Yet doubts may easily arise as to the meaning of "contractual debts." Bond debts, while not usually presented for payment through diplomatic procedure, have occasionally been submitted to international tribunals, which have generally denied their jurisdiction over them in the absence of express words submitting bond claims for determination.

While thus far neither the Drago Doctrine nor the Porter Proposition has been applied in actual cases which have reached public notice, they may well have been effective in restraining official action, and they have served to call attention to the tendency, too prevalent in the nineteenth century, to use political means to enforce pecuniary legal claims. In limiting the use of such means they constitute part of the movement of the twentieth century either to exert more patience in the diplomatic settlement of such questions or, if unsuccessful, to submit them more readily to international arbitral (judicial) decision. In this respect there is no reason to segregate contract claims, for this sensible means of settlement should be extended to all pecuniary claims. While obligatory arbitration of all such cases is not yet achieved, the tendency is not to resist the movement too strongly. It is still true, however, that those economic conflicts of interest among the nations which are too profound and persistent to be formulated into legal issues or disputes are likely to be more prevalent than ever; and for the adjustment and conciliation of these little if any machinery is available.

EDWIN M. BORCHARD

See: DIPLOMATIC PROTECTION; INTERVENTION; JURISDICTION; PUBLIC DEBT; FOREIGN INVESTMENT; CONCESSIONS; IMPERIALISM; MONROE DOCTRINE; ARBITRATION, INTERNATIONAL; INTERNATIONAL LAW.

Consult: Calvo, Carlos, *Le droit international théorique et pratique*, 6 vols. (5th ed. Paris 1896) vol. i, §§ 204–05, vol. iii, § 1278, vol. vi, § 256; Drago, L. M., "State Loans in their Relation to International Policy" in *American Journal of International Law*, vol. i (1907) 692–726; Borchard, E. M., *The Diplomatic Protection of Citizens Abroad* (New York 1915) p. 308–25, 792–810; Hershey, A. S., "The Calvo and Drago Doctrines" in *American Journal of International Law*, vol. i (1907) 26–45; Scott, G. W. "International Law and the Drago Doctrine" in *North American Review*, vol. clxxxiii (1906) 602–10; Scott, G. W., "Hague Convention Restricting the Use of Force to Recover on Contract Claims" in *American Journal of International Law*, vol. ii (1908) 78–94; Moulin, H. A., *La doctrine de Drago* (Paris 1908); Jiménez y Núñez, V., *La doctrina Drago y la política internacional* (Madrid 1927).

CAMBACÉRÈS, JEAN JACQUES RÉGIS DE (1753–1824), French statesman and jurist. He was born at Montpellier of a family of the *noblesse de robe*. He was successively deputy to the National Convention, member of the Council of Five Hundred, second consul under Napoleon and arch-chancellor of the empire. As a member of the Committee of Public Safety he was interested in legislation and in June, 1793, issued several reports, one of which sought to give natural children the same rights as legitimate ones, while another dealt with adoption. He proposed the jury as a legal institution to deal with civil affairs and drew up two projects for a civil code (August, 1793, and Thermidor, year II). In line with the ideas of his day his projects sacrificed individual and family rights to a despotic state which was founded on equality, which looked to the destruction of parental authority and to the crumbling of patrimonies and which sanctioned the retroactivity of laws. In the Council of Five Hundred he proposed still another plan which was, however, very much milder and made no further progress. In Thermidor, year VIII, he was reinstated on the commission for drawing up a civil code but when his projects were rejected as "contrary to natural equity" he himself abandoned them. He is regarded as the principal author of the Code Civil completed in 1804, although his work on this was in a spirit entirely at variance with his former views, especially as regards the inheritance of property. He resumed his duties during the Hundred Days, was exiled as a regicide in 1816, pardoned by the king and made a duke in 1818.

J. DECLAREUIL

Consult: Lyon-Caen, Charles, "Notice sur la vie et les travaux de Cambacérès" in Académie des Sciences Morales et Politiques, *Séances et travaux* (1927) pt. i, 36–68; Vialles, Pierre, *L'archi-chancelier Cambacérès* (Paris 1908); Aubriet, Antoine, *Vie de Cambacérès* (2nd ed. Paris 1825).

CAMBON, PIERRE JOSEPH (1756–1820), French statesman and financier. As a member of the committee of finance first of the Legislative Assembly and later of the National Convention Cambon practically administered French finances between October, 1791, and April, 1795. Essentially an honest, accurate accountant, he possessed some of the qualities of a great minister of finance. At the cost of popularity he vigorously opposed the expenditures and demands of the revolutionary committees, the spoliation of precious metals from the churches and the abuses in the administration of taxes. In contrast to the steadfastness with which he tried to prevent corruption and waste, Cambon's policy with regard to the assignats was inconsistent and shifting. He was indeed thoroughly aware of the dangers inherent in the excessive issue of paper money and at times did everything in his power to regulate and reduce it. But at other times, as in his reports of April 17–19, 1792, and of February 1, 1793, when he was carried away by his interest in the prosecution of war, he not only sponsored but eagerly urged new issues.

Cambon is best known for his work in connection with the public debt. His famous *Rapport sur la dette publique*, which the Convention accepted on August 24, 1793, provided for the creation of the *Grand Livre*, by which the pre-revolutionary debt was to be "republicanized" and consolidated with the new debt. While this act was a political necessity it was accompanied by a repudiation of past interest payments and the conversion of the floating debt into a funded debt. The *Grand Livre* evoked loud complaints from the *rentiers*. It was, moreover, the occasion of clashes between Cambon and Robespierre, who would have been less vehement had he not regarded Cambon as the center of the resistance he encountered in the committees. The defeat of Robespierre brought Cambon's political fortunes to their climax and enabled him to obtain what he had long desired, a decree of complete separation of church and state. But Cambon's record as a member of the Mountain, his sympathy with its survivors and his militarism prevented continued harmony with the Thermidorians. Except for a momentary return to the political stage in 1815, Cambon's career ended with the revolution of 12 Germinal.

MARCEL MARION

Consult: Arnaud, R., *Cambon* (Paris 1926); Marion, M., *Histoire financière de la France depuis 1715*, 5 vols. (Paris 1914–28) vols. ii–iii.

CAMBON, PIERRE PAUL (1843–1924), French diplomat. After serving successively as prefect of the departments of Aube, Doubs and Nord, Cambon was sent out in 1882 as resident general to Tunis. He played a prominent role in the organization of the protectorate, drawing on the British colonial system for guidance. In 1886 he was appointed ambassador to Madrid and five years later was transferred to Constanti-

nople, where at first hand he observed the German policy of peaceful penetration in Asia Minor and where he probably formed the opinions of German *Weltpolitik* characteristic of his later years. Following the Fashoda crisis (1898) Delcassé sent him as ambassador to London, where he remained until 1920. When Cambon assumed charge of the embassy the relations between the two countries were most strained; many Frenchmen had come to entertain the idea of revenge against England rather than against Germany. A hearty advocate of Delcassé's policy, which aimed at an Anglo-French understanding, Cambon may justly be described as one of the great architects of the Entente Cordiale. With dignified patience he studied British psychology and policy, and ably conducted the negotiations leading to the famous understanding of April 8, 1904. When the new entente was subjected to the severe ordeal of the first Moroccan crisis he carried on the discussions regarding eventual English aid for France and paved the way for the military and naval *pourparlers* of 1906 and the following years. From this time on he appears to have exercised a determining influence upon French foreign policy, which was particularly in need of direction because of the instability of the French ministries. He was instrumental in promoting the Anglo-Russian agreement of 1907 and helped steer the entente through the period of the Bosnian and the second Moroccan crisis. During the most anxious period of the first Balkan War he strengthened the entente by securing from Sir Edward Grey a letter (November 22, 1912) in which Grey agreed "that, if either Government had grave reason to expect an unprovoked attack by a third Power, or something that threatened the general peace, it should immediately discuss with the other whether both Governments should act together to prevent aggression and to preserve peace, and, if so, what measures they would be prepared to take in common." On the basis of this correspondence Cambon worked to bring about the immediate intervention of England in the great July crisis of 1914. With remarkable diplomacy he succeeded in leading Grey along the desired road. He remained in England throughout the World War, obviating difficulties and misunderstandings between the Allies. Cambon was the leading figure in that remarkable triumvirate of diplomats of pre-war France of which his brother Jules and Barrère were the other members. While Cambon's influence upon French policy cannot always be determined, he assuredly deserves a preeminent place in the history of French diplomacy.

WILLIAM L. LANGER

Consult: Julien, Eugène, "Notice sur la vie et les travaux de M. Paul Cambon" in Académie des Sciences Morales et Politiques, *Séances et travaux, compte rendu* (1929) pt. i, 177–217; Charles-Roux, François, *Trois ambassades françaises à la veille de la guerre* (Paris 1928) ch. i.

CAMDEN, WILLIAM (1551–1623), the most important English historian and antiquarian of the Elizabethan period. His *Britannia* was mainly responsible for the firm establishment about 1650 of the true outlines of English history prior to 1485. He produced the first scholarly edition of several of the early chronicles and diligently collected materials on English history, genealogy, topography and numismatics, which today form part of the important Cotton Mss. in the British Museum. He was an influential member, and perhaps the founder, of a society of antiquaries to which several later groups trace their origin. Through Cotton, Selden, Coke and others he provided much historical information used by the Commons in their struggle with the crown. He endowed a readership in history at Oxford, taking thereby a pioneer step in the development of history as an independent discipline. As early as 1581 his scholarship attracted continental attention, and he furnished information about England to the French jurist Brisson, the geographer Ortelius and the French historians De Thou and Dupuy. Camden was also a notable educator. He was for many years master at Westminster School, wrote a Greek grammar for secondary schools (1597), used until the nineteenth century, and played an important part in the revival of the study of Anglo-Saxon.

ROLAND G. USHER

Important works: *Britannia* (London 1586, new ed. by author 1607), tr. by P. Holland (London 1610; 4th ed. 2 vols., 1772), and by R. Gough (from the 1607 edition, 3 vols., London 1789), the second edition of the latter (4 vols., London 1806) including an extended biography of Camden; *Epistolae*, ed. by Thomas Smith with a life of Camden (London 1691).

CAMERALISM. The term cameralism is applied to the associated political ideas gathered about the centralizing practises and tendencies in administration, finance and economic policy which characterized the absolute monarchy in Germany and Austria around the middle of the

eighteenth century. The term also designates the system of political sciences of the same period which placed itself at the service of the absolute monarchy and attempted to work out a systematic account of the functioning of the various administrative services as a basis for the training of public officials.

Cameralism is properly the German and Austrian variety of mercantilism. What differentiates the mercantilism of these two countries from the mercantilist systems of other parts of Europe is the circumstance that only in Germany and Austria did internal political consolidation coincide with the introduction of mercantilistic policy. The process of unification of political elements which had been financially, legally and economically separate started in Prussia under Frederick William I and its effects were still evident in Austria in the attempted reforms of 1748 under Maria Theresa. This process was characterized by centralization of administration, liberation of industry from guild organization, the creation of uniform municipal law and the formulation of a mercantilistic economic policy. In Austria in particular absolutism was inaugurated by the centralizing of administrative law. The most important stage in the development of the process was the centralization of financial legislation. The essential features of this reform were the issuance of tax ordinances valid throughout Austria, the designation of agencies of the central government for the collection of these taxes and the reorganization of the royal exchequer as a national treasury for the whole empire.

Cameralism falls into two distinct phases of development if we exclude, as we properly should, the juristic tax literature of Bornitz, Besold and Klock, which limits the function of the state and consequently stresses the question of the justice and the legality of imposing taxes. The all embracing state interventionism of the mercantilistic system and more specifically of cameralism excludes the question of justice, maintaining the position that no limits upon the public revenue can be fixed. To the first phase of cameralism belong the three great political economists of the time of Leopold I, Becher, Schröder and Hornick, in whose writings the different aspects of cameralism appear with varied emphasis. Becher concentrates on the internal political and economic relations of the three states, Schröder advocates absolutism in the form of the monarchical state, while with Hornick the idea of the collective Austrian state occupies the foreground. In its second phase cameralism was developed and systematized as a political science through the rise of administrative science, a development characterized by the establishment, under Frederick William I, of the first university chairs in cameralism (Dithmar in Frankfurt a. Oder and Gasser in Halle a. Saale). Among the forces which forged the concept of administration and transformed early cameralism into administrative science was the problem of handling the vastly increased range of activities of the rising paternalistic state. Other forces operating in the same direction were the increasing powers of the central administrative departments and the constant extension of state interference in the life of society, which brought into the foreground the question of the justice of that interference. The stratum of autonomous associations, such as the guilds, which had stood between the subject and his ruler, had been abolished. Ruler and people now confronted each other directly and a new definition of their reciprocal relations had to be worked out. More and more attention was given to the problem of justifying the steady expansion of state intervention. To this end the doctrine of natural rights was drawn upon.

What characterized the German natural rights doctrine was not the concept of individual freedom but that of the union of wills, the origin of the general will of the state in the joining together of individual wills in the social compact. The natural rights concepts of transferability and alienability of powers afforded a basis for the juristic and political relations of ruler and people. These relations were conceived of as those of mandatory and mandator. Every exercise of power on the part of the ruler could be linked up with his legal position as mandatory. This doctrine of natural rights as developed by Pufendorf formed the theoretical basis of enlightened absolutism, the classical justification for the doctrine of the paternal state. The doctrine was further developed by Thomasius and Wolff. To stake out the limits of state power so as to provide legal sanction for state intervention was the task that fell to the natural rights jurisprudence; the duty of cameral science was to supply the positive content for these occasions of intervention and to systematize the ever increasing number of state tasks.

The most distinguished representatives of later cameralism are J. H. G. von Justi and Joseph von Sonnenfels. The cameralistic doctrines of both are founded on natural rights theories of

the state. For them the object of the state is one of eudaemonistic utilitarianism, the general happiness of the subjects. In their economic theory the cameralists lay chief emphasis upon increase in population. The food supply and the population vary in direct relation with each other. Increase in the national wealth is to be attained by enlisting additional labor; hence aliens are to be attracted to the state by tax exemption and subsidies. In contrast to the mercantilism of the west, German cameralism stresses not so much commercial expansion as industrial centralization. The balance of trade theory is applied to the doctrine of population as a balance of employment. By freedom of trade is meant the abolition of state price control, monopolies, trade associations and privileges.

Cameralistic tendencies and technique predominated in Germany until far into the nineteenth century. Cameralism relaxed its hold only under the influence of Adam Smith's doctrines, which were spread through Germany by Jakob, Soden and Hufeland. Important in this connection also is the transformation which the German natural rights theory of the state suffered under Kant. Yet even Rau, whose strenuous advocacy of free trade bears the stamp of Adam Smith, shows evident cameralistic influence in his organization of the subject matter. Traces of that influence are also visible in the all inclusive administrative doctrines of Lorenz von Stein.

Cameralism as the science of administration especially helped to develop those branches of learning that are useful in state administration. Thus statistics, valuable for census purposes and for a grasp of foreign trade, began as a branch of the cameral sciences. The sharp distinction between fiscal science and public finance goes back to cameralistic influences.

The common factor underlying all cameralistic systems, the earlier as well as the later, is their close relation to the state. Criticisms of cameralism in economic literature center in this relation. While W. Roscher adhered to an economic interpretation of cameralism, Lorenz von Stein made clear its significance for political science in general and Marchet worked out the administrative ideas in the cameralistic system. Albion W. Small conceived of the cameralists in broader terms, as political scientists. Axel Nielsen stressed the cameralistic theory of the state. Zielenziger tried to distinguish clearly between the ideas of mercantilism and cameralism. Louise Sommer devoted herself to the question whether cameralism, or mercantilism, can be regarded as a scientific system. There is no such procedure in cameralism as a conscious resort to any fundamental theoretical code of principles which is conceived of as the basis of the whole movement, as is the case with the physiocracy in its dependence on Quesnay's *Tableau économique*. The unifying principle in cameralism does not lie in conscious intellectual relations which would permit one author to build upon another while developing his own particular contribution. And yet the question of whether cameralism has any theoretical content, hence whether it deserves to be called a system, must be answered with a decided affirmative. The dogmatic content is not to be sought primarily in the developed theory. Cameralism is simply a historical system, which assumes unitary form only in retrospect by virtue of its consistent interpretation of the trends of thought and the values of its age. The principle which operates to make of it a system lies not in a conscious theoretical foundation but in a harmonious group of unconscious reactions having an essentially political orientation. This orientation is at the same time of decisive importance in determining the formulation of the particular economic doctrines. The condition making for system building is the fact that the problem of the rising state is the focus of cameralistic interest. In their more or less primitive speculation on social phenomena the cameralists consistently looked upon the state as the ultimate social reality. The period was one in which scientific division of labor and specialization had been barely attempted, in which political economy in its early, cameralistic beginnings was treated in connection with theories of the state, ethics, philosophy and natural science. In these circumstances a sharp differentiation of spheres and methods of thought could hardly be expected. Cameralism is interpenetrated by elements of other sciences, especially of those disciplines which had the greatest significance in that day, the theory of the state and the natural sciences, which were then beginning to flourish.

LOUISE SOMMER

See: MERCANTILISM; ECONOMICS; ECONOMIC POLICY; ADMINISTRATION, PUBLIC; PUBLIC FINANCE; STATE; NATURAL RIGHTS.

Consult: Roscher, Wilhelm, *Geschichte der Nationalökonomik in Deutschland* (Munich 1874) p. 228–35, and "Die österreichische Nationalökonomik unter Kaiser Leopold I" in *Jahrbücher für Nationalökonomie und Statistik*, vol. ii (1864) 25–59, 105–22; Small, A. W., *The Cameralists* (Chicago 1909); Nielsen, A. E. H., *Die Entstehung der deutschen Kameralwissenschaft*

im 17. Jahrhundert, tr. from the Danish by Gustav Bargum (Jena 1911); Zielenziger, Kurt, *Die alten deutschen Kameralisten*, Beiträge zur Geschichte der Nationalökonomie, no. 2 (Jena 1914); Sommer, Louise, *Die österreichischen Kameralisten in Dogmen geschichtlicher Darstellung*, 2 vols. (Vienna 1920–25); Stein, Lorenz von, "Zur Geschichte der deutschen Finanzwissenschaft im 17. Jahrhundert" in *Finanz-Archiv*, vol. i (1884) 1–44; Schmid, Ferdinand, "Über die Bedeutung der Verwaltungslehre als selbständiger Wissenschaft" in *Zeitschrift für die gesamte Staatswissenschaft*, vol. lxv (1909) 193–223; Marchet, Gustav, *Studien über die Entwicklung der Verwaltungslehre in Deutschland* (Munich 1885).

CAMERON, ANDREW CARR (1834–90), American labor leader. Cameron's career epitomizes the rising national labor movement in the United States from the Civil War until the late seventies. His militant independent editorship of the *Workingmen's Advocate* (Chicago 1864–77), the official organ first of the Chicago Trades Assembly and later of the National Labor Union, made it not only the leading labor journal of the period but one of the few bright records in the history of the American labor press. This weekly periodical, with its nation wide circulation, not only reflected the temper of American labor—its advocacy of independent political action, of producers' cooperation, of the eight-hour day, of an alliance of industrial with agricultural labor and, during the post-war depression, of "greenbackism"—but did much to clarify and popularize these issues.

Cameron was prominent also in the Chicago typographical union; in the Chicago Trades Assembly, of which he was president for four years; as president of the Grand Eight Hour League; as an organizer of the National Labor Union; and as American delegate to the Fourth Congress of the International Workingmen's Association at Basel in 1869, where he claimed to represent 800,000 organized workers.

The outstanding emphasis of his *Address of the National Labor Congress to the Workingmen of the United States* (Chicago 1867), a comprehensive survey of his own social program, was on independent political action. When in the late seventies labor party agitation began to yield again to an interest in direct economic and industrial action Cameron's influence gradually declined.

CARA COOK

Consult: *History of Labour in the United States*, ed. by John R. Commons and others, 2 vols. (New York 1921) vol. ii, and *A Documentary History of American Industrial Society*, 11 vols. (Cleveland 1910) vol. ix.

CAMORRA was a secret society which originated and operated in the province of Naples; in its last stage it was described as the "greatest criminal organization in the world." From 1820 until its extinction in 1922 the Camorra, while identified with the lowest stratum of Neapolitan life, had periodic contacts with the upper classes not only in Naples but also in other parts of the peninsula. It cannot be dissociated from the regime of the Spanish Bourbons, who suppressed every popular political expression, or from the succeeding reign of the house of Savoy. Its changes in organization and character more or less reflected such events as the abortive Carbonari revolution of 1820, the revolt of Young Italy in 1843, the local repercussions produced by the Sicilian revolution of Ruggiero Settimo and the drastic prosecutions of members of the Società Unita Italiana in 1848, the advent of Garibaldi followed by the evacuation of the Bourbons in 1860, the absorption of Naples by the kingdom of Italy in the following year and finally the World War and the rise and dominance of Fascism. More intimate influences in shaping its destinies were the illiteracy and idleness general in Naples, a land in which bare subsistence may be obtained with no great effort.

The Camorra was first heard of as a movement for organized protection among released political offenders who in 1830 established themselves in the city of Naples. The more criminal elements associated with the organization formed gangs which preyed upon the unprotected in the ill governed city or, for a consideration, offered immunity. This society's smuggling activities brought it into contact with the predatory authorities, both civil and ecclesiastic. High personages paid for crimes committed for their benefit or for immunity and the police often employed the society to expose non-Camorrist crimes. The Camorra "taxed" officials holding lucrative positions and secured large revenues from brothels, gaming establishments and illegal lottery bureaus. It probably reached the acme of efficient organization between 1830 and 1848. There was evolved a curious ritual of initiation with tests of courage and loyalty, oaths sworn on pistol, dagger and poison and penalties for infringement, ranging from maiming to death; there were signs for secret communication and a special vocabulary. The members served novitiates before they were assigned or permitted to undertake major crimes. There was a "lower" or *bassa* Camorra and a "higher" or *alta*. The latter

was the governing body and maintained secret affiliations with the authorities and influential persons.

The withdrawal of the constitution of 1848 brought the society into politics. In 1851 the administration of Ferdinand II employed *basisti* spies for the apprehending of political prisoners; Gladstone estimated the number of political prisoners at the time as between fifteen and twenty thousand. Under Francis II the court camarilla attempted to suppress the Camorra. In reprisal the society transferred its allegiance to the Garibaldi Committee and was an important factor in driving out the Bourbons in 1860. Its services were accepted for a time by the new provincial government under the crown of Italy as an auxiliary of the police, but it soon got out of hand and in 1862, 1877 and 1899 determined efforts were made to suppress it. The report made in 1901 by a royal commission of inquiry brought into being an "Honest Government League" in Naples which succeeded in having all Camorrist candidates defeated at the provincial and municipal elections and considerably lessened the Camorrist influence in the *mala vita*, or underworld. Though serious and disinterested publicists wrote that the Camorra was no more, evidence of its presence periodically came to light and the number of unpunished crimes continued to increase.

In the summer of 1906 the murder of a couple named Cuocolo took place. Both husband and wife had the reputation of being *basisti* of the Camorra; both were suspected of working with the Questura, or municipal police. For a variety of reasons the government at Rome was anxious to bring about reform in Naples and hence undertook a secret investigation which lasted five years. After a trial of sixteen months (March 11, 1911, to July 8, 1912) at Viterbo thirty of the accused were convicted. The constant rulings of the presiding judge to confine the procedure to the Cuocolo murders per se and to circumstantial evidence, the persistent manner in which evidence indicting the society itself was disallowed, constant warnings given the prosecution by the bench and subsequent action against witnesses showed that the Camorra still had its protectors in high places. In spite of the fact that the leaders of the society were in prison the Camorra was in a fair way to restoration before the World War. After the war the activities of the Fascist organization absorbed its energy and operated to check its recovery.

In social, political and criminal history the Camorra is unique. It is doubtful that it ever, as an organization, exerted any measurable influence outside of Italy, although the murder of a New York lieutenant of police at Palermo in 1909 by members of the Sicilian Mafia was very probably instigated by Alfano, head of the organization, in revenge for his deportation from New York.

WALTER LITTLEFIELD

See: SECRET SOCIETIES; GANGS; LAWLESSNESS; TERRORISM; BRIGANDAGE; MAFIA.

Consult: Monnier, Marc, *La camorra* (Florence 1862); Villari, Pasquale, *Lettere meridionali ed altri scritti sulla questione sociale in Italia* (2nd ed. Rome 1885); Umiltà, A., *Camorra et mafia* (Neuchâtel 1878); Alongi, Giuseppe, *La camorra* (Turin 1890); Blasio, A. de, *Usi e costumi dei camorristi* (2nd ed. Naples 1897); Heckethorn, C. W., *Secret Societies of All Ages and Countries*, 2 vols. (new ed. London 1897); Serao, Ernest, "Truth about the Camorra" in *Outlook*, vol. xcviii (1911) 717–26, 778–87; Anon., "Camorra in Modern Italy" in *Edinburgh Review*, vol. ccxiv (1911) 379–96; Russo, F., and Serao, E., *La camorra* (Naples 1907).

CAMPAIGN, POLITICAL. Within the general framework of similarity shared by all democratic institutions, the organization and conduct of political campaigns vary from country to country. The system of government of itself produces certain variations. Thus the cabinet system, with its ever present threat of surprise elections, requires a more continuously functioning campaign machinery than does the congressional system. Within each of these two major types, furthermore, variations will occur which are traceable to the political psychology and tradition of the people. Thus campaigns in England differ from those in France, campaigns in the United States from those in Latin American countries. American phenomena may, however, fairly be regarded as typical. Since it was in the United States that the experiment with democracy began, some decades in advance of European countries, it is here that we should expect to observe party processes which, by reason of greater maturity, have something like universal significance. The presidential campaign, occurring at four-year intervals and bringing into play all the elements of party organization and strategy, affords the best means of approach to American practise.

A political campaign, like a military campaign, requires organization. There must be a general staff responsible for preparing plans and coordinating effort, a chief of staff who directs operations and a hierarchy of commissioned and

non-commissioned officers who transmit orders to the rank and file. Democracy involves the cooperation of millions in a common enterprise; and the parties, seeking to mobilize and regiment the vast electorate, must set up machinery appropriate to their task. This machinery assumes in the United States the form of a pyramid, with the national committee at the apex and the mass of party members, segregated in precincts or election districts, at the base. Until late in the nineteenth century it existed solely by virtue of party action and lay outside the domain of law. Today the national agencies still retain that voluntary character; Congress has not attempted, and probably has no power, to regulate them. But within the several states the situation is very different. Primary laws define party, lay down the conditions of party membership, describe the composition of state and local committees, the way in which they shall be chosen and, in general language, the functions which they shall perform. Such regulation by statute—even though rudimentary in some states, particularly in those of the solid South—stands out as a characteristic feature of American politics.

Party organization in the United States begins with the precinct or election district, the smallest political division of the state. Here, as a rule, the party members choose at the primary an executive officer who serves as a link between the upper ranges of the organization and the individual voter. Above this officer are numerous committees, corresponding to the more important electoral areas—assembly districts, counties, senatorial districts—and, since the control of these depends upon what happens in the various precincts, he must swing the primary vote. His own political life is at stake. He wins success by tireless effort, by getting to know all the party adherents, their business interests, their tastes and inclinations, their vulnerable spots. The really important committees are those of the county and the state; in larger cities, because of the density of population, the ward is interposed between precinct and county as a base of major operations. In three fourths of the states the county committee consists of the precinct leaders. The county chairman, who has access to an extensive patronage in the form of public offices and contracts, may become a dominant figure, holding his place over a long period and wielding the authority of a benevolent despot; or he may be merely the henchman of a county boss who works behind the scenes. The state central committee sometimes stands in a truly hierarchical relation to the committees below, its members consisting, for example, of the congressional district chairmen. More often the members are chosen at the primary or state convention and thus have an independent origin. Even so, the necessity for some concentration of power in the management of party affairs and the conduct of campaigns gives the committee great prestige as long as the party is united and harmonious. Its chairman, however, is seldom more than the titular head of the party organization. Effective leadership commonly rests with the governor, a United States senator or a crack politician who holds no office; and his authority permeates the complex mechanism from state committee down to precinct executive.

The national committee consists of a man and a woman from each of the states, territories and insular possessions. It is elected by the national convention late in June of the presidential year; and, since the convention does in fact merely ratify the choice of the various state delegations, which in their turn are instructed by the state committees, national party organization is in a measure derived from state party organization. Close and cordial cooperation between the two is insured in other ways. In the presidential year public interest centers upon the struggle for possession of the chief magistracy. Every other campaign takes its tone from the presidential campaign; every other candidate finds his fortunes involved in those of the presidential candidate. Moreover the national committee wields a sort of financial hegemony, exhausting sources of supply in the collection of its campaign fund and thus making the state committees somewhat dependent upon its largess. These circumstances have a still greater effect in subordinating the congressional and the senatorial campaign committees, which are concerned respectively with the election of representatives and senators. Tradition has established the right of the presidential candidate to name the chairman of the national committee. This arrangement gives the victorious faction, when there has been a bitter contest for the presidential nomination, some security against sabotage; it insures an intimate, confidential relationship between the candidate and the man who manages his campaign. The candidate may reserve to himself the final word in matters of high strategy, as did Roosevelt in 1904 and Coolidge twenty years later; usually, however, he stands aside. The

chairman, absorbing the powers of the committee, exercises an almost autocratic authority. He does, of course, confer with the candidate and his executive committee; he requests and takes advice from many quarters. But rapidly shifting situations in a campaign do not permit the delay that is involved in seeking a collective decision.

The national party convention selects the candidates and adopts a platform, a long document which surveys the whole field of national politics and makes pronouncements upon a great variety of questions. Now and then it sounds a clear note upon some paramount issue. Usually it bears the marks of artifice, ambiguity and dexterous evasion. Its anaemic character reflects the very essence of the democratic principle. The party is a vast combination of voters brought together upon a common ground by mutual concessions and by the harmonizing of group and sectional interests. Each separate element must be ready to make sacrifices, abandon extreme claims and adjust itself to the average sentiment. What satisfies no particular group may give tolerable satisfaction to the party as a whole. Toward the middle of August the presidential candidate delivers his speech of acceptance. He gives precision to the vague language of the platform. Having observed the trend of opinion, he emphasizes one declaration, tones down another and perhaps commits himself and the party upon some issue which the convention has overlooked or ignored. The people give ear. They are now listening to an authentic voice. Indeed, they are coming to regard the candidate rather than the convention as the responsible expositor of policy and principle.

The national chairman, capitalizing popular interest in the opinions and personality of the candidate, always gives him as much prominence as possible in the campaign. The methods vary. Coolidge in 1924 made no political speeches; like McKinley in 1900 he felt that a president seeking reelection should hold himself aloof from partisan controversy. Nevertheless, his personality, as presented to the electorate by the most ingenious propaganda, became the chief Republican asset. Harding, like McKinley in 1896 and Wilson in 1916, spoke frequently from the front porch of his Marion home. The front porch campaign has many advantages; the candidate preserves his dignity and his physical well-being; his speeches are prepared with deliberation and so escape incoherence and mere repetition; the newspapers, receiving advance copies, print them in full. On the other hand, the swing around the circle, with hundreds of speeches from the rear platform of a train, gives millions of people the chance to see the candidate in flesh and blood, hear the actual tones of his voice and become acquainted with his personality. This method of campaigning began with Bryan in 1896. It continued with Roosevelt, Taft, Hughes and Cox. At present, however, it is condemned by political experts for, as the candidate succumbs to the perpetual strain, his speeches steadily degenerate in quality, and press representatives find little copy in the improvisations of a tired mind, incapable of generating fresh ideas. In the campaign of 1928 a new factor was introduced. Both parties used the radio as a means of circulating through the whole nation the proceedings of the conventions, the speeches of acceptance and the speeches of the candidates during the campaign. The Democrats spent nearly $600,000 for this purpose, the Republicans nearly $500,000.

Speech making is not, of course, confined to the candidates. The national committee sends out ten or fifteen thousand speakers, the local committees a much greater number. There is a terrific deluge of campaign oratory. It descends upon a small street corner gathering from the tonneau of an automobile and upon the great throng that packs a city auditorium. It inundates the whole community from the columns of the press and from the loud speaker of the radio. Mass meetings, preceded, it may be, by parades or other colorful demonstrations, appeal to the emotions still more than to the intellect. They generate or confirm enthusiasm among the rank and file of party adherents. Missionary work for the conversion of important groups—sectional, economic, racial, religious—goes forward at the same time. According to the particular state, success may depend upon the attitude of the dairy farmers, or the Negroes, or the Mormons. Indeed, the electorate is composed of interest groups rather than of individuals; and in approaching these groups infinite care must be taken to select the right kind of gospel and the right kind of missionary. In one case the speaker must show that the tariff on raw wool does not affect the profits of the woolen cloth manufacturer; in another he must dexterously fan the flame of prejudice and bigotry. There is danger in the appeal to base emotions, however, and in the attempt to besmirch a candidate by innuendoes and whispered aspersions upon his

private life. The spirit of fair play runs strong.

As an instrument of publicity the printed word is, perhaps, more influential than the spoken word. At any rate, the newspapers play a most important role. Many newspapers attach themselves to one of the major parties and give willing support throughout the campaign. Others, normally independent, take sides because the candidate or his policies attract them. The press bureau at party headquarters, whose business it is to supply ammunition, varies the character of its services with the type and importance of the newspaper. Skilful writers turn out news items, articles, editorials. Latterly a great deal of attention has been given to advertising; a paid advertisement carries propaganda into neutral or hostile territory, which the free publicity of party organs will not do. The billboards were used effectively for the first time in 1916, when the Democrats displayed the slogan, "He has kept us out of war," along with the picture of a happy home in peace. Four years later the Republicans gave currency to the slogan, "Let us be done with wiggling and wabbling." While the press is the most effective medium of propaganda, party managers set great store by pamphlet literature, centering upon the outstanding issues and the career of the presidential candidate. These numerous pamphlets, varying in size from four pages to eighty or even more, are printed and distributed in enormous quantities and at great expense. The most interesting publication of the national committee is the campaign textbook, a volume of four or five hundred pages for the aid of party workers and journalists.

The effort of the campaign is not spread evenly over the country. In certain areas, where one party or the other has an assured predominance, no serious contest occurs. It is the doubtful states that become the theater of active operations. From them the candidates are chosen; for them the issues are defined; in them the fighting forces are concentrated. The national chairman, trying to estimate the drift of popular sentiment in these doubtful areas, must have accurate information. Reports will be laid before him from every precinct captain in a given state, showing whether more energetic measures are required. There may be a second elaborate canvass of the voters, perhaps even a third, in order to see how well the new drive is succeeding.

The various instruments of publicity—advertising, radio broadcasting, printing and distributing literature—entail heavy expenditure. We have no means of reaching an accurate computation of the aggregate cost to the major parties. The available figures show only what the national and state committees have spent, which in 1928 amounted to $16,500,000 for Republicans and Democrats together. The expenditures of local committees and individual candidates must likewise reach a gigantic sum. Aside from the assessments laid upon office holders and candidates for office, the party funds are derived from voluntary contributions. Toward the end of the last century big business began to furnish enormous subsidies, often with the purpose and expectation of influencing public policy. This interested generosity has been curtailed by legislation. In order to allay popular suspicion the national committee has at times put a limit upon the size of individual subscriptions and relied upon collecting small sums from the great mass of party adherents. The outcome has not been encouraging. Latterly the source rather than the size of a check has been the important consideration; money is welcome in any amount so long as it is not tainted and comes without any implied obligation attached to it. In 1928 one Republican contributed $172,000; three Democrats more than $100,000 each. On the other hand the number of individual contributions went beyond any previous record: 145,000 in the case of the Republicans and 90,000 in the case of the Democrats.

How should the campaign be appraised from the standpoint of social values? In the first place it is a necessary incident of democratic politics, an inevitable corollary of the democratic system of election; and convinced democrats regard it, with something more than complacency, as a means of popular education. The people put aside other interests, give all their attention to the prolonged debate on public affairs and prepare to announce their solemn verdict. The campaign emphasizes civic virtue and civic responsibility. According to the skeptics, however, it appears as a colossal travesty, as a calculated effort to bamboozle the great mass of standardized mediocrity. The poison gas of propaganda overpowers judgment and blunts sensibility. At the end the bewildered voter staggers blindly into the polling booth, incapable of making any rational decision. Both these views are mistaken; for both exaggerate the effectiveness of the campaign. There is, at least, reason to believe that the results are quite disproportionate to the cost in money and energy.

The voter's interest in politics is not altogether spasmodic; he does not suspend judgment and wait for the campaign to enlighten him. His attitude toward the parties, if not grounded securely on interest or prejudice, takes shape gradually under the impact of political events. The *Literary Digest* poll, accurately forecasting the outcome of the elections in 1924 and 1928, helped to burst the iridescent bubble of campaign oratory and literature. It does seem that the party appeal can be effective only if it is continuous—culminating, not beginning, in the period just before the election.

EDWARD MCCHESNEY SAIT

See: ELECTIONS; PRIMARIES, POLITICAL; CONVENTIONS, POLITICAL; PARTIES, POLITICAL; PUBLIC OFFICE; MACHINE, POLITICAL; SPOILS SYSTEM; POLITICS; CORRUPTION, POLITICAL; NON-VOTING; CABINET GOVERNMENT; CONGRESSIONAL GOVERNMENT; COMPROMISE; OPPORTUNISM; PUBLIC OPINION.

Consult: Ostrogorskiĭ, M. I., *La démocratie et l'organisation des partis politiques*, 2 vols. (Paris 1903), tr. by F. Clarke (New York 1902) vol. i, pt. iii, chs. i–iv, vol. ii, pt. iv, ch. iv, pt. v, chs. iv–v; Bryce, James, *The American Commonwealth*, 2 vols. (new ed. New York 1910) vol. ii, chs. lxxi–lxxiii; Sait, E. M., *American Parties and Elections* (New York 1927); Kent, F. R., *The Great Game of Politics* (New York 1923), especially p. 103–48, 195–270; Pollock, James K., *Party Campaign Funds* (New York 1926); Sait, E. M., "Campaign Expenditures" in *American Political Science Review*, vol. xxiii (1929) 47–58; United States, Senate, 70th Cong., 2nd Sess., Special Committee Investigating Presidential Campaign Expenditures, *Presidential Campaign Expenditures . . . Report*, Senate Report 2024 (Washington 1929); Lowell, A. L., *The Government of England*, 2 vols. (new ed. New York 1912) vol. i, ch. x, vol. ii, chs. xxxi–xxxii, xxxiv; Buxton, C. R., *Electioneering Up-to-Date* (London 1906); Brooks, Sydney, "English and American Elections" in *Fortnightly Review*, n.s., vol. lxxxvii (1910) 246–56; Bodley, J. E. C., *France* (new ed. London 1899) bk. iii, ch. ii.

CAMPANELLA, TOMASO (1568–1639), Italian philosopher. He was one of those who represented in greatest degree the tragic struggle of the Italian Renaissance between the mediaeval and the modern, a struggle of opposing forces both in the outer world and within the mind. Testimony of this conflict is afforded by the wretched thirty-years imprisonment inflicted upon Campanella on the charges of heresy and of conspiracy; it is further revealed in the contrast between his naturalistic-gnosiological ideas, wherein he followed Telesio and Galileo and anticipated Descartes and Leibnitz, and his belief in magic and astrology; between his affirmation of natural religion and his adherence to the Counter-Reformation; between his defense of natural right and the mediaeval conception of his theocratic utopia.

According to Campanella's social philosophy all beings are united by the bond of natural religion. The latter is immanent in every creature as the instinct for self-preservation, which is at the same time the instinct to unite with the supreme principle. The form which natural religion assumes in man is the compulsion of natural right, of universal brotherhood, of striving toward godhead. Proper understanding of the nature of man must become the basis of politics if the latter is to be transformed from art into science. In the human instinct for self-preservation, which Machiavelli regarded as the source of nothing but egoism, evil and war, Campanella saw the force engendering the need for union and law and the impulse to conform to eternal natural law. This harmony of politics and ethics is the theme of Campanella's two utopias: the universal theocratic monarchy described in *Monarchia di Spagna* (Amsterdam 1640) and other works and the communistic *Città del sole* (first published as *Civitas solis, idea reipublicae platonicae* in *Realis philosophiae epilogisticae*, Frankfort 1623). Both of these works appear in the complete edition of Campanella's writings by d'Ancona (Turin 1854).

Like the utopias of More and other Renaissance writers the *Città del sole* owes much to Plato's *Republic*; it owes still more to contemporary accounts of the Incas and to the example of religious communities such as those founded by the Anabaptists and by Catholic missionaries. To community of goods Campanella added that of women. He subjected all social life—economic, sexual and educational—to stringent regulation. It is significant that he animated his whole community with the conceptions of natural right and equality.

RODOLFO MONDOLFO

Consult: Blanchet, L., *Campanella* (Paris 1920), with bibliography; Mattei, Rudolfo de, *La politica di Campanella* (Rome 1927); Croce, B., *Materialismo storico ed economia marxistica* (4th ed. Bari 1921) ch. viii; Treves, Paolo, *La filosofia politica di Tomaso Campanella* (Bari 1930).

CAMPBELL, ALEXANDER, nineteenth century British trade unionist. He was early a follower of Robert Owen and in the thirties edited Owenite journals in Glasgow. He attempted to form a general union along Owenite lines and was also secretary of the Glasgow joiners' union in the thirties as well as founder

of a new union of joiners in 1856. Two years later he became the virtual founder of the Glasgow Trades Council. He had a continuous connection with the labor press, becoming in 1860 editor of the Glasgow *Sentinel*, the organ of the newly formed National Association of Miners. He clung to the Owenite tradition and as late as 1868 presented to the Royal Commission on Trade Unions a detailed argument for Owenite societies of producers.

Campbell's most significant achievement was the inauguration and leadership of an agitation among trade unions for an amendment of the Master and Servant Law which contained, among other harsh and oppressive features, a provision that a breach of contract of service committed by a workman was a criminal offense punishable by imprisonment, but if committed by an employer entailed only a civil suit for damages. The trade union conference of May, 1864, held in London as a result of this agitation, was the first spontaneous meeting of trade union delegates to consider measures for their general welfare, and the amendment to the law enacted in 1867 was the first positive trade union success in legislation. Campbell and his associates thus helped to give a new direction to trade union policy and facilitated further advance by encouraging political action.

FRANCES E. GILLESPIE

Consult: Great Britain, Parliament, House of Commons, "Report of the Select Committee on Master and Servant" in *Parliamentary Papers*, vol. xiii (1866) 14–23; Webb, Sidney and Beatrice, *The History of Trade Unionism* (rev. ed. London 1920); Postgate, R. W., *The Builders' History* (London 1923).

CAMPBELL, JOHN, BARON (1779–1861), English judge. He became eventually Lord Chancellor of England. As judge he was sound but not brilliant, and perhaps his greatest contribution was to establish the doctrine that the House of Lords is absolutely bound by its own judgments. His reputation is based rather upon his genuine passion for legal reform and on his literary labors. His report as head of the Real Property Commission of 1828 has proved of considerable value in subsequent legislation. Campbell supported a whole series of statutory reforms, and three acts which are still of great importance bear his name: the Libel Act (1843), establishing truth as a defense in a criminal prosecution for libel if the publication was for the public benefit; the Fatal Accidents Act (1846), permitting suit by the near relatives of the deceased in case of wrongful death, thus derogating from the ancient maxim of the common law, *actio personalis moritur cum persona*; and the Obscene Publications Act (1857), the basis of the present literary censorship in England. Among his works the most famous are *The Lives of the Lord Chancellors* (7 vols., London 1845–47; 7th ed. in 12 vols., Jersey City 1881–85) and *The Lives of the Chief Justices* (3 vols., London 1849–57; new ed. in 5 vols., Northport, N. Y. 1894–99), of which the former gained especially wide attention. Despite its original materials it has been attacked for gross inaccuracy and bad taste and for "adding a new terror to death." Campbell also published his own *Speeches* (London 1842) including his long argument for the House of Commons in Stockdale *v.* Hansard, the leading case on parliamentary privilege.

ARTHUR GOODHART

Consult: Campbell, J. C., *Life of John, Lord Campbell*, ed. by his daughter, M. S. C. Hardcastle, 2 vols. (2nd ed. London 1881); Atlay, J. B., *The Victorian Chancellors*, 2 vols. (London 1906–08) vol. ii, p. 127–218; Sugden, E. B., *Misrepresentations in Campbell's Lives of Lyndhurst and Brougham* (London 1869); Ernst, M. L., and Seagle, William, *To the Pure* (New York 1928) ch. vi.

CAMPILLO Y COSSIO, JOSÉ (*c.* 1695–1743), Spanish economist and statesman. In 1741 he became prime minister and during his brief term succeeded in substituting a system of direct tax collection for tax farming. He was responsible for various other reforms and through his writings considerably influenced later colonial policy.

His most famous work is *Nuevo sistema de gobierno económico para la América* (Madrid 1789), written in 1743, in which he urged the necessity of harmonizing government with economic policy. He criticized the government of Spanish America, blaming it for the wretched agricultural conditions and the misery of the Indians. He deplored the fact that native manufactures were growing to the detriment of the mother country and that the maximum importation from Spain represented only one twentieth of American consumption. As remedial measures he proposed: to give the Indians lands, tax free for fifteen or twenty years, after which time they would pay a moderate rent; to use Indians as artisans; to organize mortgage loan companies and *pósitos* (public agricultural credit institutions); to allow only such factories as did not compete with Spain or as found cheap and

abundant raw material in America; to diminish contraband trade by reducing the customs duties on foreign commerce; to exempt Spanish commerce from taxation and to permit free trade within Spanish America to Spaniards in Spanish boats; to encourage commerce between New Spain and Asia via Acapulco and the Philippines; to have large companies establish commercial distribution centers in strategic places; to organize a fast mail service; and to establish the office of economic governor.

FERNANDO DE LOS RÍOS

Consult: Rodríguez Villa, A., *Patiño y Campillo* (Madrid 1882).

CAMPING, the practise of living in a temporary lodge or shelter, has appeared intermittently throughout history but has become a major social phenomenon only within very recent years. Camping is essentially a folkway of an urban civilization; primitive or pioneer groups may camp temporarily when necessity dictates, but it is only a city people that adopts the temporary but periodic retreat to the out of doors as a form of recreation and a phase of the accepted ways of living. Moreover, while every period of extensive urbanization has been accompanied by movements back to the land, in no other time but our own has a return both easy and temporary been possible for the majority of people.

It is in the United States that camping has been most markedly woven into the pattern of social life. The Sunday picnic in the country had become habitual to many a townsman of pre-war Europe; in the post-war youth movements, especially in the *Wandervögel* of Germany, the impulse to a free and "natural" life found expression in camping and living out of doors; but only in the United States has camping developed into a national habit and an organized industry. A variety of factors have contributed to this development: the persistence of the traditions and impulses of the pioneer period, the presence of large areas of unused land, the looseness of family ties and the need for new groupings with vital group interests. In more recent years the automobile and the publicly constructed motor road have given a new impetus and a new form to camping; while the spread of the recreation movement, with its emphasis on the values of out of door life, have lent it a new rationale.

The impetus to the founding of the earliest organized camps in this country was afforded by the boys' and girls' club movement of the late nineteenth century, and for a number of years organized camping has been essentially an educational and recreational project for children. Thus the first organized camp of which there is any record was founded in 1872 at Lake Waramaug, Connecticut, by Frederick William Gunn, headmaster of the Gunnery School. Although it enrolled almost the entire membership of the school it was primarily a recreational agency. Religious groups were also active in the establishment of camps; one of the earliest was a small camp established in 1880 by the Reverend George W. Hinckley for boys from his church. Five years later Camp Dudley, which is still in existence, was founded at Westport, Lake Champlain, New York, under the auspices of the New York State Young Men's Christian Association. In 1881 what is commonly regarded as the first private camp in America was opened at Chocorua, New Hampshire, by Ernest Balch.

During the next few decades camps of this type, established by schools, churches, social welfare organizations and private individuals, grew in number and popularity. Within a short time certain techniques and customs of camp organization had developed and might be found in but slightly different form in all camps. The organized camp, under whatever auspices it is conducted, is characterized by the fact that the camp as a corporate entity assumes responsibility for the welfare of the camper. It ordinarily provides a director of organization and activities and a well integrated daily program. The campers are often divided into groups, each under the direction of its counselor, who is a paid staff member responsible to the director. Athletics, woodcraft, nature lore and amateur dramatics play an important part in the program. With the growth among wealthy and middle class families of the practise of sending their children to camp for the whole of the summer, studying and tutoring programs of great variety have been adopted by many boys' and girls' camps.

As the camping movement became better established, a variety of new forms developed. For the older boy or girl the organized pack-trip camp in the west and southwest of the United States or the canoe camp in the Adirondacks, Maine and some of the Canadian parks have become popular. To meet the needs of the employed and less wealthy groups week end camps have been established both commercially and by such organizations as the Young Men's and

Young Women's Christian and Hebrew associations, social settlements, labor unions and churches. Most commercial camps for adults stress special week end features. The family camp has been of increasing importance.

The possibility of combining the ordinary features of camp life—the outdoor activities, the recreational methods, the escape from accustomed routine—with special ends and programs has been recognized by many groups. A great variety of special camps are now in existence. Citizens' Military Training Camps conducted by the United States War Department at fifty-three centers accommodated, in 1929, 37,979 young men between seventeen and thirty-one years of age. The government also conducts Reserve Officers' Training Camps, while several of the states have short term camps, usually of two weeks' duration, for the training of militia. Engineering schools have established technical practise camps chiefly for field work in surveying; and tutoring camps for coaching in preparatory and college subjects are growing in number. Camps devoted primarily to professional training in music, drama, art and rhythm have appeared in recent years. National religious bodies have made frequent use of short term camps conducted in connection with summer conferences. College liberal clubs and organizations like the League for Industrial Democracy also utilize such camps, which are becoming increasingly important as the adult education movement in this country copies the pattern of the European week end and summer conferences. The primary purposes of some camps, conducted, for instance, by certain religious bodies and by the Communist party, is undoubtedly propaganda. The United States Department of Agriculture uses its Four H Club camps to stimulate in older boys and girls an interest in the activities of farm life. Of increasing importance are camps for undernourished, disabled, convalescent and problem individuals. More than three hundred disability camps devote their entire efforts to children and some of the most important among them provide psychiatric care. Camps afford unique opportunities to control the life situation of non-institutionalized individuals as clinics do not; and universities and child guidance clinics are increasingly recognizing the value of camps as social laboratories for the study and treatment of behavior disorders.

Less easy to classify and enumerate, but of growing importance, are the many types of unorganized camps which may be found throughout the country. Such camps may be conducted by individuals or by small groups. They may be temporary or permanent, entirely independent of supervision and control or subject only to police, fire and sanitary regulations. The automobile has brought into existence a totally new kind of camp, the tourist camp, most temporary of modern homes. Tourist camps are conducted by the federal government in the national parks, by state, county and municipal bodies, by semi-public bodies such as chambers of commerce, and as business ventures. They vary in character from the simplest of structures to elaborate groupings of buildings and recreational facilities.

Statistics cannot express the importance of the growth of camping habits. Yet the incomplete figures which are available do at least give some indication of the extent of the phenomenon. Official returns to national organizations indicate that, in 1929, 7368 organized camps accommodated 1,142,500 campers, chiefly children, for periods varying from one week to nine weeks. Approximately 300 municipal and state camps accommodated 80,000 people, of whom 80 percent were children. National and state parks reported a total of 1,533,000 campers, about one third of whom were children. Private camps for children reported an enrolment of 100,000, but it is conservatively estimated that the number of private camps not reporting enrolment exceeds the number registered. No figures are available as to the number in adult commercial camps, which have experienced a continuous and recently somewhat accelerated growth.

The widespread popularity of camping is both symptomatic of a society characterized by a high degree of social mobility and in itself a factor contributing to the increase of mobility. The tourist camp has arisen most directly in response to the needs of a touring population; it contributes to making trips throughout the country possible for ever increasing numbers. In it the greatest mixing of social groups occurs. But because of the temporary character of most of the contacts it furnishes it may have less effect on social attitudes than the more permanent type of camp. In these also groups with very different backgrounds associate in common activities. Moreover, not only the vast majority of camps for children but also most of those for adults utilize organized programs which stress certain values and aim to develop socially acceptable attitudes and conduct. Indeed, leadership of camp activities is becoming an accepted

profession. Training courses for such leaders are conducted annually by as many as twenty recognized colleges and universities, by local community groups and by such national agencies as the Young Men's and Young Women's Christian associations, Boy and Girl Scouts, Camp Fire Girls, Woodcraft League, Camp Directors' Association, American Red Cross and the United States Department of Agriculture.

In such indirect ways common traditions of camp organization and camp life are built up. A more direct impetus to standardization of camping techniques comes through the establishment and operation of camps by municipal and other governmental bodies. State boards of health generally have enacted codes of sanitation applicable to camps, and they are rapidly extending the range of their supervision and control over all camps. Within recent years there has been a definite trend toward consolidation in the camp movement either through the combination of two or more hitherto separate camps or through the establishment of chains of camps.

Camping has become a profitable industry, contributing to the development of remote sections of the country, adding to the demand for roads and roadside advertising. It has grown to the point where it has been subjected to government regulations as well as government promotion. There is every likelihood that it will remain one of the important forms of recreation and amusement of the modern urban world.

HENRY M. BUSCH

See: RECREATION; PARKS; AUTOMOBILE INDUSTRY; BOYS' AND GIRLS' CLUBS; YOUTH MOVEMENTS; URBANIZATION; MOBILITY, SOCIAL.

Consult: There is no adequate general discussion of camping nor is any serious study of tourist camping available. There are a few partial treatments of organized camping which although they are written for the instruction of camper or camp leader throw some light on the social problems involved. See especially: Playground and Recreation Association of America, *Camping Out* (New York 1924); Dimock, H. S., and Hendry, C. E., *Camping and Character* (New York 1929); Gibson, H. W., *Camp Management* (Cambridge, Mass. 1923); Mason, Bernard S., *Camping and Education* (New York 1930).

CAMPOMANES, PEDRO RODRIGUEZ, CONDE DE (1723–1803), Spanish economist and statesman. He played a prominent part in the eighteenth century movement for the social and economic regeneration of Spain. From 1755 to 1791 he served successively as general director of the postal service, secretary of the treasury and president of the Royal Council of Castile. By means of education, protective laws and the founding of model establishments he did much to develop commerce and manufacture.

In his *Tratado de la regalía de amortización* (Madrid 1765) Campomanes demonstrated by historical and economic arguments the right of the state to interfere with the unconditional transfer of church or other real property and with mortmain in general. He campaigned with some success against the economic power of the church and supported the law of 1763 prohibiting conveyances to the church. His *Discurso sobre la educación popular de los artesanos y su fomento* (5 pts., Madrid 1775–77) is concerned with the industrial situation and the guild system of Spain. Campomanes was largely responsible for the legislation directed against the guilds facilitating apprenticeship and favoring independent artisans. In the *Memorial ajustado del . . . honrado concejo de la Mesta* (Madrid 1783) he explained the grazing privileges of La Mesta, the powerful guild of sheep raisers, and the difficulties that these privileges created for Spanish agriculture. He dealt a final blow to the power of the Mesta and aided agriculture by reducing taxes and allowing free traffic in grain. In the first, fourth and fifth letters of his *Cartas político-económicas* (Madrid 1878, written from 1787 to 1790) Campomanes summarized his views. His economic-social concept of the state stands out in contrast with the formal, legalistic conception of constitutionalism prevalent in the nineteenth century. He proposed that the government should reduce privilege, attend to the national administration and cultivate domestic economic resources rather than depend upon the colonies. Holding economic theories similar to those of the physiocrats he advocated a total reorganization of taxation in order to encourage trade and industry. Public income should be reduced and taxation should be of three kinds: progressive income taxes paid by all for the benefit of the crown; taxes not on property but on products; and luxury taxes.

FERNANDO DE LOS RÍOS

Consult: Pedregal y Cañedol, M., in *Revista de España*, vol. lxxviii (1881) 537–52; Leonhard, R., *Agrarpolitik und Agrarreform in Spanien unter Carl III* (Munich 1909); Desdevises du Dezert, G., "Les lettres politico-économiques de Campomanes" in *Revue hispanique*, vol. iv (1897) 240–65; Costa y Marítez, J., *Colectivismo agrario en España* (Madrid 1898).

CANALEJAS Y MENDEZ, JOSÉ (1854–1912), Spanish statesman. Born in Ferrol, he graduated from the University of Madrid and

soon afterward manifested strong radical tendencies. He was elected to the Cortes in 1881; seven years later he was appointed minister of justice and in 1894–95 minister of finance. Canalejas is the Spanish statesman most closely identified with socialism of the chair. He was responsible not only for the theoretical statement that "the liberal party should adopt the socialist viewpoint" but also for initiating the project of the labor institute. In December, 1901, he published in the review *Nuestro tiempo* a program of government in which he advocated labor contracts, minimum wage laws, social insurance, arbitration tribunals for social problems and laws for the protection of women and children. He proposed likewise the abolition of the consumers' tax, which was an indirect tax on commodities. As president of the Academia de Jurisprudencia he defended the reform of contract law in the civil code and its transmutation into social law. His campaign against latifundia and clericalism aroused public opinion in his favor. He was appointed president of the council February 9, 1910, and undertook the task of limiting the number of privileged religious orders by subjecting them to the general law governing associations and by prohibiting meetings of any group otherwise constituted. He issued an order permitting all religious cults to use outside signs on church façades, as well as an order allowing all except the military to substitute a promise for an oath. The result of this anticlerical legislation was a suspension of relations with the Vatican. He quelled the railroad strike of 1912 by the effective though questionable device of mobilizing under military orders all railroad hands whose ages made them liable to service and by forcing them with threats of military punishment to return to work. This aroused the deep seated animosity of the working class. Canalejas was assassinated in Madrid on November 12, 1912, at the hands of an anarchist.

FERNANDO DE LOS RÍOS

Consult: Francos Rodriguez, José, *La vida de Canalejas* (Madrid 1918).

CANALS. *See* WATERWAYS, INLAND; INTERNATIONAL WATERWAYS.

CANARD, NICOLAS FRANÇOIS (*c.*1750–1833), French economist. In 1801 a prize offered by L'Institut National for the best discussion of the doctrine of the single tax was won by Canard's *Principes d'économie politique* (Paris 1801), which also brought him fame as the author of the diffusion theory of taxation. He held that there is not only a natural labor—that is, labor necessary to sustain existence—but that there is also what he called acquired labor, as well as superfluous labor. These are the foundation of all surpluses or rents: *rente foncière*, the result of the fixed labor applied to land or industry; *rente industrielle*, the result of the *travail appris* in industry; and *rente mobilière*, the result of the *travail superflu* in commerce. All taxes must be paid from one of these three rents, since a tax can never remain on the *travail naturel* which is necessary to existence. The mutual struggle of individuals to secure the greatest surplus results in a balance or equilibrium, and all taxes are shifted because they disturb the equilibrium between the rents. There can be no new equilibrium until every buyer and seller bears an equal share of the burden. Canard likened the circulation of goods to a series of communicating tubes. No matter how much water is poured in or out of any tube it will seek its level by distributing itself proportionally to the diameter of each tube. All taxes, therefore, are ultimately borne equally by every one, which is the same thing as saying that they are ultimately borne by no one. In the meantime, however, while the new equilibrium is being reached, there is friction which may cause serious trouble. Canard therefore concluded that "every old tax is good, every new tax is bad." He was opposed to the French *octroi*, as well as to the new tax on the doors and windows, and his belief in the diffusion theory led him to suggest that these be replaced by a salt tax levied on the producer.

Canard was the author of a *Mémoire sur les causes qui produisent la stagnation et le décroissement du commerce en France, et qui tendent à anéantir l'industrie commerciale* (Paris 1826), in which he objected to the commercial treaties with England and the United States. He wrote also on criminal procedure, mathematics and meteorology.

EDWIN R. A. SELIGMAN

Consult: Seligman, E. R. A., *The Shifting and Incidence of Taxation* (5th ed. New York 1927) p. 159–62.

CANDY AND CONFECTIONERY. *See* FOOD INDUSTRIES.

CANGA ARGÜELLES, JOSÉ, CONDE DE (1770–1843), Spanish statesman and writer on public finance. He became minister of finance in

1820. In 1823, when the constitutional government of Spain fell, he fled to England where he published *Elementos de la ciencia de hacienda* (London 1825), a discussion of the principles of public finance and their application to Spain. His *Diccionario de hacienda* (5 vols., London 1826–27; 2nd ed. in 2 vols., Madrid 1833–34) is a notable work containing various memoirs by the author and by other authorities on public finance. It furnishes a wealth of valuable information on Spanish and colonial economy and makes it possible to trace the evolution of public finance in Spain after 1700.

From the beginning of his ministerial career Canga Argüelles tried to reestablish the borrowing power of the government, which had declined because of the magnitude of the outstanding obligations and the failure to recognize the debts of the former government. He advocated a redistribution of the sales taxes in order to allocate some groups of them to the amortization of the debt. In his *Memoria sobre el crédito público* (Madrid 1820) he also proposed to dedicate to the same purpose a considerable portion of the church property. His intention was to reorganize the loan policy of the government so as to make public credit an instrument capable of serving the treasury in emergencies, but he witnessed only the partial realization of his plans. Some of the measures he proposed went into effect when entails were abolished.

FERNANDO DE LOS RÍOS

CANNIBALISM. The word cannibal dates from the discovery of the New World. When the Spaniards discovered the Antilles they visited the natives of the Bahamas. These people went man hunting in fleets, and were said to have broiled and eaten all male prisoners. In the native language *carib* meant a valiant man, and Columbus heard these natives described as *canibales* and again as *caribales*. Subsequently the word cannibal has been used to cover all anthropophagites.

According to Sumner and others cannibalism dates from the earliest known existence of man on earth, and it is reasonable to believe it a custom which all peoples have practised. A distribution chart (Loeb) including both prehistoric and recent examples supports this statement and indicates that human flesh was either habitually or periodically consumed by certain peoples of all continents and island areas. While it has not been definitely proved that Neandertal man was cannibalistic a very good case has been made for the anthropophagy of Cro-Magnon. In certain burial caves left in Belgium by this early race human bones have been found which, like a number of the animal remains which lay near by, seem to have been the remains of a feast or merely "kitchen refuse."

None of the causes assigned for the practise of cannibalism among primitive peoples is entirely conclusive. Each has rested upon some environmental or psychological factor which "drove" the savage to consume human flesh; yet each could have been at best merely local in its application. The most frequently advanced causes have been lack of food or of larger animals, revenge upon tribal enemies, craving for salt and magical and religious beliefs.

It was formerly thought that lack of food drove the savage to cannibalism. At the time of post-Columbian discoveries, however, cannibalism in its extreme forms was almost universal in the tropics, where an abundance of food existed. Later ethnographers, aware of the absence of large mammals on the South Sea islands and on the continent of Australia, decided that the savage was necessarily cannibalistic because of this lack of warm blooded animal food. But Livingstone and later explorers found cannibalism in interior parts of Africa which were rich in both animal and farinaceous foods. It has been argued further that the Aztecs were cannibals because they had no animal larger than the dog, and that the Incas were not because they possessed the llama. Yet the Toltecs, the race to which the Aztecs owed most of their culture, were devoid of cannibalism, while the native tribes subjected by the Incas were cannibalistic. Revenge was the ruling motive for consuming one's enemy among the Fijians, the Maori and the Marquesan islanders. On the other hand in parts of New Guinea human flesh was often eaten because its flavor was thought superior to that of pork. Sir Harry Johnston has suggested that cannibalism may have arisen in Africa through a craving for salt, but among the man eating natives of the South Seas there is no scarcity of this commodity. Koch, from a comparative investigation of cannibalism among South American Indians, concluded that primitive ideas of magic drove these indigenes to cannibalism. Again, this explanation would seem to prove unsatisfactory in the case of people like the Fans of equatorial west Africa, who sold human flesh in their "butcher shops."

Back of many arguments lies the implied assumption that cannibalism is a violation either

of man's natural instincts or, at least, of his better judgment. But there is no more reason to suppose that man has an instinctive horror of eating human flesh than that he has an instinctive horror of incest. Brehm in his *Thierleben* has given many examples of animals eating members of their own species, and even McDougall has never claimed that man has more instincts than the animals. If man possessed an instinctive aversion to cannibalism it would be impossible to commit the "crime" unknowingly. Yet many white travelers have done this very thing, and have been filled with remorse only upon discovery of their error. The soldiers of Cieza de León, for example, pilfered a pot of "rabbit" flesh from the Amazonian Indians, and it was only after they had eaten their fill that they became aware of the true nature of their repast.

It is difficult for an anthropologist to believe that where primitive groups have given up cannibalism they have done so from rational motives. Frazer has shown in the *Golden Bough* that the primitives fail to make any sharp distinction between men and animals, and this is also the observation of many field workers who have worked in the field of American Indian mythology. Not only has cannibalism not seemed necessarily wrong to savages, but even some European philosophers have made certain satirical comparisons between cannibalism and some practises of civilized peoples. Montaigne quoted the stoic leaders to the effect that it was more humane to eat a victim than to torture him to death, and Voltaire cynically queried the utility of civilized warfare in which the bodies were left as a repast for the crows and ravens.

The tabu on human flesh is a food tabu comparable to the Semitic tabu of pork. Although the exact origins of such tabus are obscure it is certain that they are produced by ideas of religion and magic. The waning of cannibalism must thus have been due to ghost fear. A survey of regions in which the custom was practised at the time these regions were discovered shows that religious restrictions usually surrounded the eating of human flesh, which was considered either unclean or sacred.

The same considerations which put an end to cannibalism in some quarters may have prolonged it in others. If it was dangerous to incur the wrath of a hostile ghost by consuming a human being, it was also wise to get mana in this manner. If man became superior to the animals in degree of sacredness, then it was better ritually to partake of the flesh and blood of the human god than of an animal.

In general, except in the case of the Pygmies, the Veddahs and the Tasmanians, cannibalism has survived until modern times almost exclusively among black skinned peoples and some Mongoloids of North and South America. It is significant that these are the same groups who preserved longest the archaic traits of tribal initiation. These are also the peoples marginal to the culture waves of higher civilizations. Outside of these groups it may be noted that certain Polynesians, mentioned above, and the Bataks among the Malayans also practised cannibalism upon their enemies and prisoners of war.

EDWIN M. LOEB

See: SACRIFICE; MAGIC; TABU; ANTHROPOLOGY.

Consult: Sumner, W. G., and Keller, A. G., *The Science of Society*, 4 vols. (New Haven 1927) vol. ii, ch. xxxv, vol. iv, p. 657–69; Lippert, Julius, *Kulturgeschichte der Menschheit*, 2 vols. (Stuttgart 1887) vol. ii, p. 279–92; Andree, R., *Die Anthropophagie* (Leipsic 1887); Bergemann, P., *Die Verbreitung der Anthropophagie über die Erde* (Bunzlau 1893); Loeb, E. M., "The Blood Sacrifice Complex" in American Anthropological Association, *Memoirs*, no. 30 (1923); Steinmetz, R. S., "Endokannibalismus" in Anthropologische Gesellschaft in Wien, *Mittheilungen*, vol. xxvi (1896) 1–60; Koch, T., "Die Anthropophagie der südamerikanischen Indianer" in *Internationales Archiv für Ethnographie*, vol. xii (1899) 78–110; Rutot, M. A., "Le cannibalisme a l'époque des cavernes en Belgique" in Société Préhistorique de France, *Bulletin*, vol. iv (1907) 318–26; Salas, Julio C., *Los indios caribes* (Madrid 1920); Allier, R., *Le non-civilisé et nous* (Paris 1927), tr. by F. Rothwell as *The Mind of the Savage* (New York 1929) ch. i, sect. ii.

CANNING, GEORGE (1770–1827), British statesman and diplomat. Canning was born in London, the son of a barrister. He entered Parliament in 1794 as a disciple of Pitt, held office during the war, and won European fame as foreign secretary (1822–27) and finally as prime minister. A Conservative looking more to commercial than to landed interests and a convinced believer in constitutional monarchy, he based foreign policy upon national expediency alone—with results as profitable to rising nationalism as they were discouraging to Metternich's "good Europeans." He emphasized his predecessor's dislike of joint intervention in the internal affairs of smaller states, but went much further by his public ridicule of the European Concert itself and of the congresses which were its means of action. His preference for isolated action appears in the dictum: "For *Alliance*, read *England*." Faced by revolutions of different

origins and varying respectability he refused to intervene on behalf of "legitimate" governments, and so earned a scarcely coveted reputation as patron of nationalities and even of radical constitutions. In Greece he intervened at last in 1826, but on behalf of the insurgents and with Russia and France alone. Already the Concert had foundered upon the rocks of French intervention in Spain and the rumored threat of a reconquest for Spain of South America, a market newly opened to English trade. Against this danger Canning looked to the United States and partly inspired the proclamation of the Monroe Doctrine, which was followed by English recognition of the South American republics. In this sense he afterwards boasted, "I called the New World into existence to redress the balance of the Old." Disliked by both parties at home, he left some devoted followers and a strong tradition of "splendid isolation" in foreign policy, which lasted until the end of the century.

C. W. CRAWLEY

Consult: Temperley, H. W. V., *The Foreign Policy of Canning, 1822–1827* (London 1925); Stapleton, A. G., *Political Life of Canning* (2nd ed. London 1831); Cecil, A., *British Foreign Secretaries 1807–1916* (London 1927); Petrie, C., *Canning* (London 1930).

CANNING, STRATFORD, VISCOUNT STRATFORD DE REDCLIFFE (1786–1880), British diplomat. Stratford Canning obtained a post in the British Foreign Office in 1807 when his cousin, George Canning, became secretary of state for foreign affairs. The following year he became secretary in the British embassy at Constantinople, and after the retirement in 1810 of his chief, Sir Robert Adair, Canning took practically sole charge of the embassy. It now fell to him to conduct negotiations, leading up to the Peace of Bucharest (1812), which brought to an end the war between Russia and Turkey and enabled Alexander I of Russia to concentrate upon meeting the invasion of Napoleon. Thus Canning not only contributed to the fall of the Napoleonic empire but also laid the foundations of British influence at the Porte. In 1814 Canning was British minister to Switzerland and helped to draft the Swiss constitution. As minister at Washington (1820–24) he proved friendly to the United States in spite of some passages at arms with John Quincy Adams. His mission to Constantinople in 1825 and to Corfu in 1828 contributed to the independence of Greece. Between 1828 and 1841 he was almost continuously a member of the House of Commons; in 1842 he was appointed ambassador to Turkey. Here he made a position such as no ambassador had previously held. Turkish ministers frequently met in his dining room, and his advice was taken on matters of high policy. It was owing to his firmness that the Turks refused the demands of Russia for a protectorate over the sultan's Greek church subjects, which Canning thought would be fatal to Turkish independence. The Crimean War, which followed, is the sole exception to the success of Canning's efforts to adjust international difficulties and to make or keep peace. Canning was created Viscount Stratford de Redcliffe in 1852. His *The Eastern Question* (London 1881) is a collection of articles written after his retirement from the diplomatic service in 1858. A most illuminating account of the conditions of the Turkish Empire and suggestions for a consistent British policy are to be found in Canning's great dispatch of August 9, 1832 (Great Britain, Foreign Office, Foreign Office Records, *Turkey*, vol. ccxi).

R. B. MOWAT

Consult: Lane-Poole, S., *The Life of the Right Honourable Stratford Canning, Viscount Stratford de Redcliffe*, 2 vols. (London 1888).

CANNING INDUSTRY. The canning industry owes its origin to the fact that foods sterilized by heat and hermetically sealed will retain their quality for months and even years. Systematic food preservation by drying, smoking, salting and other household methods is as old as civilization, but the art of canning is of comparatively recent origin. A Frenchman, Nicholas Appert (1750–1841), was the first to carry on commercial canning and also the first to write a systematic treatise on the subject (1810). During his early experiments Appert enclosed food in glass jars, corked them with great care, submerged them in water which was gradually raised to the boiling point and boiled them "for more or less time according to the nature of the food"—a method still used successfully in household canning for fruits and acid vegetables. Later he experimented with tin and with wrought iron cans, tin plated.

In its early years the canning industry was carried on by simple hand processes. The cans used by Appert were made by hand in his own factory, and other canners followed his example until about 1885, when several inventions made possible machine made cans, and can making became an industry by itself. Successive inven-

tions have also decreased the amount of work to be done by hand in the canning process and increased the number of foods which can be canned. Milk presented peculiar problems which were solved by Gail Borden in 1856. In the early eighties Welcolm Sprague invented a continuous chain feed machine for removing the kernels of sugar corn from the cob. The first practical machine for shelling peas from the pod was invented in 1885, and in 1893 E. P. Scott patented a machine which picked the pods from the vines and shelled them at the same time. The canning of salmon in the northwest was at first carried on very successfully with Chinese labor and very little machinery, but when this source of labor supply was cut off and the industry continued to grow, machines began to be introduced. Finally in 1903 a machine was perfected which handled the entire process of the preparation of the fish for the can, and it came to be known as the "iron Chink." There are now also machines for washing fruits and vegetables, and lye peeling has quite generally done away with hand peeling.

Since merely raising the food to the boiling point was not enough to destroy all bacteria, it was not until Pasteur's work with the bacteria of fermentation that the industry was placed on a firmer scientific basis. The most serious technological problem in the industry has latterly been that of dealing with *Bacillus botulinus*, the spores of which are destroyed at the temperature of boiling water only after long continued heating, especially if the food being canned is nearly neutral or only very slightly acid. The high temperatures made possible by the retorts of commercial canners and by the use of the pressure cooker in home canning have greatly reduced the danger of botulism in this country. While the disease is rare, the percentage of fatality is very high.

The canning industry has spread to practically every country in the world. Nicholas Appert went to London in 1814 to widen the market for his canned goods, but succeeded instead in stimulating many imitators of his methods. Although English as well as French canners had to struggle with very serious technical difficulties in the early years of the nineteenth century, a very prosperous canning industry grew up in both countries. Neither of these countries has, however, the advantage of the very large food production in proportion to population which makes the canning industry so important in the United States; in fact the United Kingdom has become by far the largest importer of canned goods in the world. Figures for a comparison of the output of canned goods in the various countries are difficult to obtain. Export trade statistics, however, shed some light on the relationship of the volume of production to that of home consumption with regard to various types of canned goods. They show that the canned foods now exported in the largest quantities from the United States are fruits, fish, milk and vegetables. Canned beef, once a valuable export from the United States, has greatly declined in importance with the growth of population, the increase in domestic demand for fresh meat and the decline in ranges available for cattle. Meanwhile, shipments of canned beef from Argentina and Uruguay (where production is largely financed by North American capital) have greatly increased. The foreign trade in canned vegetables is much less important than that in canned fruits because of the greater bulk of canned vegetables in relation to their value. France has a valuable export trade in high grade canned vegetables, and Italy in canned tomatoes and tomato paste. Canned fish is exported in large quantities from the United States, Russia, Canada, Norway, Portugal, France, Spain and Japan; canned milk from the Netherlands, Switzerland, Denmark, the United States and Canada; canned and preserved fruits from the United States, Italy, the Netherlands, England, France, Australia and the Straits Settlements, where a large pineapple industry is developing.

Commercial canning in the United States is said to have begun in 1821 with a Boston cannery operated by William Underwood, an Englishman who had served an apprenticeship in pickling and preserving in London. It was in Baltimore, however, that the industry gained its first real foothold. Oyster canning was carried on there as early as about 1840, as was also the canning of tomatoes and fruits. Until about 1860, however, the industry was greatly handicapped by a lack of scientific understanding of sterilization processes and by a lack of demand for canned foods. The federal army used large quantities of canned foods during the Civil War, and the industry grew rapidly in the years directly following the war, partly because of an increased understanding of the canning process and partly because of the trend of population toward the cities.

American census statistics on the canning industry date from the year 1870, and the following table indicates the growth of the industry

from 1870 to 1920 (separate figures not available for early years, except in reference to fruits and vegetables):

NUMBER OF ESTABLISHMENTS ENGAGED IN CANNING IN THE UNITED STATES

CENSUS YEAR	FRUITS AND VEGETABLES	PICKLES, PRESERVES AND SAUCES	FISH AND OYSTERS	CONDENSED MILK
1870	97			
1880	411	109		
1890	886	316	126	
1900	1813	424	369	50
1910	2789	580	398	136
1920	3082	723	475	401

Meat canning in the United States is an incidental activity of slaughtering establishments, and statistics on the number of establishments canning meat are not available. In comparison with the other products of the slaughtering and meat packing industries, canned meat is relatively of little importance. The value of all the products of this industry was $3,057,216,000 in 1927, while that of canned meat and canned sausage was only $27,824,000. The value of canned meats and canned sausage imported into the United States that year was $4,311,000. Vegetables and soups canned in the United States in 1927 were valued at $234,260,000, canned milk at $167,850,000, canned fruits at $101,731,000 and canned fish and oysters at $51,090,000. Canning on the west coast of the United States began in 1856, and California soon developed an export trade in canned fruits. In 1864 a salmon cannery was established on the Sacramento River, but Washington and Oregon were found to provide more profitable fishing grounds and the salmon canning industry became established upon the Columbia River and Puget Sound. The salmon of this region have become increasingly scarce, however, and in 1928 Alaska provided over 85 percent of the canned salmon output of the nation.

The canning industry is not a large scale industry. Though in the United States several well known corporations organized on a national scale are engaged in canning, they can scarcely be considered typical of the industry. The desirability of locating plants close to raw materials, which because of their perishable nature cannot be transported over long distances, necessitates decentralization of operation. There is a well defined tendency also toward decentralization of management, due largely to the seasonal character of the industry, the dependence upon uncertain weather conditions and the need for driving sharp bargains with many individual farmers. The flexibility of the industry is such that there are many small canneries which operate only if there is an abundant crop in their vicinity and only a small carry over of the canned product from the previous year.

This instability the canning industry derives largely from its close dependence upon agriculture. It exerts in turn a certain standardizing effect upon the portions of agriculture with which it comes into contact. In many sections of the country the farmer, though uncertain of his crop, becomes certain of his market by contracting with the canner for the disposal of his crop before he even undertakes planting. His activities are further controlled by the canner's careful selection of seed and instructions with respect to methods of growing and harvesting.

While the canner in getting his raw materials from the farmers comes into contact with numerous individual enterprises, his other major contact is with a business unit generally much larger than his own. The industry of manufacturing cans is typically large scale. In the United States two companies dominate the field, the larger of which has an output four times that of the second. In England 60 percent of the production comes from one company. Each of the American corporations has dozens of plants scattered over large areas, but centralization of management has been feasible because of the complete standardization of operations and the steady source of raw materials.

The marketing of canned goods has usually been relatively stable. The canner has been favored by an unusually large percentage of advance orders as compared with other types of manufacturing. In recent years, however, the trend of advance orders has been definitely downward and the number of small orders has been increasing. This recent tendency toward hand to mouth buying has been in part compensated by the stabilizing effect of the large orders from chain stores and purchasing groups of independent retailers.

Until the last decade canned foods reached the consumer only after passing through a marketing process involving four different groups: canners, brokers, wholesalers and retailers. With the transformation in marketing methods wrought by the development of the chain store and of group buying the retailer has frequently come to buy directly from the canner

and to take over the warehousing of a considerable part of the pack. This practise has reduced the cost of marketing but the extent of its influence upon retail prices throughout the country is difficult to estimate.

Canned foods come to the consumer under a multiplicity of brand names and trademarks, some emanating from the manufacturer, some from the wholesaler. Grades of canned goods have been distinguished by a great variety of vague descriptions. Systematic grading was begun through the "Service and Regulatory Announcements" connected with the administration of the Federal Food and Drugs Act, by which minimum standards for health were defined and proper methods for labeling the weight of the food content of cans were established. Methods of grading quality are gradually being worked out. Standards for such grade designations as "fancy," "choice," "standard" and "second" have been set up for a number of canned fruits by several canners' associations. Standards for canned vegetables are now being developed by the Federal Bureau of Agricultural Economics at the request of the vegetable canners who desire to store their products in warehouses licensed under the United States Warehouse Act and to borrow money on goods so stored.

Attempts to regulate the canning industry have taken two directions, regulation of sanitation and regulation of the conditions under which wage earners are employed. Federal inspection of meat canning establishments producing goods to be used in interstate commerce has been very successful in raising the standards of sanitation. The federal government does not inspect the canneries which put up fruits and vegetables, but contents itself with detecting sanitary violations in the products of the canneries, under the authority of the Federal Food and Drugs Act. Several of the states maintain sanitary inspection of canneries, though the fact that many small establishments operate for only a short period during the year makes complete inspection difficult. The National Canners' Association has drawn up a statement of sanitary precautions and of working conditions which is intended to guide the members of the association, but the rules laid down are not binding on the members. Because of its short season and the perishability of the product handled, the canning industry was not included in the early state laws regulating hours and wages. In recent years some states have begun to regulate hours and wages of women and minors in the industry. California and Wisconsin have been particularly successful in the regulation of wages and hours of work. California penalizes the employer for long hours by requiring higher rates of pay after eight hours have been completed in one day and double rates for every hour after twelve.

The seasonal character of the canning industry and its localization near the sources of raw materials make difficult the problem of an adequate labor supply. Since little skill is required of workers and much of the work is easy if done under proper conditions, the employment of women and children in canning factories has been the rule since the beginning. With the introduction of machinery, however, the employment of children in canning factories has declined in recent years. According to figures from the Federal Census of Manufactures, the proportion of wage earners under sixteen employed in canning factories dropped from 8 percent in 1899 and 7 percent in 1909 to 2 percent in 1919. The Federal Child Labor Tax Law was in effect in 1919, and the extent to which it may have brought about a reduction in the number of children reported as working in canneries in that year cannot be determined. A recent (1930) report by the United States Children's Bureau shows that large numbers of children are still being employed in canning factories, many of them working long hours under unsanitary conditions. Of 560 fruit and vegetable canneries visited, employing 56,828 workers in Washington, Delaware, Indiana, Maryland, Michigan, New York and Wisconsin during the seasons of 1923, 1925 and 1926, 80 percent were employing children under sixteen years. A large proportion of very young children, some under twelve, were found in some states. Tomato canneries employ many more young children than any other kind. Nearly half the children in all the canneries visited by representatives of the Children's Bureau worked as tomato peelers. This work is light except in poorly equipped canneries, in which the peelers are required to lift pails of waste from table to floor or from one table to another. In most of the states covered by the bureau study the children's working day was very often as long as that of adults. The Children's Bureau survey shows that practically all the canneries in Michigan, Indiana and New York furnished some seats for their women workers, but that many girls under sixteen in canneries in these states were standing at their work all day long. Conditions in Delaware and

Maryland were conspicuously bad. "More than two thirds of the Delaware canneries and about three fourths of the Maryland canneries provide no seats for any of their women workers, not even boxes, crates or overturned pails." In the fish canneries children's work was more difficult than in the fruit canneries. The hours were also more irregular because "the catch cannot be regulated and it is considered impossible to 'hold over' fish from day to day."

Many of the smaller canneries draw their labor supply from nearby farms and towns, but the necessity for canning perishable products before they spoil requires a large labor force for a short time, and in some states the canners recruit family labor from outside the community. Nearly 6000 migratory persons, almost half of whom were children under sixteen, were living in 126 of the 143 cannery labor camps included in the Delaware and Maryland surveys made by the Children's Bureau. The care of children too young to work in cannery labor camps is a problem which has received little attention. Not only are they subjected to unsanitary conditions and permitted a carelessness about school attendance, but unsupervised children are less safe in the cannery than in the agricultural labor camps because the camps are usually near railroad tracks and because the children are likely to get into the cannery workrooms where they are in danger from unguarded machinery. Recreation centers and day nurseries have been established in cannery camps in a few places in Maryland, Delaware, New Jersey, Ohio and on the Pacific coast, either by the canners themselves or by welfare organizations.

The extent of home canning throughout the United States cannot even be estimated. Until 1910 home canning was done very largely by the open kettle method, which frequently did not result in a sterile product. In that year an attempt by the General Education Board to improve home conditions in the South included the organization of clubs for tomato canning. The Home Demonstration work begun under the Smith Lever Act of 1914 and carried on by extension workers of the Department of Agriculture and state colleges continued to support the tomato canning clubs, partly because the leaders in this type of education felt the urgent need for increasing the money incomes of the club members, and partly because with this incentive girls and women were learning better ways of canning for their own families. The need for conserving food products during the war period led to a great increase in the number of persons who taught canning methods to rural and city housewives, and the amount of home canning probably increased greatly during that period. Since the war several forces have been operative in qualifying this trend, notably the increasing consumption of fresh vegetables and the improvement in their marketing.

The effect of the increase in canning upon food consumption in the United States cannot be accurately measured. Analyses of family diets early in this century showed that city diets in the United States were on the average deficient in mineral salts obtainable from fruits and vegetables. A vigorous educational campaign and improvement in the commercial production and marketing methods resulted in an increased consumption of fruits and vegetables. During the war period the campaign for economy in meat consumption and the high price of meat combined to accelerate this change in the American diet. No quantitative figures are available to measure changes in the amount of fruits and vegetables consumed in the last century, but three successive studies of expenditures by American wage earning families carried on by the United States Department of Labor indicate that the percentage of food expenditures devoted to fruits and vegetables has materially increased during the last forty years. A study of 1917 shows that about one quarter of the vegetable expenditures and one fifth of the fruit expenditures went to purchase canned foods. The value of the annual per capita consumption of commercially canned fruits and vegetables in the United States increased 180 per cent from 1899 to 1927 (the 1899 figures having been adjusted to the 1927 price level), from $1.72 per capita per year in 1899 to $4.81 per capita per year in 1927. Percentages of increase for different kinds of products (all based on the adjusted value of annual consumption per capita) are as follows: canned milk, 368 percent; canned fruits, 162 percent; canned vegetables, 148 percent; canned fish and oysters, 125 percent; canned meat, 120 percent. Studies of food consumed by college students in 1893 and 1926 show a decrease in fresh fruits, an increase in canned fruits, an increase in fresh vegetables and a decrease in canned vegetables.

The consumption of canned foods, while its outward importance lies in its furnishing the basis of an industry, becomes in the context of modern social changes indicative of a new way of life. It spans the severance of the household from

the garden plot and the fruit trees which formerly conditioned its self-sufficiency. It represents one of the most important steps yet taken toward the emancipation of women from household drudgery, and thus becomes one of the significant items in the industrial revolution of the home. While as a result of the development of refrigeration it has ceased to be exclusively important in food preservation, it has by packaging ready-to-eat cooking ministered to and been aided by the heightened mobility of life, especially in the United States. Its standardizing effect upon eating habits and eating tastes, while too elusive and too close to us to be easily assayed, is certainly appreciable. Most significantly it has established a new set of consumption habits less dependent than formerly upon the immediate variations in the sources of food supply, and has to that extent intensified the primarily urban character of modern life.

FAITH M. WILLIAMS

See: FOOD SUPPLY; FRUIT INDUSTRY; MARKETING; INSPECTION; FOOD AND DRUG REGULATION; MIGRATORY LABOR; STANDARD OF LIVING; HOME ECONOMICS.

Consult: Appert, N., *L'art de conserver pendant plusieurs années toutes les substances animales et végétales* (Paris 1810), tr. by K. G. Bitting as *The Book for All Households* (Chicago 1920); Collins, J. H., *The Story of Canned Foods* (New York 1924); Fitzgerald, J. E., "The Export Market for United States Canned Foods" in American Academy of Political and Social Science, *Annals*, vol. cxxvii (1926) 79–83; Lyon, L. S., *Some Trends in the Marketing of Canned Foods*, Brookings Institution, Pamphlet series, vol. i, no. iv (Washington 1929); Matthews, E. N., *Children in Fruit and Vegetable Canneries; a Survey in Seven States*, United States, Children's Bureau, Publication no. 198 (Washington 1930); "Women in the Fruit-Growing and Canning Industries in the State of Washington," United States, Women's Bureau, *Bulletin no. 47* (Washington 1926); Norton, L. J., *An Economic Study of the Production of Canning Crops in New York*, Cornell University, Agricultural Experiment Station, Bulletin 412 (Ithaca 1922); Seidel, Wolfgang, *Die deutsche Gemüsekonserven-Industrie* (Breslau 1927); United States, Federal Trade Commission, *Report on Canned Foods* (Washington 1918 and 1921); Chase, Stuart, and Schlink, F. J., *Your Money's Worth* (New York 1927); Borsodi, Ralph, *This Ugly Civilization* (New York 1929).

CANNON, JOSEPH GURNEY (1836–1926), American congressional leader. At the age of twenty-two Cannon began the practise of law in Illinois and his first public office was that of state's attorney. He was elected to Congress in 1872 and with the exception of two terms he served continuously until his retirement in March, 1923. Always a "regular" Republican, able and resourceful in parliamentary strategy but ruthless and with a strain of coarseness in his nature, Cannon early took his place as one of the leaders of the House. From 1883 to 1889 he and Thomas B. Reed were minority members of the Committee on Rules. In 1889 he was an unsuccessful candidate for the speakership. He headed the powerful Committee on Appropriations from 1897 to 1903 and was elected speaker in 1901. In this office he was far more powerful and dictatorial than any of his predecessors had been. In fact he always maintained that he considered the speakership of the House a more powerful and attractive office than the presidency itself. His principal weapons were the power of appointment to committees and of recognition of members from the floor. He could make or mar the career of a newly elected representative. As a member of the Committee on Rules he was able substantially to determine the business that the House would consider. This form of dominance of the speaker over the House became so identified with Cannon that it was called Cannonism. After 1907 there were signs of revolt and in March, 1910, a coalition of Democrats and insurgent Republicans was successful in forcing far reaching changes of the rules. The speaker was excluded from membership on the Committee on Rules, which along with the legislative committees was thereafter to be elected by the House. As a result the speaker became more the servant than the master of the House. His leadership was put in commission. The coalition, however, was unable to declare the speakership vacant and Cannon served until the Democrats gained control of the House and elected their own speaker in March, 1911. Thereafter the ex-speaker was a representative of steadily dwindling influence.

LINDSAY ROGERS

Consult: Busbey, L. W., *Uncle Joe Cannon* (New York 1927); Hard, William, in *Collier's: The National Weekly*, vol. xli (1908) no. 8, 11–12, 24–28, and no. 9, 11–12, 24–26; Chiu, Chang-Wei, *The Speaker of the House of Representatives since 1896*, Columbia University Studies in History, Economics and Public Law, no. 297 (New York 1928); Follett, M. P., *The Speaker of the House of Representatives* (New York 1909); Fuller, H. B., *The Speaker of the House* (Boston 1909); Brown, G. R., *The Leadership of Congress* (Indianapolis 1922).

CANON LAW. The law of the Roman Catholic church consists fundamentally of the *jus divinum*, the *jus canonicum* and that part of the

entire body of the law which is neither divine nor canonical.

The *jus divinum* is contained in the Holy Scripture and in *traditio divina*; and it is immutable. *Traditio divina* consists of those oral ordinances of Christ which, although they were not embodied in Holy Writ, are proved to have been transmitted to the church through the concordance of the church fathers. The *jus divinum* has given its spirit and much of its substance to the *jus canonicum*. Not only are the sacraments based upon it but the constitution of the church, including the episcopate and the primacy of the pope, is largely derived from its teachings. Religious, moral and theological ideas embodied in the *jus divinum*, such as the conception of sin, have been transformed into rules of the *jus canonicum* by the legislation of councils and popes. *Jus divinum* suffuses the entire body of *jus canonicum* and gives it life.

In early mediaeval times the legislation of councils and popes was known as *jus canonicum*. The division of the church into the Roman and the Greek Catholic churches meant, however, a fundamental division of the law into the Roman and the Greek canon law; and, while both churches possess the earlier sources of canon law in common, the historic development of the two separate churches has resulted in basic differences between the Latin law of the West and the Greek law of the East. In the West the Latin *jus canonicum*, which alone concerns us here, was largely composed of conciliar canons contained in the Greek collections; but this Greek material was continuously supplemented by Latin elements, chiefly the canons of oecumenical and local councils and papal decretals. The process of unifying the western law, furthered by the diffusion of canonical collections, notably the *Dionysio-Hadriana*, the *Hispana* and the False Decretals, was accompanied by its systematization. By the spread of these regional collections many local canons were added to the growing body of the *jus commune*.

The history of the sources of canon law during the period immediately prior to Gratian's time is intimately interwoven with the reform movement within the church. The reformers were chiefly interested in the primacy of the Apostolic See, the validity of the sacraments, the coercive power of the church, investiture and simony; and upon these and other important subjects the several types of canonical collections, most of which were national or regional in character, contained numerous contradictions and hence introduced confusion in the substance and administration of the law. In seeking to achieve their main purposes, such as the primacy of the pope and the coercive power of the church, the reformers were anxious to restore the former discipline; and accordingly in their work of revising the collections they not only appealed to earlier canons which possessed the character of universality but they also sought to suppress texts of German or Celtic origin. Not one of the numerous collections of the time, not even the *Decretum* of Burchard of Worms (*c.* 1012) nor that of Yves of Chartres (*c.* 1095), was regarded as adequate by the reforming party.

Although in fact much confusion in the sources still remained, a new method of interpretation began to come into use at the end of the eleventh century by which precept was separated from counsel and principles of eternal validity were distinguished from those variable elements of the law which arose out of particular circumstances of time, place or persons. Abélard in his *Sic et non* extended the possibilities of this dialectical method of proving the relativity of rules and harmonizing contradictions; but it was Gratian who applied this new method for the first time to the whole enormous mass of diverse texts contained in the many current collections of canons. Gratian's work, produced at Bologna in the period of the revival of legal studies, proved to be so successful and so acceptable to the church that it became the foundation of the classic law.

The appearance of Gratian's *Concordantia discordantium canonum*, generally known as the *Decretum*, marks the beginning of that new epoch in the history of the canon law during which the *Corpus juris canonici* was gradually formed. As finally completed, at the end of a development which covered three and a half centuries, the *Corpus juris canonici* consists of two main parts. The first part, Gratian's *Decretum* (*c.* 1140), serves as the foundation. Based on earlier collections it is essentially a systematic treatise on the canon law in which the authorities are included; and although a private work, apparently produced under the strong influence of Abélard, it was soon treated as official and received formal recognition in Gregory IX's decretals. In the law schools it was used as the textbook in canon law, while in the hands of the canonists it was soon supplemented by a large body of glosses. During all succeeding centuries it has served as the foundation of the structure of *jus canonicum*, exerting a vast

influence on the study and spread of that system. The second part is composed of four collections of papal decretals: the Decretals of Gregory IX (1234), an official compilation or code of papal decretals issued after the completion of the *Decretum*, including those of Gregory himself, which is generally known as the "Extra" (*Decretales extra decretum vagantes*); Boniface VIII's *Liber sextus decretalium* (1298), a collection of decretals issued subsequent to the "Extra" and called *Sextus* because it was regarded as a continuation of the five books of the "Extra"; the *Clementinae*, a collection of decretals, including his own, which was originally published by Clement V (1313) and later recast and published by John XXII (1317); the *Extravagantes*, a private collection of decretals which was treated as if it were official and which consists of two parts, the *Extravagantes* of John XXII and the *Extravagantes communes*, including the decretals issued by various popes, after the publication of the *Sextus*, from Boniface VIII to Sixtus IV (died 1484).

The appearance of the *Decretum* gave to the study of canon law a new and vigorous life. It became a separate branch of legal science distinct from and yet closely related to the study both of civil law and of theology. The universities made *doctores decretorum* as well as *doctores legum*; and from the thirteenth century onwards an increasing number of jurists became *juris utriusque doctores*. While the civilians were known as the legists, the canonists were classed as decretists and decretalists. The decretists wrote glosses upon the *Decretum* either between the lines of the text (*glossae interlineares*) or upon its margin (*marginales*); and they composed fuller and more detailed explanations of the text (*apparatus*) as well as summaries of the contents of its several sections (*summae*) which were essentially systematic treatises. The decretalists followed methods similar to those of the decretists, but their treatment of the collections of decretals was fuller, freer and more fruitful than that given to the *Decretum*. Writings on the procedure of the ecclesiastical courts formed a special and important branch of canonistic literature.

The history of the Roman Catholic church in the modern epoch, since the Reformation, is reflected in the development of her legal system. While the *Corpus juris canonici*, as modified from time to time, has served as the basis of the legal system, the modern law embraces also that large body of legal rules and principles not included in the *jus canonicum* which is known to jurists as "church law." The chief sources of the modern law, either as *jus canonicum* or as church law, are papal acts of legislation, known as *constitutiones* in distinction from mediaeval *decretales*, the legal provisions of the Council of Trent (1545–63) and the Vatican Council (1869–70), the decrees and decisions of the curial *congregationes* and the *concordata* concluded between the pope and territorial states. The new *Codex juris canonici*, one of the most important and successful codifications of our time, has been in force since 1918. Based on the *Corpus juris canonici* and the modern sources it has absorbed into the *jus canonicum* parts of the law hitherto known as "church law." While *jus canonicum* in the present day sense means the law contained in the *Codex*, this codification does not contain the entire law of the church; and the distinction therefore between *jus canonicum* and church law still persists. In general the liturgical laws, the law embodied in *concordata* and customary law form no part of *jus canonicum*.

While the constitutional law of the church, as embodied in *jus divinum* and the *Corpus juris canonici*, has been modified in the period since the Council of Trent, most of its mediaeval principles still persist. In the pope reside the supreme legislative, administrative and judicial powers over the whole church; and in his government of the church he is assisted by the Curia Romana, which in modern times is composed of cardinals, prelates and other officers. To the pope alone belongs the right to create *jus commune* and to grant dispensations and privileges; only the immutable *jus divinum* restricts his power. Bishops possess limited legislative and dispensing power. The exercise of the pope's judicial power is entrusted to tribunals which form a part of the Curia. Appeals from bishops' courts are taken to the tribunals of second instance, notably the courts of archbishops and metropolitans; while from these tribunals cases may be carried to the papal courts of appeal. In the later Middle Ages the most imposing of these papal courts was the Sacra Rota Romana; and especially in the fifteenth and sixteenth centuries it was viewed as *totius christiani orbis supremum tribunale*. The reorganization of the Curia by Sixtus V (1588) through the establishment of standing *congregationes*, some of which were invested with extensive judicial powers, resulted in a gradual decline in the importance of the Rota; but in our day, as part of the reorganization of the Curia by Pius X

(1908), the Rota has been brought back into prominence by being made a court of appeal in both civil and criminal cases. The *decisiones Rotae*, which cover a period of six centuries, form a most important source of our knowledge of the application and development of canon law by judicial practise.

The mediaeval *jus canonicum*, as finally embodied in the *Corpus juris canonici*, drew its substance not only from ecclesiastical sources, notably *jus divinum*, the customs and ideas of the clergy and *opinio doctorum*, but also from secular legal sources, chiefly Roman law, Germanic law and custom, mediaeval town law and feudal custom. In its main characteristics this mediaeval *jus canonicum* was the outgrowth of ecclesiastical policy. The church, regarding itself as the greatest of all the civilizing institutions of the world, undertook many of the social and economic tasks which in modern times have come within the competence of the state. The scope of ecclesiastical legislation and judicature was extended far beyond the range of purely ecclesiastical matters; and the *jus canonicum* included therefore many rules and principles which dealt with temporal subjects such as the oath, usury, prescription, contracts and international relations from the standpoint of the church. Not only the scope but also the general character of the *jus canonicum* was determined by the effort of the church to extend its sway over all the affairs of mediaeval society. Although that attempt was not in all respects successful, owing to the competition of other factors in mediaeval history such as the rise of the empire and of territorial monarchies, the spread of feudalism and the growth of towns, the *jus canonicum* was in fact the fundamental guaranty of law and order in mediaeval Europe. It represents, moreover, the effort of the church to enforce morality by legal means.

A survey of some of the salient features of the mediaeval canon law will serve to indicate the nature of that system and the reasons why it was able to exert so powerful an influence on the social, economic and legal development of Europe both in mediaeval and in modern times. While the canon law has failed to maintain its supremacy since the regulation of social and economic life has been taken over by the modern state, it still exerts through the spread of its ideas and principles to secular law a far reaching moral dominance over the social life of today.

The writings of the canonists based upon the texts of the *Corpus juris canonici* contain many political and jurisprudential theories in regard to government, law, custom, justice, equity, property and many other topics of similar character; and these canonistic doctrines have exerted a widespread influence on thought. In the hands of the canonists many doctrines of the Roman classical jurists and the mediaeval civilians reached a fuller development. Gratian's identification of the *jus naturale* with the *jus divinum* is illustrative of this process of thought; while an even more striking example is the expansion by the canonists of the theory of the corporation which they found in the writings of the civilians. By introducing features derived from ecclesiastical and mediaeval institutions the canonists contributed to the idea of legal personality some of its most distinctive traits; and by this shaping of "the Romano-canonical theory of the corporation" they prepared the way for its profound influence on legal and political thought and for its adoption in mediaeval and modern systems of law.

The canon law of the Middle Ages exerted in fact a far reaching influence on all branches of secular law. Through the constitutional and administrative features of its law the church transmitted to mediaeval and modern times the Roman conception of government; and the monarchic constitution of the church, with its centralization of power in the papacy, has been the model which modern states have reproduced.

The criminal and disciplinary system of the church, which forms a most important part of canon law, rests in its origins on Christian conceptions of morality and sin; and while other features were gradually introduced it has never lost these early characteristics. In the beginning the church limited its jurisdiction to ecclesiastical delicts and in the main employed only ecclesiastical methods of discipline. In course of time, however, the church went beyond the purely ecclesiastical sphere and entered the domain of lay jurisdiction in criminal cases; and as an important aspect of its rise to a position of dominance in the mediaeval world it ultimately acquired a jurisdiction which was truly criminal in character and so extensive in scope that it materially curtailed the criminal jurisdiction of mediaeval territorial states. The church claimed that its courts had jurisdiction over all offenses of the clergy; but in respect to delicts of the laity it drew distinctions. In the case of all *delicta mere ecclesiastica*, offenses directed against the faith, the *cultus* and the constitution

of the church, notably heresy, schism, apostasy and simony, the church claimed jurisdiction even though most of these delicts were punished by the secular tribunals. While, under the title of sin, the church would have liked to bring all offenses into the scope of its jurisdiction, it was unable to carry out so sweeping a policy and developed therefore the notion of *delicta mixta*, offenses which, although not directly aimed against the church, indirectly placed it in danger. In respect of this numerous class of delicts, which included perjury, blasphemy, sacrilege, sorcery, usury as well as offenses directed against life and limb and those caused by carnal lust, the church acquiesced in a compromise; in case the state punished, ecclesiastical jurisdiction was competent only in the sphere of the *forum internum*, but whenever the state did not punish, the church exacted the punishments recognized by secular law. In the case of *delicta civilia* the church entered no claim and admitted the competence of the secular tribunals.

In consonance with the view that delicts were sins the church based its system of punishments upon two ideas, the reclamation and cure of the sinner and the expiation of the unrighteous and wrongful act. As it stressed the one or the other of these two conceptions, the church inflicted either *poenae medicinales* or *poenae vindicativae*. The former were *excommunicatio*, *interdictum* and *suspensio*; while the latter included not only punishments of a temporal character, such as banishment, imprisonment and chastisement, which were inflicted upon clergy and laity alike, but also special kinds of punishment in the case of the clergy, such as *privatio beneficii*, *depositio* and *degradatio*. In general the ecclesiastical tribunals did not make use of either death or mutilation as punishments; nor did they permit corporal punishment of a kind which would result in loss of blood.

Influenced both by Roman law and Germanic custom the early canon law recognized only the accusatory system in the criminal procedure of the ecclesiastical courts; but during the later Middle Ages the church developed its famous inquisitorial system. The *processus per inquisitionem*, which in its beginnings was essentially an official prosecution by the judge, wherein he proceeded *ex mero officio*, was introduced at the very end of the twelfth century by decretals of Innocent III, strengthened by early thirteenth century decretals and finally confirmed in 1215 by the fourth Lateran Council; and once incorporated in canon law the inquisition of the ecclesiastical courts was elaborated in all its details. A special and drastic application of the processes of the inquisition appeared in the "Holy Inquisition," a court which had its origin in the thirteenth century. It was not, however, this extraordinary tribunal but the inquisitorial system of the ordinary ecclesiastical courts which served as a creative factor in the history of criminal procedure in Europe. By the end of the sixteenth century all the states of the continent, following the example of the ecclesiastical courts, had substituted the inquisitorial for the accusatory system in their courts of criminal justice. England, however, retained the latter as the basis of its criminal procedure.

In the history of the struggle between church and state for the civil jurisdiction of their respective courts the twelfth and thirteenth centuries mark a signal victory for the church. The wide scope of ecclesiastical jurisdiction in that period was an expression of the rise of the church, with the pope as its supreme ruler, to that position of temporal as well as spiritual dominion over the world which Innocent III (1198–1216) and his immediate successors not only claimed in theory but also made effective to a very large extent in the practise of the times. In the pontificate of Gregory IX (1227–41) the jurisdiction of church courts included not only *causae mere spirituales*, chiefly cases in regard to marriage as one of the sacraments, but also *causae ecclesiasticae spiritualibus annexae*, namely, engagements to marry, dower, status, legitimation, patronage, the foundation of benefices, tithes, wills and contracts confirmed by oath. It extended also to *causae miserabilium personarum*, especially persons in poverty, widows, orphans and crusaders; it embraced as well cases in which there had been a refusal of legal relief on the part of lay judges and, finally, cases in which a party had committed a sin, a category which was most sweeping in its nature and scope. In the exercise of this extensive civil jurisdiction the church courts were competent to entertain proceedings brought by clerks against clerks, by laymen against clerks, by clerks against laymen.

Several features of this ecclesiastical system of civil justice, notably the stability of the substantive law as embodied in the texts of the *Corpus juris canonici*, a settled and enlightened civil procedure based on documentation and promptness in the execution of judgments, combined to make the church courts popular with litigants; and throughout the later Middle Ages these courts were in fact formidable rivals of lay

tribunals in all the countries of Europe. The competition of ecclesiastical and lay jurisdictions resulted in certain compromises and adjustments. Some subjects, such as marriage, were in general acknowledged by state authorities as belonging properly to ecclesiastical jurisdiction; while as to other subjects the church was able to enforce its jurisdiction in some countries and not in others. The struggle for civil jurisdiction followed the fortunes of the changing relationship between church and state. As states gradually became stronger they centralized their legal systems, improved the courts and enlarged their civil jurisdiction. From the end of the fifteenth century the growth of temporal justice, at the expense of spiritual justice, was ever more marked: one by one many of the subject matters of the civil jurisdiction of the church were absorbed by the civil courts of temporal powers.

As a system of civil justice the mediaeval canon law embraced several branches, each of which was colored by the religious and moral ideas of the church. The canonical principles in regard to possession exercised a direct influence on secular law, notably in the wide extension of the scope of quasi-possession or the possession of rights as opposed to things and in the development of an effective remedy for the recovery of possession. Originating in the criminal procedure of ecclesiastical courts in an age of much violence and spoliation, the *actio spollii* of the canon law, based in large measure on the Roman interdict *unde vi*, became a civil possessory remedy; and as such it was received in many secular systems, as for example in England where it served as a model for the assize of *novel disseisin*.

One of the cardinal doctrines of the canonists was that bad faith, whenever occurring, was a sin; and this view lies at the basis of the rules of the canon law in regard to prescription, which were in fact developed as a corollary of the canonical principles in regard to spoliation. In addition to *justus titulus* the canon law required for valid prescription good faith on the part of the possessor not only at the beginning of the period of prescription, as in Roman law, but throughout its entire duration. From the fifteenth century onward the canonical rule as to prescription gradually passed into secular law.

The canon law recognized as binding the formal contract concluded either by oath or by *fides promissa* and also the contract formed *solo consensu*. The basis of the canonical principle, *solus consensus obligat*, which conflicted with both Roman and Germanic law, was the theological view that a man who does not keep his promise is guilty of the sin of lying and incurs ecclesiastical penalties. The revolutionary character of their doctrine, and particularly the fact that it was at variance with the Roman maxim *ex nudo pacto actio non oritur*, led the canonists to formulate a further essential requirement in addition to consent. Finding this requirement in the Roman *causa* the canonists held it immaterial that a pact was *nudum a solemnitate*, provided only that it was not *nudum a causa*. Applying this doctrine to both unilateral and bilateral contracts the canonists reached the bold conclusion that all promises supported by *causa* were enforceable. While they held conflicting views as to the nature of *causa* they were all agreed that it involved the necessity of some purpose or result to be attained by the contracting parties, such as a definite legal act; and since the preservation of morality was essential they maintained further that this purpose or object must be reasonable and equitable. From this latter requirement the canonists developed the doctrine of equality in the sphere of contract. This doctrine, which was grounded in their economic notions, they applied not only to the formation and subject matter of contracts but also to their termination. Upon equality they based their prohibition of usury and their ideas of the just wage and the just price; and this same principle of equality led them to hold that if one party did not fulfil his promise the other party was released from his, *non servanti fidem fides non est servanda*.

In the creation of its law of contract the church, starting from the basic idea of the repression of sin, stressed the importance of the conscience of parties and in fact clothed conscience with legal obligation wherever there were present the two essential elements of consent and *causa*. With the development of the informal consensual contract there was the accompanying emphasis upon the importance of the intention of the parties and of their *bona fides*. There arose, moreover, an interpretation of contracts based on considerations of equity and natural justice. All of these features of the canonical law of contract influenced the secular laws of Europe in the later Middle Ages and in modern times. They were adopted, in part at least, by the post-glossators and the civilians of the later mediaeval centuries; they passed at an early time into the secular law of Italy, France

and other countries; and they helped to shape the growth of a cosmopolitan system of mercantile law.

During the later Middle Ages, from the twelfth century onward, the canonical law of marriage displaced the secular laws of Europe. From the beginning the canon law adopted the rule of the classical Roman law, *nudus consensus facit nuptias*; but to this consensual contract there was applied the entirely new conception of the sacramental nature of marriage. Upon this basis of a formless consensual contract the church developed that elaborate and comprehensive law of marriage which dominated the family life of Europe in the later Middle Ages. The canonical law embraced not only rules in regard to the formation of marriage but also those respecting impediments, the capacity of parties, the legal effects of marriage, marital property, divorce and nullity. Still preserved and enforced as the law of the Roman Catholic church, the canon law in regard to marriage has exerted in modern times a powerful influence on other ecclesiastical systems of marriage and on the civil marriage laws in many countries.

The civil procedure of the ecclesiastical courts, which was based on the Roman system, forms one of the most important branches of canon law; and it has exerted a widespread influence on the civil procedure of lay courts in all parts of Europe. While its chief influence in England was felt in the processes of the Court of Chancery it affected also the procedure of the common law courts, notably through the introduction of written pleadings. In many respects the canon law, both substantive and procedural, possessed equity features; for through its foundation upon the ideas of sin and morality it stressed the element of individual conscience, as in its requirement of *bona fides*, and enforced legal processes *in personam*. In the period of the ecclesiastical chancellors some of these equitable features of the canonical system were received into the English system of equity. The Court of Chancery became a tribunal of conscience and developed a procedure *in personam*, based on the ecclesiastical procedure, which is still an integral and characteristic feature of the equitable part of the modern legal system of England and of countries which, like the United States, have derived their law from England.

In the *Corpus juris canonici* and the literature of the canonists based upon it the canon law reached its perfection as the classic expression of the legal ideas of the Roman Catholic church. The rise of territorial states to the dominance of the modern world has meant, however, a corresponding decline in the position of the church which is reflected in the history of the canon law. Many of the ideas of the mediaeval canon law still persist as vital factors in the life of society; but in general these ideas find their present day embodiment in the secular laws of the world. The scope of the canon law itself, now codified in the *Codex juris canonici*, has been gradually curtailed. The canon law has lost much of that secular character which made it in the Middle Ages a common and universal law; but, on the other hand, its spiritual character has been given a new emphasis and significance. Adapting itself to the changing conditions of the world since the Reformation the canon law, now restricted in its application to the purely ecclesiastical sphere, is still the principal factor in the control of the Roman Catholic church as a world wide institution and in the spiritual life of all the members of the church, clergy and laity alike. Within its special province the canon law is therefore one of the leading forces in the social life of the present day world. As a means of stabilizing society in the interests of order and justice it holds a prominent position among the legal systems of the world. Its function is similar to that of the many national systems of law and of that body of international law which has as its chief purpose the preservation of peace and the administration of justice among all the states of the world. By holding firmly to her canon law and giving it a modern and codified form the church has preserved and strengthened one of the most effective agencies for the legal and moral discipline of society.

H. D. HAZELTINE

See: ECCLESIASTICAL COURTS; PAPACY; BULL, PAPAL; BENEFIT OF CLERGY; RELIGIOUS INSTITUTIONS; COMMENTATORS; GLOSSATORS; ROMAN LAW; CIVIL LAW; COMMON LAW.

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CÁNOVAS DEL CASTILLO, ANTONIO (1828–97), Spanish statesman and writer. Cánovas graduated as lawyer from the University of Madrid, but turned to politics rather than law. He held his first ministerial post in 1864. His real prominence, however, began with the exile of the queen, Isabella II, in 1868. He worked actively and openly for the restoration of the house of Bourbon, receiving special powers for that purpose from the queen; and on December 31, 1874, he brought his plans to fruition with the proclamation of Alfonso XII, son of Isabella II, as king. He was president of the ministerial council from that date until 1881 and on several occasions thereafter. While serving in this capacity he was assassinated by the Italian anarchist Angiolillo.

During his lifetime Cánovas exercised greater influence in Spain than any other man in public life. He drafted the constitution that was in force from 1876 to 1923 and included in it his conception of the *principe monarchique*, a conception akin to the French doctrine of Royer-Collard and Guizot. Cánovas was also influenced by the German historical school. He held that the monarchy was identical with the Spanish state and that the monarch was not an instrument of government subject to creation by the national legal consciousness, since his very title to legitimacy was "continuity in tradition." Cánovas succeeded in imposing upon the rival liberal party his conception of the monarch as the direct source of governmental power. He thus achieved peace, but at the expense of the political education of Spain and consequently of its internal, constitutional development.

His authoritarian view of the state made it difficult for him to grasp colonial problems and imparted to his parliamentary proclamations of July 1, 1890, all the intransigeance of a death struggle. "Spain," he said, "will spend its last peseta and the blood of its last man to keep Cuba." The liberals tried to correct this policy but failed. Cánovas was a thoroughgoing protectionist, the author of an important commercial treaty between the United States and Spain, negotiated in July and August of 1890.

Cánovas was generously gifted with literary, philosophical, political and historical talents. His political and social works were collected in *Problemas contemporáneos* (3 vols.); Spanish culture during the first half of the nineteenth century is described in *El solitario y su tiempo* (2 vols.). Of his historical works, the following deserve special mention: *Bosquejo histórico de la casa de Austria en España* (ed. by J. Pérez de Guzmán y Gallo, Madrid 1911) and *Estudios del reinado de Felipe* IV (2 vols.), both of which are devoted to a keen analysis of Spanish decadence in the seventeenth century.

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CANTILLON, RICHARD (1680?–1734), author of the *Essai sur la nature du commerce en général*. This single surviving work of a forgotten banker was written probably in French and as early as 1725 but was not published until 1755 when it appeared in the guise of a translation from the English. It was rediscovered and popularized about 1880 by Stanley Jevons, who hailed it as "the cradle of political economy."

The *Essai* is devoted in part to the principles of wealth and in part to those of exchange and foreign trade. Although the treatment of the latter is intelligent it was only the former which had a marked effect upon subsequent economic thought. The physiocrats acknowledged their debt to the *Essai*, several Englishmen, such as Postlethwayt and Harris, drew heavily from it without acknowledgment and Adam Smith recognized its contribution.

Cantillon insists that currency, whether paper or coin, is not the true measure of the wealth of a state and boldly transfers the problem from the field of circulation to that of production. He maintains that the source of all wealth is the land. Returns from the land comprise three kinds of income: the first pays the expense of cultivation; the second pays the profit of the operator; finally the third goes to the owner. Non-agricultural enterprises offer no equivalent to the third kind of income. This was to be the "fundamental truth" of the physiocrats. Follow-

ing Petty he concludes that the intrinsic value of all commodities is determined by a certain amount of land or of labor. While his conclusion is still tentative and indefinite it nevertheless points beyond the physiocrats and already foreshadows the monumental simplification of Adam Smith.

G. WEULERSSE

Consult: Cantillon, R., *Essai sur le commerce* (reprinted for Harvard University, Boston 1892); Jevons, W. S., "Richard Cantillon and the Nationality of Political Economy" in *Contemporary Review*, vol. xxxix (1881) 61–80; Legrand, Robert, *Richard Cantillon un mercantiliste précurseur des physiocrates* (Paris 1900); Kretzschmer, Wilhelm, *Über den Richard Cantillon* (Liestal 1899); Higgs, Henry, "Richard Cantillon" in *Economic Journal*, vol. i (1891) 262–91.

CANTOS Y BENITEZ, PEDRO DE (dates of birth and death unknown), Spanish economist and statesman, active at the middle of the eighteenth century. Cantos wrote *Escrutinio de maravedises* (Madrid 1763) to furnish a basis for determining the sums required to pay obligations in terms of money no longer current and to explain the depreciation of vellon or copper money, chronic after 1599. This history of Castilian money, written largely from primary legal sources, though imperfect in many respects is one of the best monographs on Spanish economic history ever produced by a native scholar. Particularly original is his explanation of the depreciation of vellon money. According to this explanation depletion of the public treasury obliged Philip III to coin large quantities of base vellon; Philip IV, embroiled in costly foreign wars, continued and enlarged the issues; since vellon was unacceptable abroad, a premium on silver emerged; depreciation of vellon on the foreign exchange spread to wholesale trade and thence to retail trade, salaries and wages. In an alternative explanation Cantos attributed excessive importance to the decay of the long established institution of public money changers, but he emphasized much less than most contemporaries and predecessors the supposed smuggling of counterfeit vellon into Castile. The prestige Cantos derived from membership in the councils of Castile and of the Inquisition and the frequent citations of rare ordinances in the book have made *Escrutinio de maravedises* a favorite source for subsequent writers on the monetary history of Castile.

EARL J. HAMILTON

Consult: Colmeiro, Manuel, *Biblioteca de economistas españoles* (new ed. Madrid 1880) p. 64.

CAPITAL is a word derived from the adjective form *capitalis* (Latin root *caput*, head), meaning principal, chief. Its various meanings as a substantive are explained as the "several elliptical uses of the adjective" (*Oxford Dictionary*). As first used in commerce capital meant an interest bearing sum of money. The manifold derivative meanings are all of two types, the one implying ownership of a valuable source of income, the other the stock of physical goods constituting the income source. The one idea was from the first characteristically individual, acquisitive and commercial, that of any financial fund having a monetary expression; the other idea was characteristically impersonal and technological, that of the physical goods used to extract, transport, create or alter goods: ships, stores of merchandise, money, tools, machines, houses and, usually but not always, lands.

By a simple association of ideas the original thought of capital as a "fund" for investment was generally connected with lending by the class of passive capitalists, but capital as a "stock" of instruments was connected with borrowing by active enterprisers for the purpose of buying the physical instruments of trade and manufacture. This contrast disappeared, however, when the active enterpriser was pictured as neither borrower nor lender but one who "invests" (clothes) his purchasing fund in the physical equipment in his own possession. Thus the business as a whole might be thought of either as the sum or fund of purchasing power invested, or as the mass of goods which, although not bought with borrowed funds, embodied the owner's business fund.

These two types of capital concepts are so distinctive in essential thought and practical application that confusion inevitably resulted from the use of one word to designate both. This confusion occurred not later than the early years of the seventeenth century, when capital was defined by Cotgrave in 1611 as "wealth, worth; a stocke, a man's principall, or chiefe, substance." Here the idea of "worth," implying a valuation, is thoroughly mixed with that of substance, no doubt in the sense of material things in possession. "Capital" thus used is a superfluous and confusing synonym of wealth, goods and stock.

This transition and duplication of terms was confirmed by association of the words capital and stock. The latter, an old Germanic root word, developed in English manifold meanings. The term stock was used in business in the six-

teenth century as "a collective term for the implements and the animals employed in the working of a farm, an industrial establishment, etc."; and at the same time as "a capital sum to trade with or to invest." Even earlier, in the fifteenth century, stock meant "a sum of money set aside to provide for certain expenses; a fund," but this became obsolete.

As English trading companies developed after the fifteenth century, the terms joint stock, capital stock, stock and capital were used with little clear distinction. Adam Smith (*Wealth of Nations*, bk. v, ch. i, pt. iii, art. i) says of the East India Company, chartered in 1600 by Queen Elizabeth: "In the first twelve voyages which they fitted out for India, they appear to have traded as a regulated company, with separate stocks, though only in the general ships of the company. In 1612, they united into a joint-stock." This and other similar examples indicate that at first the "stocks" meant the physical merchandise composing the cargo, and a joint stock company was one in which these stocks were held jointly instead of severally. But Smith refers at once to the "capital" of the joint stock company as so many thousand pounds sterling. His treatment of capital as a whole manifests all the errors that have accompanied the use of this elusive term ever since: the employment of the term as meaning both investment fund and goods bought with it or sometimes "talents" or "skill" acquired by means of it, and as denoting both value and a stock of physical agents, etc. Incidentally Smith suggests a thought that was destined to grow until a certain kind of "circulating" capital, subsistence for laborers, came to be looked upon by J. S. Mill and others as the very essence of the capital concept.

In the three quarters of a century after 1776 the changes in machine production and transportation and in financial and commercial organization were epoch making. Not only did factories owned by individuals and by partnerships increase greatly in size and resources, but great corporations building and operating factories, canals, railroads, steamships, commercial enterprises and banks were chartered and their shares widely distributed to subscribers. At the same time the functions of banks and the agencies for investment of capital funds grew apace. These changes put into the foreground of attention the thought of capital as investment, both active and passive. Whether as cause or as effect this change was accompanied by the ever increasing attention given to commercial profits as contrasted with national welfare (or rather profit was assumed, in the doctrine of laissez faire, to be identical with welfare). It was during this period too that the word stock was increasingly displaced by "capital." In Ricardo's work (*Principles of Political Economy*, 1817) this transition is perhaps half completed. His "profits" is still from the first word "the profits of stock," and the phrase recurs occasionally, but his training and interests account for his few references to "stock" as physical agents used in technical processes, and for his many references to employers' investment expressed with the pounds sterling symbol. The emphasis is different from that of Smith, but the confusion of two meanings remains.

J. S. Mill, however, (*Principles of Political Economy*, 1848) scarcely uses the word stock after the definition of capital as "this accumulated stock of the produce of labor." But the "function of capital is production," the goods mentioned are all physical and usually their function is described as technological. He is soon, however, hopelessly confused in attempts to distinguish between capital to the individual and capital to the nation. The "capital" employed in production is "worth ten thousand pounds." The chapter on "increase of capital" is mostly concerned with "the produce of past labor"—physical objects; but that on "the profits of capital or stock" treats mainly a "rate" of profits on a valued investment. Mill stumbles at length into the notion that all advances "have consisted of nothing but wages," a large portion as direct payment and the rest as "previous advances" which "consist wholly of wages." Nothing could be more explicit—or more erroneous as an explanation of the origin of capital values—ignoring as it does every influence from scarcity of natural materials, from monopoly, from previous profits, from manifold speculative influences and from recapitalization (the revaluation of agents). Mill's capital concept at this point is the fruit of his labor theory of value —herein, however, he has substituted wages for Ricardo's quantity of labor, thereby better concealing the difficulty due to various qualities and values of labor.

The capital concept remained in the circle of English "liberal" price economists as Mill had left it until the late eighties. Among them Marx's conception of capital as an agency of exploitation found no echoes. Yet unquestionably there was here an aspect of truth, one which at that time and since then has been given wide

recognition in Germany. Capital both with Marx and with Mill involved the confusion of acquisition and "production," Marx seeing chiefly the acquisitive and Mill the technical aspect. Classification of capital as one of the three factors of production implies its physical nature and its technological function. Its yield (profit, or interest, as by preference it began to be called) was assumed to be coordinate in nature with rent (of land) and wage (of laborer); yet profits (or interest) as a rate percent of an investment manifestly does not fit into this scheme, and there is a consequent confusion in the theory of incomes.

The psychological school after 1870 made earnest attempts to revise the prevailing capital concept. Jevons, in his incomplete studies of capital (e.g. *The Theory of Political Economy*, 1871, ch. vii; also appendices i–ii in 4th ed. London 1911), offered some original suggestions, but in the end adopted Mill's subsistence (food for laborers) concept. Böhm-Bawerk (*Kapital und Kapitalzins*, 2 vols., 1884–89) as a disciple of Menger sought to make the theory of capital his peculiar domain, but after beginnings which pointed toward a value investment concept and after painstaking studies of earlier views he adopted the conventional confused concept of "capital in general" as "a group of [physical] products which serve as means to the acquisition of goods." This foredoomed him to a productivity theory of interest—the very thing he had attempted to avoid. He also developed a sort of subsistence theory of capital investment in connection with his periods of production in "the roundabout process." J. B. Clark, while engaged in controversy over the single tax, detected the duality of the "orthodox" Mill-Ricardian capital concept and proposed (*Capital and its Earnings*, 1888; also *The Distribution of Wealth*, 1899) to match it with twin terms, "capital-goods" or physical agents including land, and "pure capital" as the (supposedly) permanent fund of value resident in them. Yet in accounting for "the genesis of capital" (physical) and for the capital value Clark too lapsed inconsistently into the old labor theory of value.

Clark's eclectic terminology of "capital goods" and "pure capital," although an unfortunate compromise, has had wide vogue. His reformulation served to stimulate much further discussion, some futile and some fruitful. Partly no doubt this discussion, partly the rapid changes in business organization, notably incorporation, banking, financial investment and more refined accounting, have caused the trend in recent economic texts toward the more general usage of capital in the valuation, property, investment sense of the terms.

The history of the capital concept helps to explain the early and still persistent confusion of money (a part) with capital (as the whole, of a person's fund of purchasing power) and this, in mercantilist doctrine, with wealth in general. The discussion of the ethical justification of interest (first in the original sense of a premium for a money loan, then in the widened sense of any income from private property) easily became confused because of the ambiguity of "capital." The conservative justified acquisition through capital ownership by pointing to the value of the technological uses of physical wealth; the communist denied to wealth any valuable technological uses, attributing all value to labor and depicting private property as merely a tool of exploitation used by employers to rob the workers of the "surplus value" they had created.

Economic as well as ethical interest theory has suffered from this ambiguity. All use and productivity theories are attempts to explain the rate of premium (or yield) from a financial fund (capital value) by reference to the rent or usance value of a stock of indirect technical agents, without a theory of capitalization to explain first the value of the capital sum or principal.

The terms fixed and circulating capital are distorted expressions of the truth that various kinds and various portions of investments are more or less readily saleable, confused with the technological truth that various physical agents are more or less durable in nature.

The definition of capital determines in turn the meaning more or less vaguely attached to such phrases as capitalistic system, the growth of capitalism and the capitalistic age. Some see in capitalism essentially the use of labor saving machines (perhaps also power driven); this is a technological conception of capitalism. Others, more eclectic, see in capitalism essentially the wage system where the employer owns all the physical agents. But consistently with the value concept capitalism is merely the price system, the commercial exchanging organization of industry, where valuations, incomes and property take on the financial expression.

It is necessary to distinguish certain popular uses of the term capital, notably "nominal capital" of a corporation as the total face value of shares of stock outstanding, taken at par (or sometimes the total authorized); this, however,

can mean only number of shares in the now frequent cases of shares with no par value. Sometimes nominal capital is used to mean the total denomination value of all securities, even bonds, and "capital of a corporation" as denoting these taken at their market value. None of these is properly called "capital" but rather "nominal value [or market value respectively] of corporation shares or securities." Capital as applied to corporations is rather a figure of speech than a consistent scientific term, inasmuch as a corporation (a person only by legal fiction) has revenues and receipts rather than "incomes," and assets (physical or intangible sources of revenues) rather than capital.

While recognizing divergent usage, we may define capital as the market value expression of individual claims to incomes, whether they have their sources in the technical uses of wealth or elsewhere. This is essentially an individual acquisitive, financial, investment, ownership concept. It is a "fund" only in the financial sense, not a stock of wealth. It is the sum, in terms of dollars, of the present worths of various legal claims. It therefore includes the worth of all available and marketable intangibles, such as credits, promises, good will, franchises, patents, etc. as well as the worth of claims to the uses of physical forms of wealth. Their summation as a financial fund is the resultant of a capitalization process. Physical objects of value are not capital, being sufficiently designated as goods, wealth or agents.

Capital as here defined is a conception of individual riches having real meaning only within the price system and in the market place where it originated, and developing with the spread of the financial calculus in business practise.

FRANK A. FETTER

See: WEALTH; VALUE; INCOME; INTEREST; PRODUCTION; LAND; ECONOMICS; CAPITALISM; CREDIT; ACCUMULATION; FORTUNES, PRIVATE; SAVINGS; CORPORATION FINANCE; CAPITALIZATION; INVESTMENT; FOREIGN INVESTMENT; WEALTH, NATIONAL.

Consult: Cannan, Edwin, "Early History of the Term Capital" in *Quarterly Journal of Economics*, vol. xxxv (1920–21) 469–81, and comments on it by R. D. Richards and H. R. Hatfield in *Quarterly Journal of Economics*, vol. xl (1925–26) 329–38 and 547–48; Cannan, Edwin, *A History of the Theories of Production and Distribution* (3rd ed. London 1924); Böhm-Bawerk, Eugen von, *Kapital und Kapitalzins*, 2 vols. (4th ed. Jena 1921), tr. by W. Smart as *Capital and Interest* (London 1890), and *The Positive Theory of Capital* (London 1891); Davenport, H. J., *Value and Distribution* (Chicago 1908); Spiethoff, A., "Die Lehre vom Kapital" in *Die Entwicklung der deutschen Volkswirtschaftslehre im neunzehnten Jahrhundert*, 2 vols. (Leipsic 1908) vol. i, no. iv; Passow, Richard, *Kapitalismus* (2nd ed. Jena 1927); Oppenheimer, Franz, *Theorie der reinen und politischen Oekonomie*, 2 pts. (5th ed. Jena 1923–24) pt. ii, p. 565–606; Fisher, Irving, *The Nature of Capital and Income* (New York 1906); Fetter, F. A., "Recent Discussion of the Capital Concept" in *Quarterly Journal of Economics*, vol. xv (1900–01) 1–45, and *Economic Principles* (New York 1915) pt. iv, and "Clark's Reformulation of the Capital Concept" in *Economic Essays Contributed in Honor of John Bates Clark* (New York 1927) p. 136–56; Veblen, T. B., "On the Nature of Capital" reprinted in *The Place of Science in Modern Civilization* (New York 1919) p. 324–86.

CAPITAL LEVY is a form of taxation designed to appropriate to the state not merely a part of the income from capital but a part of the capital itself. It is always conceived of as an emergency measure, applicable to all capitals above exempted minima, and thus differs from inheritance and estate taxes, which, although they may appropriate a share of the capitals affected, are applicable only to the fraction of all wealth descending by death. Estate and inheritance taxes form a part of the ordinary resources of the treasury, while the capital levy is collected once for all and is intended to be set apart for a specific purpose, usually the sinking of the public debt.

The idea of a capital levy as a device for the abolition or reduction of public debt is not new. Archibald Hutcheson suggested it in his tracts of 1714 and 1717 and later in his *Collection of Treatises Relating to the National Debts and Funds* (London 1721). Hume ("Of Public Credit," *Political Discourses*, Edinburgh 1752) rejected it upon grounds of practicability and justice. Ricardo defended the plan in his *Essay on the Funding System* (published in 1820 in the 6th ed. of the *Encyclopaedia Britannica*) and in his parliamentary speeches. It was rejected by J. S. Mill (*Principles of Political Economy*, 1848).

The plan of a capital levy became an object of general discussion after the World War in consequence of the vast increase in public debts. The advocates of the levy may be divided roughly into two groups: those who wished to reduce the debt and thus the interest charges in order that the tax burden might be lightened, and those who wished to free the state from the burden of debt charges in order to allow it to make appropriations for social purposes. The former group, like the early advocates of the capital levy, saw in it a mere capitalization of ordinary taxes. Every capitalist was in effect saddled with the interest on a certain proportion

of the debt. He would be no poorer if he cleared off this proportion once for all by surrendering an equivalent part of his capital. The latter group saw in the capital levy a means of redistributing wealth. Most plans for a capital levy provided a certain exemption and applied the principle of progressive rates. Usually it was proposed to tax the net wealth of individuals but to exempt corporations.

As a rule the discussion turned on questions of practicability rather than on questions of principle. The fundamental problem was one of methods of payment. Advocates of the levy considered that payment could be made in cash, in public debt certificates or even in other securities. Some foresaw creation by the state of a special financial organ with the function of accepting and liquidating securities or even real estate surrendered in payment of the tax. There were others who proposed that the state should administer these investments instead of realizing on them. This proposal was criticized on the ground that it would represent the beginning of socialism.

Opponents of the levy maintained that enormous difficulties would be encountered in the process of payment. Few taxpayers would be able to pay in cash or in public certificates. Most private capitals, it was pointed out, consist of industrial or bank securities. The treasury could not accept them all. Would it publish a list of accepted securities to which it would thus be giving its official seal? And what would it do then with these securities? If it sold them a tremendous disturbance on the exchange would follow. If the treasury kept the securities it received instead of realizing on them a grave question would arise as to the competence of the bureaucracy to administer such important assets. Finally, many taxpayers had only their particular industrial, agricultural or commercial business. Like the capitalists with securities unacceptable to the treasury they would be obliged to borrow to discharge the tax. Their credit would be inferior to government credit and the interest they would have to pay would exceed the amount of taxes from which they would be relieved by the extinguishing of their proportionate share in the public debt. Moreover, important corporations or large capitalists could discharge the tax more easily than the more modest industrialist, agriculturalist or business man. The effect of the levy would thus be to stimulate economic centralization.

In a number of cases attempts were made to apply the capital levy in practise, but the results were by no means so clear cut as the theoretical conclusions. In Germany the law of December 31, 1919, introduced the *Reichsnotopfer* (emergency sacrifice levy), which was conceived of as an extraordinary tax to amortize the debt and to restore the national finances. All fortunes were taxed; only the sum of 5000 marks for each taxpayer was exempt, a like sum for his wife and for each child after the first. The rate was progressive, 10 percent on a capital of 50,000 marks or under, 12 percent on capital between 50,000 and 100,000 marks. It increased gradually until, above 7,000.000 marks, it finally reached 65 percent. These rates were applied to natural persons. For corporations the rate was uniformly 10 percent. The taxpayers who were unable to pay at once could meet their obligations by annuities equivalent to 5 percent of the amount of the tax, plus 1.5 percent for amortization.

The provisions for postponed payments changed completely the spirit of the law. Instead of a capital levy it turned out to be a supplementary income tax. Fortunes were to be appraised as of December 31, 1919, and the amount of the tax determined on that basis. As a matter of fact, the taxable fortune was almost always less than the real fortune. Industrial plant, for example, was appraised according to its purchase price without considering the depreciation of the mark. As the mark continued to depreciate sharply, assessments, although they were figured in millions, finally represented only a small fraction of the real fortune.

The law of April 8, 1922, introducing the *Vermögenssteuer* (ordinary tax on capital) provided that the *Notopfer* would be levied only up to the amount of 40 percent of the sums due. The rest would be replaced during a certain number of years by special taxes supplementary to the *Vermögenssteuer*, which was to be determined according to fortunes as of December 31, 1922. But in 1923 came the complete collapse of the mark. The evaluation of December 31, 1922, no longer had any significance. The *Vermögenssteuer* was canceled. When it was reorganized in 1925 there was no longer any question of special supplements.

Finally the sums that were collected as a levy on capital were not used to amortize the debt but were simply treated as part of ordinary financial receipts.

A capital levy was instituted in Italy by royal decree of November 24, 1919. All property,

whether owned by citizens or aliens (diplomatic agents excepted), was subject to the tax. In consequence of extension of time granted the taxpayers, however, it lost all the characteristics of a true capital levy and was transformed into a supplementary income tax. As in the case of Germany, the receipts from this extraordinary tax, although intended for debt amortization, were treated as part of the ordinary treasury receipts.

The only country in which the capital levy yielded substantial results was Czechoslovakia. Here the circumstances of its introduction were peculiar. To prevent the influx into Czechoslovakia of notes which the bank of Vienna continued to issue, the Czech government had undertaken to nationalize its currency. To this end all notes circulating in Czech territory had to be presented for stamping at the beginning of 1919. Half of the notes were retained by the authorities, who delivered in exchange 1 percent forced loan certificates. Half of all deposits in the bank of issue and half of the treasury certificates were likewise commandeered and applied to the forced loan. To amortize this loan and to restore its finances the government by a law of April 22, 1920, introduced a levy on capital applying to all fortunes in excess of 50,000 crowns. The rate began with 4.5 percent and increased slowly to a maximum of 50 percent above 100,000,000 crowns. Payment was to be made in ten or twenty-year periods and time extensions could be granted in certain instances. Property was to be assessed as of January 1, 1920. The yield of the tax had been estimated at 10,000,000,000 to 12,000,000,000 crowns, but the actual yield was about 6,000,000,000, approximately 600,000,000 or 700,000,000 gold francs. Payments were largely effected by means of the forced loan certificates, and the receipts served effectively to amortize the public debt.

Whatever may be said in defense of the principle of the capital levy, it must be admitted that the question generally presents itself from the practical angle only when the finances of the state are disorganized and currency is in course of depreciation. Such conditions are extremely unfavorable for carrying out a large levy. On the other hand, when finances are running smoothly, when the budget is balanced and the currency stabilized, everyone or nearly everyone shrinks from such an experiment which threatens to destroy a painfully acquired equilibrium.

B. S. CHLEPNER

See: WAR FINANCE; FORCED LOANS; PUBLIC DEBT; PUBLIC FINANCE; SINKING FUND; CAPITALIZATION AND AMORTIZATION OF TAXES; PROPERTY TAX; TAXATION.

Consult: Chlepner, B. S., *Le prélèvement sur le capital dans la théorie et la pratique* (Brussels 1925); American Economic Association, Committee on War Finance, "Report" in *American Economic Review*, vol. ix, no. i, supp. no. ii (Princeton 1919) p. 69–74; Birck, L. V., *The Scourge of Europe: The Public Debt* (London 1926) ch. xiv; Dalton, Hugh, *The Capital Levy Explained* (London 1923); Lawrence, F. W. P., *A Levy on Capital* (London 1918); Great Britain, Treasury, Committee on National Debt and Taxation, *Report*, Parliamentary Papers by Command, Cmd. 2800, 4 vols. (London 1927); Nicholson, Joseph S., *War Finance* (2nd ed. London 1918) ch. xlvi; Pigou, A. C., *A Capital Levy and a Levy on War Wealth* (Oxford 1920), and *The Political Economy of War* (London 1921) ch. xvii; Raiter, Michel, *Le prélèvement extraordinaire sur le capital en France et à l'étranger* (Paris 1927); Shirras, G. F., *The Science of Public Finance* (2nd ed. London 1925) p. 539–49; Stamp, J. C., *The Fundamental Principles of Taxation in the Light of Modern Developments* (London 1921) p. 155–65; Lew Ping Yeh, *L'impôt sur le capital en pratique (1919–23)*, (Paris 1924).

CAPITAL PUNISHMENT is the practise of deliberately putting to death an offender as a measure of social policy imposed by the governing authority of the community. It is not safe to generalize about the prehistoric laws and customs from which this practise originated, for like all such laws and customs they are wrapped in obscurity and must have varied most widely in different ages and in different types of communities. If we may judge of them by what we know of the scattered communities of primitives who have in the last half century come under scientific observation we are forced to conclude that within the relatively small group of kinsfolk comprising a primitive community human life was a commodity too precious to be sacrificed for any but compelling reasons. The one reason apparently common to all primitive societies was the necessity of ridding the group of a member who had brought upon it the wrath of a dreaded deity by the gross violation of a tabu, such as killing the totem animal of the tribe or committing incest. Homicide, theft and other secular offenses were not primarily the concern of the community but rather of the injured party or of his immediate family, who might at will take summary vengeance or compound the felony by taking compensation (composition) from the offender or his family. Such composition seems to have been usual.

In the more advanced civilizations represented by the city-states or empires that de-

veloped in the valleys of the Euphrates and the Nile—from the Babylon of Hammurabi in the twenty-first century B.C. to the Israelitish kingdom fifteen hundred years later—we find death the invariable penalty for wilful homicide as well as for a variety of sexual and other religious and quasi-religious offenses, with the rule of exact retribution, such as "an eye for an eye," governing other types of offenses. Early Roman law, as represented in the Twelve Tables, and the customary law of the Germanic tribes display the general characteristic of ancient law, which is to regard all offenses against individuals, including homicide, as the private concern of the injured. There was no punishment but only compensation in money or goods to be paid to the injured party. As in more primitive societies the only offenses punishable by the state were those against the state, such as treason or the violation of certain religious sanctions, and the state had but one punishment—death.

Capital punishment for homicide and other secular offenses may be said to have come in with the modern state and its growing recognition of the obligation to maintain peace and order within its boundaries. The practise was most unrestrained in the mediaeval period, when the states of Europe cooperated with the church in a ruthless warfare of extermination against witchcraft and heresy, and again at a later period, when England, far in excess of other European countries, employed the death penalty on an unprecedented scale in the effort to suppress crime of every description. The European tradition of the seventeenth and eighteenth centuries was not Roman but barbarian, and the early stages of public justice were characterized by excessive barbarity both in the discovery and in the punishment of crime.

The English colonies in America took over English penal law and policy with many modifications and variations. Capital punishment was everywhere accepted, but while Puritan Massachusetts inflicted the death penalty for a dozen offenses Quaker Pennsylvania recognized only two capital crimes, murder and treason. Witchcraft in most of the colonies, as in England and elsewhere in Europe, was punished with death.

In the history of capital punishment since the intellectual renaissance of the eighteenth century there have been two alternating movements: one a trend toward limitation of the use of capital punishment and the adoption of so-called humane methods of execution; the other an ensuing reaction toward a more stringent application. This alternation has on the whole synchronized with the general history of liberal and social reform movements without developing any clear and lasting philosophy of the values involved in capital punishment.

The intellectual renaissance inspired a new humanitarian sentiment which, on the side of penology, found its most effective expression in the work of the Italian scholar, Beccaria, whose *Dei delitti e delle pene* (1764) was a reasoned protest against torture and the death penalty and won an immediate success. Catherine of Russia read it and decreed the abolition of capital punishment in that country. The work did much in England and America to stimulate the growing sentiment against the death penalty. Before the end of the century Sir Samuel Romilly and Sir James Mackintosh were moving the House of Commons, against the opposition of the Lords, to reduce the number of criminal offenses, then over two hundred, punishable with death. The French Revolution hastened the process of abolition on the continent but set up a reaction in England which retarded the movement there until 1832, when horse and sheep stealing ceased to be capital offenses. During the following years the list was steadily reduced until by 1861 there remained only wilful and deliberate murder and attempts against the government, offenses which are still punishable with death.

While this amelioration of policy was due primarily to the increase of humanitarian sentiment it was also in part an outgrowth of the contemporaneous secularization of thought, with the elimination of the ideas of sin and retribution and the increasing acceptance of the utilitarian principle laid down by Beccaria and embodied in the French Declaration of the Rights of Man that "the right to punish is limited by the law of necessity." This principle has become the controlling factor in modern penological theory and practise.

Since the disappearance of witchcraft accusations treason in time of war or revolution and wilful and premeditated murder are, as a general rule, the only two offenses which have been deemed sufficiently menacing to the social order to require or justify the infliction of the death penalty. In a few American communities, isolated from the prevailing tides of public sentiment, other crimes, such as rape, robbery or burglary, are still treated as capital offenses and in Georgia indictments have recently been returned charging attempts to incite rebellion,

with a demand for the infliction of the death penalty as provided by law. Since the middle of the last century there has been a marked though intermittent movement throughout the western world to abolish the death penalty even for murder. This abolition has been achieved in Austria, Norway, Sweden, Finland, Denmark, Holland, Belgium, Portugal, Italy (partly restored in 1926), Latvia, Rumania, Lithuania, Czechoslovakia, Hungary, Russia and most of the cantons of Switzerland. Even more sweeping has been the process in Central and South America, where only six states (four of them under foreign control or influence) retain the death penalty for murder. Of the British colonies only Queensland in Australia has abolished capital punishment. Only twelve of the forty-eight American states have abolished the death penalty for murder, and of these four have revived it in the reaction resulting from the late war. Thirty-two other states have enacted a compromise policy under which the court or jury decides whether the penalty shall be death or imprisonment. In the remaining eight states, as in the federal law, the death penalty is still mandatory. It is perhaps to the influence of Great Britain that we may, in a measure, attribute the slow progress of the abolition movement in the American states. Penal legislative policy in England is still dominated largely by the same classes of well born and well-to-do which resisted the reform of the penal code a century ago. Penal policy in the United States is in much the same degree influenced by the legal profession, with its natural conservatism reenforced by a traditional veneration for English law and procedure. In a large proportion of cases, however, the law is nullified by the jury's refusal to convict or, as was generally the case for long periods in many of the countries which have now abolished the death penalty—and invariably so in Belgium—by the exercise of executive clemency. France of late years has executed less than one third of the condemned criminals subject to the death penalty, and in 1928 Germany did not execute one of the forty sentenced to death.

Methods of inflicting the death penalty have varied widely, from the most casual, such as abandoning the malefactor to the fury of the mob, to the elaborate system of torture which in the seventeenth and eighteenth centuries in England was a frequent concomitant of public execution by hanging. In the classical period of Greece freemen were disposed of by the administration of poison, slaves by beating with staves or by stoning. Rome hurled her ordinary malefactors from the Tarpeian Rock or stoned them to death, crucifixion being reserved for slaves or for the lesser breeds without the law. Beheading with a sword or axe became common in middle and western Europe in the Middle Ages, but in England was ultimately limited to malefactors of high degree, all others being hanged. Death by burning, employed in the ancient world only for crimes involving some religious abomination such as incest, was taken over by the western world for putting an end to witches, or sorcerers, heretics and the like. The practise of burning women as witches led, in England at least, to the employment of this method of inflicting the death penalty on women convicted of felony, and up to the middle of the eighteenth century Negro and other slaves convicted of murder, arson or conspiracy to commit one of those crimes were burned to death in New York, New Jersey and other American colonies.

While France and a few other countries retain the guillotine the more general method of execution today is hanging, except where in the United States other methods deemed more humane have been substituted. Led by New York in 1888, twenty-one states, including the District of Columbia, now employ electrocution, while one, Nevada, kills with lethal gas and another, Utah, gives the victim the choice of hanging or shooting.

No method thus far tried has sensibly mitigated either the interest or the horror which the infliction of the death penalty excites in the public mind. Although it takes place within prison walls in the presence of only a handful of people it is still, just as it was when performed in the public square, essentially and unavoidably a public spectacle. That it is a demoralizing spectacle cannot be doubted and it may well be believed that the millions who read of it in the public press and who make it a matter of excited discussion are less affected by the lesson it aims to teach than by emotions of sympathy or even of emulation for the tragic victim. There are many unstable, wavering, suggestible personalities in this vast, invisible audience, and it is a matter of record that notorious executions have often been followed by what newspapers call an epidemic of murder. It is not unreasonable to believe that the total abolition of the death penalty would be conducive to a greater respect for human life in the community at large. Such

views are held today by many, probably a large majority, of social workers, criminologists and other students who urge instead a sentence of life imprisonment with some scheme of commutation of sentence in connection with reconstructive psychological and educational treatment. Those who favor the continued use of the death penalty have long since ceased seriously to use any argument but that of a postulated necessity.

Capital punishment maintains its hold as a human institution because of the fear and resentment which murder excites and because of a persistent faith in its necessity either as a deterrent influence or as the only conclusive means of protecting the community against a convicted malefactor. For this faith there is not the slightest evidential support. Again and again in European and American states capital punishment has been abolished without any resulting increase in the homicide rate, and in many cases its revival has not resulted in the slightest diminution. Statistical evidence is uniformly negative. Indeed, a study of murderers and of the conditions under which murder takes place tends to indicate conclusively that of all criminals the murderer is the one least likely to be deterred by contemplation of the legal consequences of his act. Another important consideration is the fact that where conviction will mean death juries hesitate to pass an irrevocable sentence, and thus allow men of probable guilt to go free. As a consequence fear of capital punishment is probably much less of a deterrent than fear of a less extreme but more certain punishment would be.

GEORGE W. KIRCHWEY

See: PUNISHMENT; CRIME; CRIMINOLOGY; PARDON; SANCTUARY; POLITICAL OFFENDERS; HUMANITARIANISM.

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CAPITALISM

THE CONCEPT OF CAPITALISM. *Introduction.* The concept of capitalism and even more clearly the term itself may be traced primarily to the writings of socialist theoreticians. It has in fact remained one of the key concepts of socialism down to the present time. Nevertheless, it cannot be said that a clear cut definition has ever been attempted. Even Karl Marx, who virtually discovered the phenomenon, defined only certain aspects of capitalism as the occasion required. When the term is used by socialists in any definite sense it has the character of a political byword with a strong ethical tinge.

Despite the fact that capitalism tends to become the sole subject matter of economics, neither the term nor the concept has as yet been universally recognized by representatives of academic economics. The older German economists and to a much greater extent the economists of other countries rejected entirely the concept of capitalism. In many cases the rejection was merely implicit; capitalism was not discussed at all except perhaps in connection with the history of economic doctrines, and when it was mentioned there was no indication that it was of particular importance. The term is not found in Gide, Cauwes, Marshall, Seligman or Cassel, to mention only the best known texts. In other treatises, such as those of Schmoller, Adolf Wagner, Richard Ehrenberg and Philippovich, there is some discussion of capitalism but the concept is subsequently rejected. In the newer economics it is recognized as indispensable or at least useful, but the uncertainty as to its exact meaning is generally expressed by quotation marks about the word. Representatives of this school are little inclined to attempt the constructive development or more accurate analysis of the concept.

The works of Sombart are the first in which the concept of capitalism has been definitively recognized as fundamental to the system of economic thought. Here it is demonstrated that

capitalism designates an economic system significantly characterized by the predominance of "capital," and it is argued that the word "capitalism," which by its very etymology suggests this feature of the economic system, must be retained as the appropriate term for it. The fact that this term has received a negative ethical emphasis in socialist literature should not qualify its use as a completely non-ethical designation for a definite economic system, particularly since there is apparently no better substitute.

Capitalism as a specific economic system cannot be understood without an analysis of the concept of economic system with a view to pointing out the function of this concept in economic science. Economic life is distinguished as a particular sphere of cultural life by the principle of "economy." This principle as a logical concept is removed from the realm of space and time, but "economy" in the sense of economic life is an existential complex with definite spatial and temporal aspects. All culture, and consequently all economy, is historical. As there is in the abstract no religion, no art, no language, no state, but merely a certain religion, a certain art, a certain language, a certain state, so there is no economy in the abstract, but a particularly constituted, historically distinguishable economic life.

The task of all the cultural sciences is to find ways and means by which to grasp cultural phenomena in their historical singularity. A certain field of culture is rendered scientifically mature when science learns to determine its place in history on the basis of its concrete historical manifestations and to distinguish it in its characteristic phases from other concrete manifestations of the same cultural principle. This is achieved by the introduction of a formative conception not derived from empirical observation, which makes possible the construction of systems. Thus linguistics utilizes the conception of inherent language form, the science of religion the conception of dogma, the science of art the conception of style.

Economic science likewise requires a constitutive conception in order to arrange its material in systems. The function of such a conception is to enable us to classify the fundamental characteristics of economic life of a particular time, to distinguish it from the economic organization of other periods and thus to delimit the major economic epochs in history. A conception which will make possible the systematization of economic phenomena must be derived directly from the notion of "economy," the essentials of which it must comprise, collate and connect—and not merely in their abstract form, not merely as ideas, but in the concrete, as definite historical facts. These requirements are satisfied by the general conception of the economic system. By an economic system is understood a mode of satisfying and making provisions for material wants which can be comprehended as a unit and wherein each constituent element of the economic process displays some given characteristic. These constituent elements are the economic spirit or outlook—the sum total of the purposes, motives and principles which determine men's behavior in economic life—the form of economic life or the objective system of regulations of economic relations, and the technology employed in economic processes. Defined more precisely, an economic system is a unitary mode of providing for material wants, animated by a definite spirit, regulated and organized according to a definite plan and applying a definite technical knowledge.

It will be observed that the economic system is superior to all other systematizing conceptions hitherto employed, because they stressed merely single prominent characteristics and made it possible to distinguish only single aspects of economic life, whereas the conception of the economic system is broad enough to comprehend every aspect. On the other hand, it is definite enough to encompass the historical concreteness of economic life and is thus far superior for the purpose of framing a system to purely formal ideas such as that of national economy (*Volkswirtschaft*). Finally, it is general enough to permit of application to every conceivable economic institution from the most primitive to the most highly developed.

The Spirit of the Capitalist System. The special character of capitalism will be brought out most clearly if we consider separately the characteristic forms which the three constituent elements—spirit, form and technology—assume in the capitalist system.

The spirit or the economic outlook of capitalism is dominated by three ideas: acquisition, competition and rationality.

The purpose of economic activity under capitalism is acquisition, and more specifically acquisition in terms of money. The idea of increasing the sum of money on hand is the exact opposite of the idea of earning a livelihood which dominated all precapitalistic systems, particularly the feudal-handicraft economy. In pre-

capitalistic systems economic as well as all other thought and action was centered about the human being. Man's interests as producer or as consumer determined the conduct of individuals and of the community, the organization of the economic life of society as a whole and the ordinary routine of business life in its concrete manifestations. Goods were produced and traded in order adequately to meet the consumers' needs and to provide an ample livelihood for producers and merchants; the standards for the expectations of both consumers and producers were fixed by long established usage. The category of qualitative use value was the determining principle of valuation. All social and individual norms affecting economic processes were grounded in human, personal values. On the other hand, in systems dominated by the idea of acquisition the aim of all economic activity is not referred back to the living person. An abstraction, the stock of material things, occupies the center of the economic stage; an increase of possessions is basic to all economic activity. The idea of such an economic system is expressed most perfectly in the endeavor to utilize that fund of exchange value which supplies the necessary substratum for production activities (capital).

While acquisition constitutes the purpose of economic activity, the attitudes displayed in the process of acquisition form the content of the idea of competition. These attitudes, which are logically inherent in acquisition, may be described as freedom of acquisition from regulation by norms imposed upon the individual from the outside, the lack of quantitative limits to acquisition, its superiority over all other aims and its ruthlessness.

By reason of its freedom from regulation capitalism rests essentially on the individual's assertion of his natural power. Every economic agent may and should extend his sphere of action as far as the complete exercise of his powers will allow; in case of failure, however, he completely foregoes assistance. Economic activity is closely associated with personal risk, but the economic agent is free to strive for economic success in any way he chooses provided he does not violate the penal code.

There are no absolute limits to acquisition, and the system exercises a psychological compulsion to boundless extension. The fact that capitalistic enterprise has as its purpose a certain mode of utilizing a stock of goods signifies a complete divorce of the aims of capitalistic economy from the personality of the economic agent. The abstract, impersonal character of the aim indicates its limitlessness. Activity in the capitalistic system is no longer determined by the needs, quantitatively and qualitatively limited, of one person or of a group of persons. Profits, no matter how large, can never reach a level sufficiently high to satisfy the economic agent. The positive drive toward boundless acquisition is grounded in the conditions of management. It is empirically true, though not logically inevitable, that any enlargement of business reacts to its own advantage, at least quantitatively through an extension of its sphere of exploitation and sometimes also qualitatively through a reduction of costs. This provides the stimulus to the continuous expansion of a business, often contrary to the expressed wishes of its owners and managers. In this peculiar orientation of human activity upon an infinitely removed goal lies the reason for the dynamic potency of the capitalistic system, a potency which renders intelligible all its remarkable achievements.

Acquisition therefore becomes unconditional, absolute. Not only does it seize upon all phenomena within the economic realm, but it reaches over into other cultural fields and develops a tendency to proclaim the supremacy of business interests over all other values. Wherever acquisition is absolute the importance of everything else is predicated upon its serviceability to economic interests: a human being is regarded merely as labor power, nature as an instrument of production, life as one grand commercial transaction, heaven and earth as a large business concern in which everything that lives and moves is registered in a gigantic ledger in terms of its money value. Ideals oriented upon the value of the human personality loosen their hold upon man's mind; efforts for the increase of human welfare cease to have value. Perfection of the business mechanism appears as the only goal worth striving for; the means become an end. The vague notion of progress comes to include only such developments as advances in technology, reductions in costs, increase in the briskness of trade, growth of wealth. *Fiat quaestus et pereat mundus.*

Acquisition which is quantitatively and qualitatively absolute degenerates eventually into unscrupulousness and ruthlessness. Business draws practical conclusions from the revolutionary supremacy of its ideals and seeks, without consideration for any conflicting inter-

ests, to clear all obstacles to the limitless and unqualified exercise of acquisition. The intensity of the acquisitive drive attains a point at which all moral and temperamental inhibitions disappear and all conflicting drives become inhibited. The business man is "unscrupulous" in his choice of ways and means, because the selection is based exclusively on their serviceability in the achievement of the final goal, on their usefulness as instruments of acquisition.

When the direction of economic affairs is oriented solely upon acquisition it is inevitable that those modes of economic behavior should be adopted which seem most rational, most systematic, best adapted to the purpose in hand. In the old, precapitalistic economic organization, which is essentially traditionalistic and static, there sets in a process of rationalization representing a manifestation of the dynamic principle. Economic rationality is thus the third dominating idea of the capitalist system.

Economic rationality is manifested in several aspects of the capitalistic business management —its predilection for long range planning, for the strict adaptation of means to ends, for exact calculation. The genuinely capitalistic enterprise is managed on the basis of a plan which extends as far as possible into the future, thus leading to the introduction, among other things, of roundabout methods of production. The execution of the plan is accomplished by means which are painstakingly examined with reference to maximum serviceability for the purposes in hand—a vivid contrast to the ill considered employment of means in more traditionalistic economies. Underlying the planning and its execution are the evaluation and registration of all business facts in precise quantitative terms and the coordination of these records as a significant whole. This adherence to exact accounting is only natural in a situation where all economic acts are regulated in accordance with their pecuniary value and where management looks to maximized profits as its ultimate aim.

Rationalization permeates, of course, the entire scope of business and affects its technical as well as its commercial aspects. It introduces into the sphere of production the most "rational" methods and stimulates thereby the development of scientific technology. It creates rational factory management and leads to proper departmentalization and departmental coordination. The rationalization of the procedures of manual labor results in the employment of the individual worker most serviceably with respect to the ultimate capitalistic aim. On the commercial side rationalization affects the purchase of production equipment and materials, the sale of the ready product at the most suitable time or in the best market, the creation of new outlets whether through clever salesmanship or through the development of new forms of retailing.

Economic rationality penetrates gradually into other cultural spheres, reaching even those which are only remotely connected with economic life. Under its influence all untamed natural growth disappears and, where it proves disturbing, even the aesthetically individual is mercilessly weeded out. The idea of strict adaptation of means to ends, one of the essential ideologic props of capitalism, permeates the totality of culture and leads in the course of time to a purely utilitarian valuation of human beings, objects and events.

While individual action under capitalism is informed by the ideal of highest rationality, the capitalistic system as a whole remains irrational, because the other dominant capitalistic idea, that of acquisition, of the unrestricted assertion by the individual of his power, leaves the regulation of the total economic process to the uncoordinated discretion of individual economic agents. From this coexistence of well nigh perfect rationality and of the greatest irrationality originate the numerous strains and stresses which are peculiarly characteristic of the economic system of capitalism.

The Form of the Capitalist System. The objective, institutional order of capitalism is characteristically free. The dominance of economic individualism has its counterpart in the far reaching independence of the individual economic agents. The restrictions which law and usage impose upon them affect only the most marginal of their activities; essentially restrictions are intended to forestall merely criminal dealings, leaving a wide area of discretion to the individual. "Economic freedom," an aspect of the philosophy of natural rights, assumes, when regarded as an element of the economic order, the form of a system of positive rights conferred upon the individual by law and morals; these positive rights constitute the substance of economic liberalism.

Capitalistic business is typically private, so that economic initiative is lodged with enterprises which are actuated by the quest for private gain. These enterprises, subject to little regulation from the outside, assume the full risk of failure but enjoy also the unrestricted

chance of success. Their activity keeps the economic machinery of society in motion.

The structure of capitalist economy is aristocratic. The number of economic agents is small as compared with the total number of persons participating in economic life, with the result that a large majority is subject to the power of a few economic agents. In a regime of economic freedom the relation between the economic agent and the persons controlled by him takes appropriately the legal form of a free contract. The dominance of a minority is explained by the fact that because of the high standard of technical knowledge and organizational skill required under capitalism people of average abilities and fortunes are incapable of assuming the direction of production and can therefore no longer act as economic agents as they could under the handicraft system.

The capitalist system, based as it is upon highly developed occupational specialization and functional separation, is marked by a high degree of decentralization. The principles underlying the division of labor in capitalist industry differ from those which governed handicraft economy to the extent that the segregation of a certain range of activities into a distinct branch of industry is determined not by the outlook and limitations of a living personality but by purely material factors, the causal sequences of the technological processes. Organic articulation enforced by an active, creative person is superseded under capitalism by purposefully directed mechanistic separation and coordination. The degree of specialization depends ultimately upon the advantages which it may bring to the private economic agents in their pursuit of profits.

Capitalist economy rests upon an exchange basis, the links between its constituent elements being the connections and relations established in the market. All production is intended for the market, is characteristically limited to the production of saleable goods; all products enter into commercial traffic. Similarly all means of production emerge from exchange transactions, are purchased in the market. No less important is the fact that the connection between economic agents and the persons controlled by them is established by contract entered into in the market; labor is thus treated as a species of saleable goods. The relationship between wants and their satisfaction through production is established indirectly through the medium of price, which regulates the quantity and character of output. Since the guiding principle of capitalism is gain, there is production only if prices yield profit, if they offer to the individual enterprise the prospect of economic success. This system of satisfying wants is therefore flexible, unlike the systems found in economic organizations oriented directly upon the satisfaction of needs. Distribution of the results of production, involving as it does a conflict between various groups, particularly between the two great classes of recipients of surplus value and of wages, is likewise regulated through the mechanism of pricing.

Finally, the organization of production under capitalism is not limited to any single form. Although large scale production predominates, production on a small scale (e.g. domestic system) also has its place in the system.

The Technology of the Capitalist System must satisfy certain conditions. To begin with, capitalist technology must insure a high degree of productivity. It cannot fall below a certain minimum, because capitalist organization of production, involving necessarily the differentiation between the work of organization and management on the one hand and that of technical execution on the other, would then be impossible. For example, as long as every hunter can manage to subsist on the yield of his daily hunt, there is no room for a capitalist organization of hunting under the leadership of an organizer who does no actual hunting himself. Moreover, this productivity must be as high as possible, because, other things being equal, an increase in productivity means a correspondingly greater profit to the capitalist enterprise. The compensation of the wage earners, which is limited to the amount needed for subsistence, can with increased productivity be produced in a shorter time, and a larger proportion of the total working time remains therefore for the production of profits. Again, an advance in technology, particularly in the technique of transportation, involves capitalist expansion whether through an extension of the markets or an intensive accumulation of stock. Capitalist expansion under these conditions is accompanied by an increase in total profits and, in view of the decline in the costs of production, by a rise in the profit rate.

The technology characteristic of the capitalist system must also lend itself most readily to improvement and perfection. For constant technical improvements are an important weapon in the hands of the capitalist entrepreneur, who seeks to eliminate his competitor and to extend

his market by offering goods superior in quality or lower in price. Moreover, such improvements yield a considerable differential profit, since the entrepreneur can realize a profit larger than the average so long as his improvements do not become widely accessible, and thus tend to reduce the socially necessary production costs. It will be observed that the quest for differential profit is an important dynamic factor in capitalist society.

The scientific, mechanistic technology, which is based on the accomplishments of natural science and breaks through the limitations of an organic environment, meets the tests both of productivity and of perfectibility. In addition, the ideas underlying this technology are in precise correspondence with the spirit of the capitalist system. Thus the rationalistic spirit which permeates this technology merely testifies to the fact that the economic principles of capitalistic organization have been applied to its technical processes. The inorganic character of this technology finds its economic counterpart in the divorce of economic life from the personality of the individual, in the impersonality of all economic relationships. The depersonalization of commercial as well as technical management transforms them into satisfactory instrumentalities for the practise of a technology based on the depersonalization of human labor.

The Capitalistic Enterprise. Modern capitalism made its appearance with the development of the capitalistic enterprise. It represents the form through which an independent existence is granted to business as such. By the combination of all simultaneous and successive business transactions into a conceptual whole an independent economic organism is created over and above the individuals who constitute it. This entity appears then as the agent in each of these transactions and leads, as it were, a life of its own, which often exceeds in length that of its human members. This integrated system of relationships treated as an entity in the sciences of law and accounting becomes independent of any particular owner; it sets itself tasks, chooses means for their realization, forces men into its path and carries them off in its wake. It is an intellectual construct which acts as a material monster.

The capitalistic enterprise has its own aims or, more properly, it has a single, very definite goal, profit; for only this particular goal corresponds to its spiritual essence. While it is in a sense sheer tautology to say that profit is its only goal, for conceptually the capitalistic enterprise is nothing but an instrumentality for the purpose of profit making, it is nevertheless of great significance that in this economic construct the spirit of the capitalist system and the aims of the individual economic agents become merged. Since the aims of these individuals are essentially arbitrary because they are freely determined, it is merely a happy coincidence if the immanent spirit of capitalism, acquisition, appears also as the subjectively experienced motive for individual action in the form of a striving for profit. The motives of capitalistic entrepreneurs are by no means restricted to acquisitive drives; among them we find a motley array—the desire for power, the craving for acclaim, the impulsion to serve the common good, the urge to action. But as all these motives work out in the capitalistic enterprise, they become, by virtue of an inner necessity, subordinate to profit making. For on closer examination it appears that none of the strivings which actuate the entrepreneur has any chance of success unless the capitalistic enterprise itself is successful, unless it yields a surplus above cost. Whatever other desires the entrepreneur may entertain, whatever subjectively conceived purpose his work may serve, he must always, simply because he is a capitalistic entrepreneur, want his enterprise to flourish, and so concentrate his energies upon the making of profit. This transformation of the subjective purposes of the entrepreneur in the capitalistic enterprise objectifies the quest for profit. The fact that the capitalistic enterprise performs this function justifies the inclusion of the spirit of capitalism as a factor in the causal sequences of capitalist actuality. We do not depart from the realm of fact when we relate the spiritual essence of capitalist economy to its actual driving forces, the motives of the capitalistic entrepreneur, by showing that because of the objectification of the striving for profit these appear to be the necessary realization of this spirit. Marx aptly spoke of "the drive of capital for profit."

In addition to an aim distinct from the purposes of its owners the capitalistic enterprise has a separate intelligence: it is the *locus* of economic rationality which is quite independent of the personality of the owner or of the staff. At first rational business methods, objectively adapted to make the business profitable, are developed only in the course of time as a crystallization of experience; but in the period of full capitalism we observe the characteristic activity of artificial and self-conscious creation of economic

rationality. Rational business methods are steadily and systematically developed and improved by persons who devote all or part of their time to this pursuit, which may itself be directed toward profit making. Thousands upon thousands of people, ranging in occupation from professors of business disciplines to humble bookkeepers, from downtrodden computers to manufacturers of all sorts of office equipment, are engaged in a perpetual quest for ways and means of perfecting economic rationality. As a result of these manifold efforts there exists at present a highly developed and constantly improving system of procedures (supplemented by specifications regarding the physical equipment to be employed therein) designed to insure business efficiency. This system is important primarily because it exists independently of any specific concern and is applicable to any line of business. Such a ready made economic rationality can be bought by the entrepreneur and installed in his concern to regulate it for the future.

Finally, the capitalistic enterprise possesses also the bourgeois virtues of industry, thrift and stability, which the entrepreneur in the early days of capitalism had to cultivate in his own person in order to achieve success. These have now been transferred to the business concern and it is possible for the entrepreneur himself to dispense with them.

The infusion of the capitalist spirit in material objects affects in a number of obvious ways the course of economic activity. In the first place, management becomes more intensive, business planning more definitive. The incorporation of human beings into a material system fixes a definite minimum of energy which must be put forth: just as the speed of the worker is determined by that of the machine, so the tempo of work of the office force, from president to errand boy, is set by an external factor, the routine of the enterprise. The knowledge at the disposal of the executive is also increased thereby; now it far surpasses his personal erudition. Yet he is no longer burdened with the problem of the perfect organization of his business, which formerly consumed a large proportion of his energy; he is relieved of much useless activity and is thereby freed for specifically entrepreneurial work. Secondly, objectification of the capitalist spirit helps also to extend its domain. Thus the spread of the capitalist ideology over the entire world and to all strata of the entrepreneurial class is easily explained by the fact that economic rationality can be readily transmitted. Finally, the same process contributes to the spreading uniformity of economic life. Since economic procedures are objectively selected for their maximum serviceability in the achievement of certain ends, the fact that the ultimate aim is the same wherever capitalism prevails explains the increase in similarity of these economic procedures along with the development of economic rationality.

THE CAPITALISTIC ENTREPRENEUR. *The Ideal Entrepreneur* combines the traits of inventor, discoverer, conqueror, organizer and merchant. He is an inventor not so much of technical innovations as of new forms of organization for production, transportation and marketing. Moreover, the entrepreneur as inventor does not terminate his activity with the formulation of the invention; in utilizing it he improves and vitalizes it in countless ways. The discoveries of the entrepreneur are in the realm of new outlets for his products, whether these be new territories or new layers of demand in areas already exploited. The entrepreneur is a conqueror in that he overcomes all obstacles and is courageous enough to take great risks for the success of his enterprise.

In his capacity as organizer the entrepreneur unites many individuals in a common and effective endeavor and so manages human beings and inanimate objects that he wrests from them the maximum productivity of which they are capable. To achieve such results the organizer must in the first place be a keen judge of human potentialities; he must be capable of selecting from a great number of people those best adapted to his particular needs. He must also have mastered the art of shifting responsibility, in part, to subordinates and of advancing those who, with the expansion of the enterprise, will take over systematically various phases of his own job. In this connection the gradual crystallization of the less important functions of the executive and their assignment in the course of years to a directorate, as accomplished by Alfred Krupp, must be regarded as a particularly distinguished example of functional separation and delegation. Similar problems are encountered in the organization of factory personnel. After the services of a promising worker are secured, he must be systematically trained and then assigned to a task which will develop his maximum serviceability. The entrepreneur must attend to the proper organization of groups of persons set to work together and, if there are several such

units, he must establish the best possible relations between them. It would be erroneous, however, to consider that business and factory involve merely the clever choice of technically most advantageous nuclei for grouping men and materials. Special geographical, ethnological, commercial and other conditions must be taken into account in making such selections. The organization which is relatively best is practically more important than the absolutely perfect one.

The entrepreneur as merchant is not merely a specialist in the buying and selling of goods, for the term merchant is here employed to designate one who is charged with definite functions in the capitalistic system. There are professional traders who are indeed anything but merchants; and those who go out "in search of wealth" and of whom our historians tell such an edifying tale are in most cases no merchants at all. Trading or merchandising may imply a number of very different things. It may cover such activities as the equipping and arming of ships, the recruiting of warriors, the conquest and pillage of new lands, the loading of the booty on ships and the sale of it at home to the highest bidder at public auction. Or it may mean the purchase of an old suit of clothes after clever spying upon a gentleman in dire need of money who resisted previous offers to sell it, and its sale to a country yokel who is eventually persuaded by the eloquence of the seller. Trading may also mean security speculation. Obviously the specific differentia of the merchant vary from case to case. Thus in the precapitalistic period to trade on a grand scale, as did the "royal merchants" of the Italian and German commercial cities, one had to be above all an adventurer, combining the traits of discoverer and conqueror. Yet to be a merchant in our sense of the term—the functional rather than the occupational sense—is to conduct a lucrative business, to combine the activities of calculation and negotiation. The merchant is a shrewd, speculating calculator and a persuasive negotiator.

As a calculator the merchant must conduct profitable transactions, buy cheap and sell dear, whatever the object of purchase and sale. Thus, assuming a fully developed enterprise, he must purchase the material and personal factors of production at the lowest price; in the process of production proper he must be continually on the lookout for the most economical employment of these factors; later he must sell the finished product, or whatever else he may have to sell, on the most advantageous terms to the person who can pay most in the best of the seller's markets when demand is greatest. To master these tasks he must be able to "speculate" and to "calculate." To speculate, in this sense, is to draw correct conclusions applying to the individual case from the evaluation of the total market situation. It necessitates a correct economic diagnosis. It implies a survey of all facts bearing upon the market and the recognition of their true interrelations, an accurate estimate of the significance of individual events, a correct interpretation of certain symptoms, a precise anticipation of future possibilities and finally the selection with a sure grasp of the one most advantageous combination out of a hundred possible ones. To do this the merchant must be able to see with a thousand eyes, to hear with a thousand ears, to feel with a thousand antennae. Here he discovers needy gentlemen or warlike states and offers them a loan at the right moment; there he unearths a heretofore unexploited group of laborers who will work for a few cents less. In one case it is a question of gauging the sales possibilities of a new article and in the other of accurately estimating the influence of a political event upon the temper of the stock market. The merchant's ability immediately to translate all his observations into monetary terms, confidently to combine the thousand separate figures into an integral estimate of the chances of profit and loss, reflects his qualities as a "calculator." And if he be master of the art of instantly reducing every phenomenon to a figure in his ledger he is a "wonderfully shrewd calculator."

In order to succeed the merchant must have not only the sure instinct for a lucrative transaction; he must also be able to carry the transaction through by negotiation. The capacities required resemble those of a skilful mediator between two conflicting parties. For negotiation implies the power to persuade one's opponent, by advancing arguments and refuting objections, to accept a certain proposal. Negotiation is a bout with intellectual weapons. The negotiations carried on by a merchant have to do with the sale or purchase of goods, whether these be shares of stock, a business unit or a loan. Bargaining in this sense covers the case of a petty peddler who higgles with the cook over a rabbit skin and that of the old clothes man who spends an hour talking the country huckster into buying a pair of pants. Yet it also applies to Nathan Rothschild, when under particularly

complicated circumstances he closed a million dollar loan with the Prussian negotiators in a conference that lasted several days, to the representatives of the Standard Oil Company when they conferred on a general rate agreement with the railroad companies of an entire country, and to Carnegie and his men when they discussed with J. P. Morgan and his associates the taking over of the Carnegie plants valued at hundreds of millions. The striking differences between these cases are purely quantitative; the core of the matter remains the same whether the interests involved are measured in millions or pennies. The essence of all modern trading is negotiation, which need not always be verbal or carried on in person. It may be silent as in the case of a seller who by resorting to all sorts of advertising devices succeeds in impressing upon the public the merits of his wares. This is truly a modern example of "silent trade."

Ever present is the problem of convincing the buyer or the seller that the bargain will be to his advantage. The ideal of the seller is realized when an entire population comes to consider as vitally important the purchase of the article which he is advertising, when a panic seizes the mass of the people who fear that they have missed their opportunity to buy (as in times of feverish excitement in the stock market). To arouse interest, to gain confidence, to stimulate the impulse to buy—this is the climactic accomplishment of an effective trader. The way in which he achieves such results is immaterial; it is sufficient for our purposes to know that not physical but merely psychic compulsion is used, that the other party enters the agreement of its own resolve and not against its will.

The Entrepreneur in the Period of Full Capitalism. During the period of full capitalism, which covers approximately the period from 1750 to 1914, the position of the entrepreneur was materially changed in several respects. In the first place, several important tendencies affected the character of entrepreneurial activity. One of these was the tendency to dissociate capital ownership from executive management. The movement away from single ownership or partnership to corporate ownership was paralleled in the substitution of the hired executive for the owner entrepreneur.

Another tendency was that toward increasing functional specialization in entrepreneurial activity. This tendency manifested itself above all in the progressive emergence of the entrepreneur per se, stripped of all subsidiary functions. This process, the beginnings of which may be discerned even in the early capitalist era, was now approaching completion. General supervision, improvement of technique, office organization and other duties with which the entrepreneur originally had to concern himself came to be cared for by specialists in his employ. Even the question as to whether a certain business proposition would pay, the calculation of probable costs and profits, was delegated by entrepreneurs to special functionaries, the "efficiency experts." Within this more and more narrowly circumscribed sphere of entrepreneurial activity individuals began to concentrate more intensively in certain fields: the banks developed specialists for contacts with industry, for the flotation of stock issues, for the improvement of deposit banking; industry demanded specialists in plant organization, in purchasing and marketing, in financial management.

At the same time, however, there was also a tendency toward the integration of functions. There appeared a limited number of universal super-entrepreneurs who combined banking and industrial power. The most popular road to such comprehensive activity was simultaneous membership in boards of directors of several corporations.

The spiritual adjustment of the entrepreneur to this change in the character of his activities took the form of a differentiation among entrepreneurs on the basis of mental type, range of interests and effectiveness in varying environments. We may distinguish among them three different types: the expert, the merchant or the business man, and the financier.

The expert centers his interest in his particular product. He is definitely tied down to a single branch of production, as is seen most clearly in the case of the entrepreneur who is also a technical inventor. The inventor-entrepreneur aims to bring about widespread adoption of his invention by producing on as large a scale as possible. Plant organization is his major concern, and his chief objective is to procure and make the best use of the proper working forces. Of the three markets—for capital, for labor and for finished product—the labor market is the one in which he is primarily interested; and of the three possible kinds of competition he prefers the competition in service.

The merchant's starting point is the market demand; he is determined to supply the products which he considers most saleable. Anticipating future demand, which he stimulates with clever

propaganda, the ideal merchant creates wants and proceeds to supply the means for their satisfaction. The commodity market rather than the labor market is the main field of his activity, and his important contribution is not organization of the plant but improvement of the sales mechanism. He uses the power of suggestion as his weapon in the competitive struggle.

The financier's important activity is the creation and accumulation of capital by technical manipulations in the stock market. His appropriate milieu is the capital market and his creative powers are expressed in the promotion of new companies or mergers, holding companies and other financial aggregations. His tendency is towards competition of power.

Logically these three types—expert, merchant and financier—represent successive stages of increasing intangibility, of a progressive loss of concreteness in entrepreneurial activity. In a certain sense they follow also a historical sequence. The expert is more a product of early capitalism than of fully developed capitalism, when the other two types appear more and more frequently. The financier becomes really important only after the process of concentration has overtaken that of economic expansion. It must be understood, however, that these ideal entrepreneurial types are seldom encountered in real life. The actual entrepreneur is often a combination of two of these types, generally of expert and merchant or of merchant and financier. It is equally obvious that the demands made upon the entrepreneur and consequently the opportunities offered to each of these types differ in different branches of business. Industries requiring great mechanical precision in the manufacturing process are fertile soil for the expert; the merchant thrives in industries dominated by mass production; and the financier exploits such opportunities as the promotion of new railways.

Something must be said also of the social and national origins of the entrepreneurial class in the period of full capitalism. This period is characterized by an increasing democratization of its economic leadership: entrepreneurs are drawn from a continually growing number of social groups, and in the course of time lower and lower strata of society are tapped for this purpose.

Statistics for a sample of the English cotton industry before the war (Chapman, S. J., and Marquis, F. J., "The Recruiting of the Employing Classes from the Ranks of the Wage-Earners in the Cotton Industry" in Royal Statistical Society, *Journal*, vol. lxxv, 1911–12, p. 293–306) offer an apt illustration of the process of democratization. Of 63 manufacturers engaged in the cotton weaving industry, 48 belonged to the "first generation," that is, they were "employers, managers and others . . . , who have themselves risen from the operative classes or from classes earning no more than operatives." In an industrial city of 100,000 inhabitants, 139 employers who owned 93,400 looms replied to questionnaires. Of these 88 were of the first generation; they owned 49 per cent of the looms while the other private employers owned 44 percent of the looms, and corporations accounted for the remaining 7 percent. In the cotton spinning industry dominated by corporations entire boards of directors were questioned; of 45 directors who replied, 33 belonged to the first generation. In addition, among 45 of the mill managers who responded, 38 were of the first generation. In a special investigation dealing with 20 cotton mills in a cotton center it was found that the first generation included 13 percent of the managing directors, 42 percent of the managers (salary range £200–£800) and 67 percent of the assistant managers (salary range £100–£150).

Even many of the great industrial leaders of our day have risen to their high positions from very humble beginnings, as is evidenced in their biographies which are at present in vogue. A number of German business giants came from the middle class of lower social strata and began their careers in subordinate positions. Ballin was an emigration agent; Bosch, the son of a peasant, had an initial capital of 10,000 marks; Dernburg and Helfferich came of families of scholars; Deutsch was the son of a cantor; Fürstenberg's first position was that of a clerk. After his father's fortune was lost Kirdorf began as commercial manager of a small colliery; Isidor and Ludwig Löwe were the children of a grammar school teacher; Emil Rathenau was an engineer in modest circumstances; and Werner Siemens, an artillery lieutenant, founded his plant for the manufacture of telegraphic equipment with a borrowed capital of 6000 talers. Jandorf, Tietz and Wertheim, the founders of the large department stores, began as petty shopkeepers in the provincial cities in eastern Germany. In the United States the number of magnates who have risen from the ranks is perhaps even larger: Carnegie was the son of a poor Scottish weaver, Ford the son of a small farmer and Harriman the son of a minister in a poor Long Island parish.

The reasons for the democratization of the entrepreneurial group are fairly obvious. During the entire period of early capitalism it was necessary either to be wealthy or to affiliate with the possessors of wealth in order to acquire the capital necessary for a start in business. Consequently there must have been many cases in which one man had entrepreneurial ability and no money, and another money but no ability or inclination to engage in business. In the period of full capitalism the man of wealth can easily employ his money as capital without himself being an entrepreneur, and the impecunious man can more easily procure capital by floating stock or borrowing from a credit institution. "Credit institutions are the props of genius," observed the *Bremer Handelszeitung* in 1856; it is primarily the credit system that makes it possible for a man without capital to be active as an entrepreneur.

No less important is the change in the national composition of the entrepreneurial class. While in the period of early capitalism the center of gravity of economic life was found in the Romanic countries, industrial leadership in the period of full capitalism shifted to the nations of Germanic origin. Thus in the year 1910–11 the joint share (in percent) of Germany, Great Britain and the United States in the world's output of the most important raw and semi-manufactured materials was as follows: zinc 65, lead 71, crude oil 71, copper 76, steel 78, pig iron 79, cotton 80, cotton yarn (number of spindles) 75, coal 82 and coke 84.

It is worth noting also that in all countries the Jews have been capturing a growing share in economic leadership. Although the Jews constituted only about 1 percent of the general population in pre-war Germany, 13.3 percent of the directors of industrial enterprises were of Jewish origin. This percentage was as high as 23.1 in the electrical industry, 25 in the metal industries and 31.5 in the leather and rubber industries. 24.4 percent of the members of supervising councils (*Aufsichtsräte*) in industrial corporations were Jews. They played an even more important part in the management of the banks, which were largely controlled by Jews. There was a similar preponderance of Jews in the large scale retail business: most of the department stores, which in Germany are practically all organized on the Tietz system, were established by Jewish merchants. While these data relate to Germany only, what is true of Germany applies to some extent to all capitalistic countries.

The Importance of the Personal Element in the Capitalistic Economy. It would be erroneous to assume, as is done so frequently, that because of the dominance of the impersonal entity, the capitalistic enterprise, the personality of the capitalistic entrepreneur is submerged and reduced to insignificance. It is true that the prime mover in the economic process has now become the automatic, highly efficient contrivance unrestricted spatially or temporally and unhindered by any personal or organic limitations. The individual, even the individual entrepreneur, inevitably becomes a part of it. The earth is studded with countless factories organized on an identical plan and equipped with machines of delicate precision—all this for the purposes of profit making. Chance, individual and national differences are eliminated. Necessity, uniformity and homogeneity dominate in this quantitative universe. Yet it must not be supposed that the importance of the human personality is debased in this mechanized world. On the contrary, the individual, if he happens to be outstanding, wields in the economic life of this period an influence far surpassing that of any other age.

Although the categories of striving and action are a necessary part of any abstract conception of the universe, the concrete fact remains that something positive must be striven for and something tangible must be done. If modern economic rationalism is like the mechanism of a clock, someone must be there to wind it up. If the capitalistic enterprise tends to become an ever larger and more complicated machine, still it does not dispense with the need for a human being to tend it; and the more complicated the machine, the more intelligent he must be. The government and the army have developed along similar lines; there too we find a gigantic mechanized apparatus, and yet a leader is more than ever indispensable. It is true, however, that the distribution of forces has changed; a central power station—the leading executive—has superseded, at least in the large business units, the great number of smaller ones.

The Russians grasped less than any other nation the peculiar character of the capitalistic economy when they banished the capitalistic entrepreneur and thereby brought the entire mechanism to a standstill. The Americans, on the other hand, display the keenest understanding of capitalism. They place a particularly high value upon personality in economic life, considering that in the last analysis it is the individual rather than the business enterprise, family

or capital that is the driving economic force. In the large concerns a few eminent personalities hold undisputed sway. Rumor has it that H. H. Rogers, once the leading brain of the Standard Oil group and president of the Amalgamated Copper Company, remarked that on boards of which he was a member the vote was taken first, and discussion followed only after he had left.

THE PERIODS OF CAPITALISM. An economic epoch is the stretch of time during which an economic system is actually realized in history. While every economic system appears first within the framework of another, there are some periods during which economic processes reveal in a comparatively pure form the features of a single economic system. These are periods of the full development of the system; until they are reached the system is going through its early period, which is also the late period of the disappearing or retreating economic system. Applying to capitalism this division into epochs, we may distinguish the periods of early capitalism, full capitalism (*Hochkapitalismus*) and late capitalism.

In the period of early capitalism, which lasted from the thirteenth to the middle of the eighteenth century, economic agents, the capitalistic entrepreneurs, and their subordinates, the workmen, still bear the earmarks of their feudal or handicraft origin; their economic outlook still exhibits the superficial characteristics of precapitalist mentality. The economic principles of capitalism are still struggling for recognition; traditionalism and the mediaeval idea of working merely for a livelihood still predominate. Likewise the external aspects of economic life frequently resemble those of the earlier period: home industry still prevails; the output of factories and manufactories is still slight; the technology employed is not very far from the traditional rule of thumb. Economic life in general has a decidedly personal cast; the individual and his personal concerns frequently form the center of interest, and the relations between individuals are still for the most part on the old personal basis. In commercial transactions buyer and seller confront each other in person and let their personal likes and dislikes affect their business deals; within the enterprise the employer and workmen are often held together by a personal bond ("patriarchal industrial relations").

In the period of full capitalism, which closed with the outbreak of the World War, the principles of profit and economic rationalism attain complete control and fashion all economic relationships. The scope of economic activity is enlarged (expansion of markets, increase in the size of business units and plants) and scientific, mechanistic technology is widely applied. It is particularly characteristic of this period that relations which originally involved unmediated actions by living persons are now institutionalized; a system of man made organization eliminates spontaneous contact and forces individual action into a framework imposed from the outside. Thus the relation between seller and consumer loses its personal character in a large retail concern where purchases are made almost mechanically with virtually no human contact (system of fixed prices). The standardization of merchandise and the increasing uniformity of the terms of sale on the basis of established usage (as in the dealings in futures) make the wholesale business quite impersonal. The loss of adaptability to individual differences in factory management takes the form of the standard labor contract. Credit relations are no longer based on personal acquaintance between creditor and debtor; credit transactions are regulated by fixed norms and the credit instrument is completely standardized. The use of negotiable securities—endorsed promissory notes and bills, banknotes, evidences of debt guaranteed by mortgage, bonds and stocks—by means of which it is possible at a moment's notice to introduce into the situation new creditors unknown to the original debtor, impersonalizes and objectifies the credit relation.

Most intimately connected with this tendency toward mediatization and mechanization is the intensified commercialization of economic life, the debasement of all economic processes into purely commercial transactions or at any rate the subordination of their other constituent elements to the commercial one. This is vaguely expressed by such a phrase as "the domination of business by Wall Street," in which we can substitute for Wall Street the name of the central speculative-financial market of any country. This is made possible primarily by the depersonalization of credit relations and their crystallization in transferable, marketable, liquid credit instruments.

The period of late capitalism, upon which we are at present entering, can be best characterized by describing the changes which capitalism has been undergoing in the past decade. We observe first of all that industrialism is spreading to every corner of the world; the hard and fast division and the resulting peculiar relations between in-

dustrial and agrarian countries, both of which were characteristic of the period of full capitalism, are being gradually worn away. In industrial countries the strength of the specifically capitalistic elements of economic life is declining; "mixed" public-private undertakings, state and communal public works, cooperative enterprises and other forms of non-capitalistic economic endeavor increase in number, size and importance. The most important changes, however, concern the internal structure of capitalism.

The economic outlook has recently undergone material changes and will continue to change in the future. The capitalistic spirit at its prime was characterized by psychological strains of peculiar intensity born of the contradictions between irrationality and rationality, between the spirit of speculation and that of calculation, between the mentality of the daring entrepreneur and that of the hard working, sedate bourgeois. At present this strain is relaxing. Rationalism is thoroughly permeating the capitalist spirit, and a completely rationalized mentality is no longer a capitalist mentality in its characteristic sense. Certain special aspects of this change are worthy of mention.

All the differentia of a genuinely entrepreneurial spirit—daring decision, intuitive judgment, instinctive grasp of a situation—become less and less important in the conduct of business. The number of determinable factors is constantly increasing, and the entrepreneur is more and more disposed to build his business upon the foundation of systematized knowledge. This may already be observed in the United States, although only beginnings are discernible in Europe. The budgeting of production, of financial needs, the systematic mapping out of sales campaigns—practises which become increasingly common—represent nothing less than the management of a business in accordance with a system of knowable facts. When such practises are perfected and carried to their logical conclusion, the concern in which they are relied upon ceases to be capitalist in spirit and resembles a public undertaking with a thoroughly systematized and externally regulated management. The manager of such an enterprise resembles a minister of finance, who has to act within a framework imposed upon him from the outside.

It is psychologically plausible that with the increase in the size of the business unit the striving for profit grows less intense; witness such symptoms as the fixed dividend rate, the reinvestment of surplus—in the United States, for example, some concerns provide from 30 to 35 percent of their new capital in this way—the creation of reserves and similar arrangements. Connected with this is the disappearance of the recklessness, daring and aggressiveness of the typical entrepreneur of old. These qualities are paralyzed and fall into disuse with the spread of cartels and trusts and other manifestations of the tendency toward concentration. It is possible that there is a general tendency to gradual decay of the entrepreneurial mentality.

The form of economic life and its objective order are also changing: freedom from external restraint characteristic of the period of full capitalism is superseded in the period of late capitalism by an increase in the number of restrictions until the entire system becomes regulated rather than free. Some of these regulations are self-imposed—the bureaucratization of internal management, the submission to collective decisions of trade associations, exchange boards, cartels and similar organizations. Others are prescribed by the state—factory legislation, social insurance, price regulation. Still others are enforced by the workers—works councils, trade agreements. The relation between employer and employee becomes public and official. The status of the wage worker becomes more like that of a government employee: his activity is regulated by norms of a quasi-public character, the manner of his work approaches that of a civil servant (no overtime), his wage is determined by extra-economic, non-commercial factors. The sliding wage scale of earlier times is replaced by its antithesis, the living wage, expressing the same principle as that underlying the salary scale of civil servants; in case of unemployment the worker's pay continues, and in illness or old age he is pensioned like a government employee. At present this situation is more characteristic of a country of older culture like Germany, but it is bound to become established also in the United States.

The economic process as a whole has changed also. What used to be a matter of spontaneous, natural development is fast becoming a system of external regulations. By and large, flexibility is being replaced by rigidity. Thus regulation of economic life through the market mechanism, a system under which the links of the causal sequence were demand and supply, market conditions, prices of goods, wages, profits, is gradually disappearing. It is being superseded by the price regulation of combinations or even

of the government; by wage regulation of the trade unions, who pay little attention to the market conditions; by indirect regulation of the geographic distribution of industry through the intervention of the central and local governments, who disregard the natural rationality implicit in the existing situation.

The cyclical oscillations of the economic system, the rhythm of prosperity and depression characteristic of full capitalism, also become attenuated. A large number of considerations bear upon this change. There is an increasing insight into market conditions and the factors determining them. The currency and credit system has been rationalized, better adapted to serve the needs of the existing order. Conditions of production were affected by important changes in the supply of factors of production; thus, while the economic cycles of the past eighty years were conditioned by railroad building and the introduction of electricity, at present the supply of important equipment has reached the saturation point; business has assumed the corporate form of organization, and there has taken place a concentration of economic power; the reserve army of the unemployed has been reduced by a general decrease in excess population. There is more external regulation of business by government (regulation of the promotion of new enterprises, labor legislation) and by labor organizations. The entrepreneurial group has been consciously striving for stability as in the cartels and trade associations. Public authorities have intervened to offset the business fluctuations by withholding orders in periods of prosperity and granting them more generously in periods of depression; this policy will play an increasingly important role. "Stabilization of business" seems to be both the slogan and the accomplishment of this period.

WERNER SOMBART

See: ECONOMIC ORGANIZATION; COMMERCE; GUILDS; INDUSTRIAL REVOLUTION; PUTTING OUT SYSTEM; FACTORY SYSTEM; BUSINESS; INDUSTRIALISM; SOCIALISM; COOPERATION; EVOLUTION, SOCIAL; ECONOMIC HISTORY; ECONOMICS; PROPERTY; CONTRACT; CAPITAL; CORPORATION; ACQUISITION; PROFIT; COMPETITION; LAISSEZ FAIRE; LIBERALISM; ENTREPRENEUR; CAPTAIN OF INDUSTRY; BUSINESS ADMINISTRATION; BUSINESS ETHICS; EFFICIENCY; RATIONALIZATION; INVENTION; MACHINES AND TOOLS.

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CAPITALIZATION may designate either the process of capitalizing a flow of money income or the par value aggregate of shares of capital stock and of certificates of long term indebtedness issued to those who contribute money or other forms of wealth to a corporation for use as its capital fund. Capitalizing the flow of income is one way of determining the capital value of the income yielding object. The problems arising in this connection are an integral part of the general questions as to the nature of capital (*q.v.*) and interest (*q.v.*) and the psychological bases of market valuation (*see* VALUATION). The capitalization of an enterprise involves on the other hand problems in financial management.

One of these problems concerns the relation of capitalization to the actual cost of assets and to present and prospective net income. Were the assumptions of orthodox economic theory fulfilled and the cost of productive assets equal to the capitalized value of their income yield, no important practical issue would center about this question. In that case it would not be

difficult to make the par value of outstanding securities equal to the actual cost of the properties of the concern. However, since perfect competition and free mobility of resources are rarely found in economic practise, the nice balance between capitalization and cost, and capitalization and capitalized income yield is seldom realized. The discrepancies give rise to problems of overcapitalization and undercapitalization, of which only the former, for obvious reasons, is likely to be of frequent occurrence and practical interest.

Since the rates which they are authorized to collect include a return upon their capitalization, the charge of overcapitalization has been leveled principally against public service corporations. During the promotion period these enterprises were capitalized without regard to the monetary cost of the fixed plant. It is a matter of common knowledge that the construction cost was often met by bonds, with shares of stock issued as a bonus to those who purchased bonds. It was also customary to have franchises, patent rights, water rights and promotional activities appraised by the promoters and financiers themselves and paid for through bond and stock issues. Overcapitalization would also arise from the faultiness of financial management. In order to pay some return upon outstanding securities, particularly upon the bonus stock, maintenance was neglected and little or no provision was made for property renewals. When the need for making renewals suddenly became urgent, due to the rapid growth of the territory or deferred maintenance, funds for these purposes had to be secured by more security issues. Again, owing to the rapid development of the arts, old plants were obsolescent before their cost could be written off as an operating expense. Additional securities were then issued in order to procure funds for rehabilitation and modernization.

Industrial combinations also have been frequently charged with overcapitalization. The costs entailed in clearing up cut-throat competition and in scrapping much old and duplicated property, on the one hand, and the oversanguine estimates of net earnings to be realized as a result of the consolidation, on the other, made overcapitalization not only necessary but possible. The desire of a small group to retain the voting control with little or no investment of cash funds was usually an added incentive to excessive security issues. Even subsequent receiverships did not result in a scaling down of capitalization, for these enterprises usually emerged with a greater load of security issues, even though their character might have changed from interest bearing obligations to equity capital.

Another problem in connection with capitalization is that of the safest and most economical capital structure; that is, of the proper ratio between the various types of notes, bonds and stocks. Generally speaking, the divisions and subdivisions in the capital structure of a corporation, or its financial plan, reflect from a legal point of view the differentiation between creditors' and owners' interests, and from an economic point of view the variation in the degree of risk assumed. Usually the financial plan is based on the theory that capital can be best and most cheaply secured by including bonds, preferred stock and common stock in a ratio which is proportioned to income. Here are applied the well known axioms of finance set up by A. S. Dewing that "(1) bonds should be issued only when the future earnings of the corporations are liberal and reasonably constant; (2) preferred stock may be issued when the earnings are irregular but, when averaged over a period of years, give a fair margin over the preferred stock dividend requirements; (3) common stock and only common stock should be issued when the earnings of the new corporation are uncertain and unpredictable" (p. 296). Investigations seem to indicate that judged by investment market sentiment bonds should be so limited in a good capital structure that their interest charges will equal about one half of the earnings available after taxes and depreciation, while preferred stock dividends should not absorb more than one half of this remainder.

The correct capitalization of a corporation, as to both size and structure, is of preeminent concern to all parties who as investors, creditors or customers may be doing business with the corporation in question. Public regulation of capitalization is therefore frequently undertaken. The extent to which it is carried as well as its emphasis varies from country to country and from industry to industry within the same country. Thus the valuation of properties paid for by stock issues is made subject to verification by semi-judicial bodies in Italy and Germany, in France to approval by the first two meetings of stockholders who have paid for their shares in money, in England to an examination by interested parties of the detailed records. In the

United States boards of directors, from which promoters and bankers are not excluded, are allowed to determine whether securities exchanged for properties and services were issued for adequate and valuable consideration. Similarly the emphasis varies from the protection of stockholders, as opposed to organizers and promoters, and creditors, in countries where general corporation laws are stringent and in those parts of the United States where blue sky laws (*q.v.*) are effectively enforced, to the protection of customers, as in the case of public utilities, banks, insurance companies and similar organizations. In the United States the multiplicity of charter granting authorities and the competition among them for the revenue to be derived from incorporation fees are responsible for the laxity of general public supervision over the organization and operation of corporations. We find, however, public regulation of considerable scope in reference to special classes of corporations.

The most common and best developed type of security control in the United States relates to the issues of public utility corporations. It is intended primarily to prevent overcapitalization through the watering of stock and the diversion of funds for unauthorized purposes, and is thus a means of providing for a sound rate base and of facilitating the task of rate regulation. The system has been introduced in some form in twenty-seven states, the District of Columbia and in the regulation of interstate utilities by the federal authorities. The usual method is to forbid the issue of securities without the approval of an administrative commission. The law usually applies to all classes of public utilities and names the specific purposes for which securities may be authorized. These purposes generally include the compensation for organization and construction costs, the refunding of legal funded obligations and the correction of cases of undercapitalization, i.e. the increase in the aggregate par value of securities to a parity with the value of fixed properties as determined by a commission. Except in Massachusetts security laws do not undertake to fix the price at which the securities may be sold, but they do fix the minimum price at which they may be issued, which in the case of stock is usually the par value and in the case of bonds is 75 percent of their face value. The law also provides that bonds shall be reasonably proportioned to stocks, thus leaving the determination of the relative quantities to the commission after an investigation of the facts in each case. This provision is designed to prevent undue burdening of the properties with bond issues and to insure that control and management shall be based upon a substantial financial interest in the property. With the growing tendency to treat preferred stockholders as creditors and to subdivide even common stock into groups with unequal voting privileges, it must be recognized that this intent of the legislators is defeated, particularly where their laws fail to distinguish between preferred and common stock.

Massachusetts was the first state to provide for public regulation of capitalization and it is here that this regulation has been carried farthest. Since early public utility and industrial enterprises in that state were financed largely by means of stock issues, its policy centered upon controlling the issue price of capital stock, with the aim of making the par value of securities equal approximately the invested capital. Legislation was early enacted to prevent the issue of bonus stock and to insure the issue of shares at not less than par. After 1871 the Massachusetts law provided for the selling of stock at public auction. This violated traditional rights of stockholders to preference in subscribing for new issues and opened the way to contests for control between rival interests. In 1894 it was therefore provided that share capital be issued at a market price (par plus premium) as ascertained by regulating commissions. At the same time the bonded debt was limited to a figure not in excess of the par value of the share capital. Subsequent legislation was of a more liberal character. The limitation of bonds to an amount equal with stocks resulted in the practise of incurring large floating indebtedness, and a later amendment fixed therefore the ratio of bonds to stock at two to one. Stock issues to cover promotion expenses and working capital were prohibited. In 1908 a very significant amendment was added permitting the issue of shares at a premium but not at less than par, with the issue price determined by the stockholders subject to approval of the commission. The strongest factor in bringing about this change was that the prices of issue had been set so high under the old statutes as to discourage investment. The old premium law was workable only so long as the market price of stocks was rising or the credit market was firm, but with the increasing prevalence of tighter credit conditions the companies found it difficult

to sell their stocks at the price fixed by the commission. Again, utilities were gradually permitted to issue greater proportions of bonds and preferred stocks, and in 1914 street railways were for the first time allowed to incur indebtedness for other purposes than permanent additions to capital. In 1922 permission was given street railways to issue capital stock at a discount, and the department of public utilities was to decide whether such discount should be amortized.

The significance of the functions performed by security regulating commissions may be best summarized in the words of W. Z. Ripley: "Regulative commissions stand between two fires. On the one hand, they cannot lawfully adopt so strict and narrow a policy as to throttle enterprise. On the other, they must not be so liberal as merely to 'rubber stamp' promoters' schemes" (*Railroads: Finance and Organization*, p. 295). In approving the issue of new securities for extensions they have tried to hold the issues down to an amount commensurate with cost. Where past policies and obligations of the companies have been involved in new issues they have exercised a wise discretion in preserving continuity of service and credit; they have adopted financial expedients in each particular case to lead the company out of its financial wilderness.

M. G. GLAESER

See: CORPORATION FINANCE; INVESTMENT; VALUATION; PUBLIC UTILITIES; RAILROADS.

Consult: Kuhn, Arthur H., *A Comparative Study of the Law of Corporations*, Columbia University Studies in History, Economics and Public Law, no. 123 (New York 1912); Dewing, A. S., *The Financial Policy of Corporations* (rev. ed. New York 1926) bk. ii, chs. ii and iv; Glaeser, M. G., *Outlines of Public Utility Economics* (New York 1927) chs. xiv, xvii and xviii; Lagergrust, W. E., *Public Utility Finance* (Chicago 1927) chs. vii–xi; Ripley, W. Z., "The Capitalization of Public Service Corporations" in *Quarterly Journal of Economics*, vol. xv (1900–01) 106–37, and *Railroads: Finance and Organization* (New York 1915) chs. vii–ix; Simpson, Kemper, *The Capitalization of Goodwill* (Baltimore 1921); Barnes, I. R., *Public Utility Control in Massachusetts* (New Haven 1930).

CAPITALIZATION AND AMORTIZATION OF TAXES. The term capitalization of taxes is properly applied to the case of an object which, being totally or partially exempted from a given general tax, rises in value by a sum equivalent to a capitalization at the current rate of interest of the amount of tax saved. The inverse case, that of an object hit by a special tax and as a result reduced in value by the capital value of the tax, may best be described as one of tax amortization. In the first case a buyer would pay for the object its original value plus the capitalized tax saving; in the second case he would pay the original value less the capital value of the tax. Thus if a special land tax reduces the net yield of a farm from $5000 to $4500, the capital value shrinks from $100,000 to $90,000. One who purchases at the latter figure continues to pay over to the state $500, but this is in effect merely interest on the $10,000 saved on the purchase price. The abolition by the state of the $500 annual charge would be equivalent to the free gift of an annuity of this amount or of its capital value, since the farm's value would again rise to $100,000.

The first conscious experiment in tax capitalization was made in 1788 by the Grand Duke Pietro Leopoldo of Tuscany. Landowners were required to pay into the treasury a sum equivalent to the capital value of the tax based on an interest rate of 3.5 percent. The amount of tax thus redeemed, in terms of capital value, was 8,250,000 scudi out of a possible total of 12,500,000. In 1790, however, the new grand duke, Ferdinand II, yielding to the clamor of the interested parties, canceled the edicts of his predecessor and ordered that the sums paid be refunded and the land tax restored. More successful and better known is Pitt's Redemption Act of 1798 in England, which provided that the land tax, already fixed in 1775 at four shillings per pound, be made perpetual at that rate and that taxpayers be permitted to redeem it at the rate of twenty times the amount of the annual charge.

Amortization theory, as applied to the land tax, plays an essential part in the single tax doctrine of Henry George. Once the whole net income from land had been absorbed by taxation the capital value would have disappeared, and any purchaser would have paid only for improvements. Although the purchaser continued to pay the net rental value as a tax the burden would in effect have been thrown back on the one who owned the land when the tax was first imposed.

In 1814 it was pointed out by Craig that the amortization process was not peculiar to the land tax but extended to all "exclusive" taxes; Rau observed that sometimes the fall in capital value consequent on special taxation was obscured by a change in the rate of interest or other factors; and Schäffle stressed the general character of the

theory. The classic theory received its most definite formulation at the hands of Seligman, who summarizes as follows the conditions under which amortization may take place: taxation must be unequal, since if there is no excess of a given tax over the general taxation level there is nothing to be capitalized; the object taxed must have a capital value which is susceptible of diminution; the object taxed must be relatively durable in character; the tax must not be capable of being shifted.

Of all these conditions the one which demands the most careful analysis is the first. To be amortized a tax must rest on the taxpayers with unequal weight; but this raises the question, what is equality in taxation? Clearly a flat rate general tax on all income from capital alone is not an equal tax, because it exempts labor incomes. It might lead to the investment of new savings in education, etc., and substract them from ordinary investments. Thus it might raise the rate of interest and to this extent might reduce capital values. This would mean that such a tax is in some measure amortizable. Are we to regard as equal a general tax on all incomes (capital as well as labor), which in almost all countries is progressive, with exemptions at the bottom, and which frequently differentiates against property incomes? It is obvious that equality of taxation is a very refined and complex idea, which allows for apparent inequalities, intended to equalize the psychological burden of taxation for different taxpayers. An equal tax may be a compound of very unequal separate taxes whose total impact on the several taxpayers is evenly distributed. As this ideal of equal taxation is very difficult of attainment there will always be a residuum of inequality to which the amortization process can be applied.

In the classic theory amortization depends on the circumstance that a special or differential tax does not reduce the general rate of interest in proportion to the rate of taxation. If the rate of interest is 5 percent a 10 percent tax on a particular form of income does not change the rate of interest, because new savings can be invested in non-taxed fields. If the tax is general and all fields are equally hit, taxpayers can nowhere find investments free of the tax. All investments will yield a lower net return on account of the tax, but since they all suffer alike the rate of interest will be uniformly reduced from 5 to $4\frac{1}{2}$ percent, capital values remaining therefore unchanged. In other words no amortization can take place.

It is tacitly assumed, in the classic theory of amortization, that whatever is taken from the taxpayer by either special or general taxation is lost to him completely. If $500 is taken from a $5000 income by a tax it is assumed that the situation of the taxpayer is the same as it would be if his income were diminished an equal amount by natural causes. This assumption has been challenged by Einaudi in a paper published in 1912 and republished in enlarged form in 1919. Einaudi points out that we cannot appraise the effects of an equal tax apart from the effects of the use of the proceeds of the tax. A 10 percent general tax, as such, reduces all incomes; but without the tax and its use to the furtherance of the state ends economic society could not exist and private incomes would not be forthcoming. An equal tax is not to be regarded merely as a subtraction from private income, but as the portion of the total social income which ought to go to the state if that total income is to reach a maximum. Optimum taxation may be a composite of equal or general taxes, with special or differential taxes on windfall incomes and others which may be deemed worthy of a special burden. The ultimate effect of the introduction of an optimum tax system would in theory be an increase in the total social income and in the flow of new savings, a fall in the rate of interest and a rise in most individual incomes and their capital values. In cases of differential taxation there would be a decrease in the relative amount of the incomes affected. If the effect of this decrease were not counterbalanced by the fall in the rate of interest and the general increase in total social income, the capital value of such specially affected incomes would decline, or in other words the principle of amortization would become operative.

Actual tax systems are far from optimum either as to their structure or as to the use of their yield. Assuming small additions to the existing tax structure, to the extent that such new taxes depart from the optimum they do not increase and may even reduce total social income. The effect on the rate of interest will probably be to raise it above the level which would have obtained without the additional increment of taxation. Most individual incomes would decrease and their capital values would fall. The fall would be particularly marked in the case of incomes subject to special taxation or disproportionately burdened by the general system. Incomes less than proportionately burdened might rise and their capital value increase.

In the actual world the phenomena of capitalization and amortization of taxes rarely, if ever, present themselves in clear outline. Any extensive fiscal change, whether involving mere quantitative increase or a shift in the objects of taxation, is likely to involve both types of phenomena in more or less disguised form.

LUIGI EINAUDI

See: TAXATION; LAND TAXATION; SINGLE TAX; PROPERTY TAX; INCOME TAX; CAPITALIZATION; INTEREST.

Consult: FOR LITERATURE AND DISCUSSION OF TAX AMORTIZATION AND CAPITALIZATION THEORIES: Seligman, E. R. A., *The Shifting and Incidence of Taxation* (5th ed. New York 1927) p. 174–83, 221–26.

FOR TUSCAN EXPERIMENT OF LAND TAX REDEMPTION: Gianni, F. M., "Memoria istorica dello scioglimento del debito pubblico della Toscana" in *Scritti di pubblica economia* (Florence 1848) p. 145–58.

FOR VARIATION OF CAPITAL VALUES THEORY: Einaudi, L., "Intorno al concetto di reddito imponibile" in R. Accademia della Scienze di Torino, *Memorie*, 2nd ser., vol. lxiii, pt. ii (1913) 209–318, and "Osservazioni critiche intorno alla teoria dell' ammortamento dell' imposta e teoria delle variazioni nei redditi e nei valori capitali susseguenti all' imposta" in R. Accademia delle Scienze di Torino, *Atti*, vol. liv (1919) 1051–1131; Griziotti, B., "Teoria dell' ammortamento delle imposte e sue applicazioni" in *Giornale degli economisti*, 3rd ser., vol. lvi (1918) 1–37, 57–87, 181–207; Einaudi, L., "Intorno alla metodologia della teoria della capitalizzazione dell'imposta" in *Beiträge zur Finanzwissenschaft; Festgabe für Georg von Schanz*, 2 vols. (Tübingen 1928) vol. ii, p. 69–86, and "Contributo alla ricerca dell' 'ottima imposta' " in *Annali di economia*, vol. v (1929) 7–244.

CAPITATION TAXES. *See* POLL TAX.

CAPITULATIONS. This term is used to indicate the regime of exterritorial privileges or immunities of jurisdiction enjoyed by foreigners in the Ottoman Empire. The early grants of privileges by Turkey were made voluntarily, as for example when Mohammed the Conqueror captured Constantinople and confirmed the ancient privileges of the Genoese living in Galata. These privileges were not in derogation of the rights of territorial sovereignty but were granted rather in the free exercise of sovereignty and were revocable at the sultan's will.

The origin of these privileges is to be found in the view held until comparatively recent times that law was personal, following a subject wherever he went. It was on the basis of this view that the Byzantine emperors permitted subjects of some of the western mercantile city-states residing in imperial territory to be ruled by their own courts, presided over by consuls. In England and Holland well through the Middle Ages such functions were exercised by consuls. In a case where the local law was grounded in religious principles and social usages profoundly alien to Christians and, in fact, reserved to Moslems, it was logical and preferable to leave the former free to settle their disputes according to their own laws and to regulate their affairs through their own magistrates. The Capitulations originally intended little more.

In 1454 Mohammed the Conqueror signed with Venice a treaty of a reciprocal nature granting extensive exterritorial rights, thus making the Capitulations a matter of international rather than of municipal law. In 1528 Sultan Soliman formally confirmed the privileges long enjoyed by French and Catalan merchants in Alexandria. Solemn treaty engagements whereby any concessions made to one foreign power should accrue to all were entered into by Francis I and Soliman in 1535. They mark the real commencement of the regime of the Capitulations, and became the model for future treaties of similar import, *inter alia* those with England, Holland, Austria, Russia, Germany and the United States (1830). The essential features of the Capitulations were that in lawsuits involving foreigners the foreign consul had jurisdiction; and in suits between foreigners and natives what was in effect a mixed tribunal had jurisdiction. Further privileges were exacted by force and others boldly assumed by the powers without effective resistance on the part of Turkey.

The Treaty of Adrianople of 1454 between Turkey and Venice specified a duty of 2 percent on goods sold by Venetian merchants in Turkish ports. The inclusion of this provision in subsequent treaties with other powers resulted in the unforeseen and humiliating claim that Turkey might not alter its customs tariff without the consent of all nations having capitulatory rights. Inasmuch as this consent could be obtained, as a rule, only by other concessions as a *quid pro quo* it resulted in considerable foreign control of the treasury. In the course of their later development the Capitulations made possible a status of practical immunity of foreigners from all local jurisdiction and thus constituted a flagrant encroachment upon the sovereignty of Turkey. Foreign banks and commercial houses entirely exempt from Turkish supervision were founded and operated to the disadvantage of native institutions. Foreigners were exempt also from personal taxes and imposts. Turkish employees of foreign corporations came to enjoy a quasi-

immunity from local jurisdiction, and this created a considerable class of protégés who often occasioned serious diplomatic disputes and intrigues. Foreigners misused their immunities to the extent of practising with impunity smuggling, bribery and corruption. The right of inviolability of correspondence led to the establishment by six great powers of foreign post offices which were utilized by Turkish subjects as well as by foreigners. The extraordinary privileges of missionary institutions resulted in certain instances in their becoming centers of political propaganda and diplomatic intrigue. The Capitulations had one positive effect. They served to introduce western principles of justice into the Near East and to provide materials later used by the Turks in reforming their judicial system.

By the time the evils of the Capitulations were recognized they had become so well grounded in international law and tradition that their abrogation was almost impossible. As early as 1856, when Turkey assumed full status as one of the European concert of nations, she raised the question of abrogation, but not until the World War was she in a position to terminate this humiliating regime on the general grounds of the right of sovereign independence and in conformity with the *rebus sic stantibus* rule of interpretation of treaties. On September 10, 1914, the Turkish government served notice that the Capitulations would be abrogated on October 1. The United States and other powers denied the right of Turkey to abrogate solemn treaty rights by unilateral action. The failure of the Senate to ratify the Treaty of Lausanne of 1923, which provided for the abolition of the Capitulations, left the United States in the unique situation of having to fall back upon the rights granted by the treaty of 1830. Realizing the futility of insisting on its legal pretensions to exterritorial privileges, the United States entered into a *modus vivendi* whereby it enjoys the same rights as other powers. It is important to note that the secularization of the Moslem iegal system which began under the Young Turks has presumably advanced under the Kemalist regime sufficiently to constitute a valid theoretical ground for the abrogations of Capitulations, since religious distinctions are no longer to be drawn by the Turkish state.

Although Egypt long since ceased to be an integral portion of the Ottoman Empire and was formally proclaimed a British protectorate in 1914, it continued to maintain the Capitulations, with some important modifications. In 1875, after prolonged negotiations with those powers enjoying exterritorial privileges, the Egyptian government put into effect the Règlement d'Organisation Judiciaire instituting the remarkable system of Mixed Courts having jurisdiction in all civil and commercial litigation between foreigners and natives, as well as between foreigners of different nationalities. A Court of Appeals, sitting at Alexandria and composed of ten foreign judges and six Egyptian, and District or Trial Courts, sitting at Cairo, Alexandria and Mansourah, composed of three judges, two foreign and one Egyptian, were created. In all there are sixty-five judges appointed by the Egyptian government with the *agrément* of the foreign powers concerned. The United States has two judges in the Trial Courts. The Consular Courts continue to function in matters affecting their own nationals, with the exception of police offenses of a minor sort, while foreigners still enjoy freedom from personal taxation, inviolability of domicile and protection from arbitrary arrest.

A further modification of the Capitulations was made in 1889, when authority was conferred on the Court of Appeals to approve police regulations proposed by the Egyptian government, thus placing offenses of this nature under the jurisdiction of the Trial Courts. A still more important modification, made with the consent of the powers concerned, was the creation in 1911 of a Special Legislative Assembly in the Mixed Courts with power to approve changes and additions to all legislation intended to be applied to foreigners, with the exception of the imposition of new taxes. This system of Mixed Courts has worked with extraordinary success to the satisfaction of Egyptians and foreigners alike.

Other regions formerly parts of the Ottoman Empire abrogated the Capitulations as soon as possible after they had obtained their independence. Greece was granted capitulatory rights in Turkey in 1855. In one remnant of the old Ottoman Empire, Morocco, the Capitulations are still enjoyed by Great Britain (Spanish and French zones), Italy (Tangier zone), Japan, Holland and Switzerland (Spanish zone) and the United States (all zones).

PHILIP MARSHALL BROWN

See: EXTERRITORIALITY; COURTS; SOVEREIGNTY; JURISDICTION; CONFLICT OF LAWS; COLONIES; COMMERCIAL TREATIES; IMPERIALISM; INTERVENTION; DIPLOMATIC PROTECTION; NATIONALISM.

Consult: Toynbee, A. J., and Kirkwood, K. P.,

Turkey (New York 1927); United States, Department of State, *Message from the President . . . the Capitulations of the Ottoman Empire*, 47th Cong., Special Sess., Senate Ex. Document no. 3 (1881), and 47th Cong., 1st Sess., Senate Ex. Document no. 87 (1882); Brown, P. M., *Foreigners in Turkey* (Princeton 1914); Ravndal, G. B., *The Origin of the Capitulations and of the Consular Institution*, United States, 67th Cong., 1st Sess., Senate Document no. 34 (1921); Thayer, L. E., "The Capitulations of the Ottoman Empire" in *American Journal of International Law*, vol. xvii (1923) 207–33; Mandelstam, André, *La justice ottomane dans ses rapports avec les puissances étrangères* (2nd ed. Paris 1911); Pélissié du Rausas, G., *Le régime des capitulations dans l'empire ottoman*, 2 vols. (2nd ed. Paris 1910–11); Kunke, M., *Die Kapitulationen der Türkei, deren Aufhebung und die neuen deutsch-türkischen Rechtsverträge* (Munich 1918); Mazard, J. A., *Le régime des capitulations en Turquie pendant la guerre de 1914* (Algiers 1923); Abelous, F., *L'évolution de la Turquie dans ses rapports avec les étrangers* (Toulouse 1928); Crouzet-Rayssac, A. de, *Le régime des capitulations et la condition des étrangers au Maroc* (Paris 1921); Young, G., *Corps de droit ottoman*, 7 vols. (Oxford 1905–06) vol. ii; Moore, J. B., *A Digest of International Law*, 8 vols. (Washington 1906) vol. ii, p. 593–755; Chirol, Valentine, *The Egyptian Problem* (London 1920); Brinton, J. Y., "The Mixed Courts of Egypt" in *American Journal of International Law*, vol. xx (1926) 670–88; Bolm, E., *Die gemischten Gerichte in Aegypten* (Göttingen 1915).

CAPODISTRIAS, JOANNES, COUNT (Giovanni Antonio Capo d'Istria) (1776–1831), Russian and Greek statesman. He was born at Corfu and began his career in the service of the Septinsular Republic (Ionian Islands). His Hellenic patriotism was awakened through contact with certain Greek chiefs and he joined the secret society known as the Hetairia Philike. But he believed that the best hope for the Greek cause lay in Russia, and in 1809 he entered the Russian diplomatic service and gained the confidence of the emperor, Alexander I.

Like many other educated Greeks he had imbibed the doctrines of the French Revolution, or had at least learned its catchwords; and as adjunct minister for foreign affairs he became the inspirer, or at times perhaps only the mouthpiece, of the czar's liberal policies, as Nesselrode was of his conservative reactions. Metternich, indeed, regarded him as chiefly responsible for Alexander's "Jacobinism." This was an exaggeration; but there was something in the added accusation that he was "using Russian policy for Greek ends," and it seems clear that he encouraged Alexander Ypsilanti in his wild adventure into the Danubian principalities.

In 1827 he was elected president of the Greek Republic and was acclaimed not only as the representative of the national will of the Greeks but also as the symbol of the guaranteed support of Europe. He soon found, however, that liberal principles had no practical application in that turbulent society, and proceeded to apply the Russian methods which he had once employed with great success in the government of Bessarabia; and when the inevitable insurrection broke out he suppressed it with Russian aid. A personal affront to Petrobey, chief of the wild clan of the Mavromichales, led to his assassination.

W. ALISON PHILLIPS

Consult: Mendelssohn-Bartholdy, Karl, *Graf Johann Kapodistrias* (Berlin 1864); Lascaris, S. T., *Capodistrias avant la révolution grecque* (Lausanne 1918); Phillips, W. A., *The War of Greek Independence, 1821 to 1833* (New York 1897); *Cambridge Modern History*, vol. x, *The Restoration* (London 1907) chs. i and vi.

CAPPONI, GINO ALESSANDRO (1792–1876), Italian educationist, historian and man of letters. Capponi came of an illustrious patrician family of Florence and by virtue of his position, his learning, his literary activity and his part in important civic and cultural movements was over a period of about fifty years the most conspicuous figure in Tuscany. His name is associated with such widely different projects as the founding of the great Tuscan reviews the *Antologia italiana*, the *Guido dell' educatore*, the *Archivio storico italiano*, and the establishment of the first savings bank of Florence. While it was primarily as an intellectual figure that he entered into the Risorgimento, he was a zealous advocate of Italian unification. His conception was a federation headed by the pope, but he was sympathetic toward more extreme views. After 1860 he sat in the senate of the new kingdom of Italy.

Capponi's best works, those which most clearly illustrate his extraordinary insight into social and historical problems, were published either as brief essays or in fragmentary form. It is in such studies as *Sulle dominazione dei longobardi in Italia* (first published as a series of letters in the *Archivio*) and in the unfinished *Istoria di Pietro Leopoldo* (written between 1829 and 1834) and the *Saggio sull' istoria del cristianesimo nei primi due secoli* that he reveals himself as one of the most distinguished of the Italian Liberal Catholic school of historians. The promise of these works failed to be fulfilled in *Storia della repubblica di Firenze* (3 vols., Florence 1875; 2nd ed. rev. by the author, 1876; tr. into German, Leipsic 1876), the one work

which in spite of many interruptions Capponi ultimately completed and the value of which is vitiated by the lack of a fundamental unity of conception. His masterpiece was the *Frammento sull' educazione* (Lugano 1846; new ed. by E. Codignola, Florence 1921), the most original contribution to the theory of education made by any Italian during the first half of the nineteenth century. Firmly convinced that all human activity should be a form of self-expression, Capponi was an implacable critic of any pedagogic method which attempted to establish abstract principles for the development of the human spirit. All knowledge not rooted in the student's concrete experience was intrinsically sterile. No artifice, however skilful, could enable the educator to persuade the mind of his student unless he was himself thoroughly imbued with the ideas of which he was the mouthpiece. It was in the spiritual darkness of the modern world that the "art of empty words" and the "mechanism of methods" had been developed as a feeble substitute for the great intellectual ideals of former times which through their own inherent power had sometimes addressed and dominated "the minds of an entire people during an entire century." Nothing but the vitalizing influence of fresh ideas could cause education to become once more spontaneous and truly formative. Capponi's letters, rich in source material on the history of the Risorgimento, have been collected in six volumes by Alessandro Carraresi (Florence 1884–90). Most of his works are to be found in *Scritti editi e inediti di Gino Capponi* (2 vols., Florence 1877), collected by Marco Tabarrini.

ERNESTO CODIGNOLA

Consult: Gentile, Giovanni, *Gino Capponi e la cultura toscana nel secolo decimonono* (Florence 1921), especially p. 7–31; Codignola, E., introduction to his edition of the *Frammento* (Florence 1921); Benetti-Brunelli, Valeria, *L'educazione nazionale nel pensiero di Gino Capponi* (Rome 1920); Reumont, Alfred von, *Gino Capponi e il suo secolo*, 2 vols. (Milan 1881); Croce, B. *Storia della storiografia italiana nel secolo decimonono*, 2 vols. (Bari 1921) vol. i, p. 136–39, vol. ii, p. 99.

CAPRIVI (DE CAPRARA DE MONTECUCULI), GEORG LEO VON (1831–99), German soldier and statesman. He served with great distinction as chief of staff of the tenth army corps in the Franco-Prussian war of 1870–71. In 1883 he reluctantly accepted from Kaiser Wilhelm I the appointment as chief of the admiralty. While in office he adhered to the policy of limiting the role of the German navy to the modest one of coast defense. In 1888 he was relieved of his post in the admiralty by Kaiser Wilhelm II and appointed commanding general of the tenth army corps in Hanover.

On the dismissal of Bismarck in 1890 Caprivi was named imperial chancellor and served until 1894. When Caprivi assumed the chancellorship a problem of foreign policy of the utmost importance was pressing for settlement, the renewal of the so-called reinsurance treaty with Russia which Bismarck had made extreme efforts to secure and which was much desired by Russia. Caprivi, who was quite without political experience, followed the advice of Baron von Holstein, secretary for foreign affairs, and permitted the treaty to lapse.

During the chancellorship of Caprivi Germany secured Heligoland from England in exchange for Witu and Zanzibar. New commercial treaties were negotiated with Austria-Hungary, Italy and Belgium. These treaties were designed to advance the interests of business and trade and aroused the violent opposition of Prussian agricultural interests. The most important measures of Caprivi's period of office bore upon the development of the army. In 1893 he introduced experimentally the two-year term of military service in place of the three-year term. This act was vigorously opposed by the army. Further opposition was aroused in 1894 by his unwillingness to take severe measures against the Social Democrats and finally led to his retirement from office.

Caprivi was a man of great simplicity of character with an unwavering sense of duty. Essentially fitted for a soldier's career, he was twice, by tragic circumstance, drafted into high offices for which he did not feel himself adequately equipped but which as a loyal subject he felt forced to accept. His speeches for the years 1883–93 were collected by R. Arndt (Berlin 1894).

BERNHARD SCHWERTFEGER

Consult: Schreck, Ernst, *Reichskanzler Graf Leo v. Caprivi* (Düsseldorf 1891); Germany, Auswärtiges Amt, *Die grosse Politik der europäischen Kabinette 1871–1914*, vols. iv, vi–ix.

CAPTAIN OF INDUSTRY. The term "captain of industry" came into current use in the late nineteenth century to designate a presumptively leading figure in capitalist organization. The metaphor in popular usage expresses the need in an era of business dominance to set up personal figures who might carry some part of

the sentimental burden that had been borne in earlier ages by the military commander or the titled aristocrat. The concept of captain of industry was taken over by economic science in the course of the reaction against the excessively mechanized formulae of the classical and neo-classical schools. The captain of industry may be merchant prince or financial baron, cotton lord or railroad king. What is essential is that he should win his fame in money making or business activity, that he should stand out above his fellows by the size of his fortune, the power that he wields and the leadership that he exercises.

Although he is predominantly a modern figure he has put in an appearance wherever business organization has existed. Thus traces of his presence are found in Greece and Rome. During the Middle Ages he disappeared, but from the twelfth century onward he was found with increasing frequency in the fields of money lending and trading wherever there was a break in the old local, self-sufficient economy. The names of the Medici, the Fuggers, the Bardi, the Peruzzi, Jacques Coeur, are perhaps the best known of the period before the eighteenth century, but they were only the giants whose greatness has somewhat obscured the eminence of others.

The late eighteenth century marks the beginning of the modern period for the captain of industry. For the first time men in significant numbers were making fortunes in manufacturing, and among them some stood out sufficiently to deserve the title of captain: John Wilkinson the iron master, Boulton of the firm of Boulton and Watt, Wedgwood of the potteries, Tubeuf of the French coal mines, possibly Arkwright in the textiles, certainly, of a little later period, Brassey.

From this time on there has been no country of western Europe or America where capitalistic organization prevails, scarcely a field of economic activity, that has not at one time or another made its contribution to the roll of names of captains of industry. While the captain has been most conspicuous in the United States, his place in the economic life of England and Germany is only slightly less marked.

Questions at once suggest themselves as to what determines the time and place of his appearance, since he has never at any single time been found in all the fields under the domain of business. Is it mere chance that sets him up first in one place, then in another? Are there certain industries which by their nature are predisposed to produce or receive the captain? Are there stages in the growth of any industry—infancy, for example, or overgrown boyhood—with which he is likely to be associated? What brings him more often to one country than to another? Innate differences in the character of the people, as Sombart ably if somewhat unconvincingly suggests? Or differences in economic organization and the rate at which industrialization has taken place? The times when captains of industry have become most conspicuous in any country seem to have been periods of most rapid industrial development and their greatest prominence seems to have been attained in those countries in which industrialization has come most rapidly. But this raises the question whether the captain of industry is the cause of rapid industrialization or merely one of its effects. If his role is causal, is this sufficient to account for the differences between countries or have differences in the political organizations and cultural backgrounds of the countries themselves played a part not to be ignored? Has the absence of a ruling class and its traditions in the United States, for example, had something to do with the number of great industrialists as well as with their peculiar behavior?

A question at once arises concerning the role played by the captain of industry in the development of capitalism and industrialism. Unfortunately the economic historian has paid little attention to this question and as a consequence only the most tentative conclusions can be put forward.

The function of business men as a group in the growth of capitalism may first be considered in connection with the conversion to business organization of industries previously under some different form of control. Here fortunately there is general agreement. No one appears to doubt that the business man was the active agent in this conversion, either by putting his gains acquired in one field to use in another or by securing funds from others which he could use in ways not common in the industry of the time. The process has been most clearly traced in agriculture and the textiles but it was evidently going on in other fields as well.

When one turns to the special role played by the captain of industry as distinguished from his anonymous fellow business men the case appears far less certain. There is, however, little evidence that he had a distinctive part or that he was more active than the men of lesser for-

tunes either in borrowing and using or in financing. In coal mining, if anywhere, he might be expected to be found, as coal operations even before the industrial revolution required relatively large amounts of capital. In spite of the formation of joint stock companies the men who took part in the early capitalistic organization of the coal industry were probably drawn from the wealthier groups of entrepreneurs of the period, but who can say that the leading captains of industry concerned themselves with the fortunes of the industry? In the textiles, on the other hand, the evidence is quite clear that the men most active in promoting change were merchants with modest fortunes and masters who stood only slightly above their fellows. It is not at all clear that the spread of capitalism from one industry to another was appreciably speeded up by the rise of captains of industry.

Capitalism also spread by new industries rising under business organization. Here the question of the role of the business man in the growth of capitalism merges into the question of his role in the development of industrialism, and the two can best be considered together in connection with the rise of new industries. There is no such agreement about the role of the business man in this field as in the conversion of industries to a capitalistic basis. It is easy to draw a picture of the business man, especially the big business man, restless, active, ever seeking new opportunities for gain, new lines of activity. In fact this picture has been drawn so often that the captain of industry has appeared to be the sole promoter of new industries. There are obvious elements of truth in the picture; but it is after all only a partial picture. There have been times when the business man has been lethargic or indifferent and has had to be prodded into action. In the United States and in France, for example, the business man was a familiar figure before the railroads were built. Yet it was not the business men who took the initiative in their building, until rather rich inducements were offered by local or central government. It is obvious that where business organization is thought of as the natural if not the only way to organize industries business men must become interested in new lines of activity before new industries can be developed. The point is, however, that it has sometimes been necessary for others to point out to them the golden opportunity that lay open in developing new industries.

The special part of the captain of industry is less certain. Has he been more active than the general run of business men in promoting new industries and is this one reason for his greater success? Would his absence have meant a slower industrial development? Examples can be given where the answer clearly is yes. Boulton in the eighteenth century, Emil Rathenau and Henry Ford in the twentieth, not only won their fame from work with infant industries but as nearly as can be determined appreciably hastened the establishment of these industries on a firm basis. Furthermore, it is hard to believe that without these men the industrial development of their respective countries would not have been retarded.

On the other hand, it is not hard to find captains of industry who were not connected with new industries and to whom the newer industries of the time owed little. Harriman, Stinnes, Gary, may be mentioned here. Furthermore, not every new industry can be traced to some captain of industry. If the industries fathered by some industrial chieftain are either more numerous or more important than those whose origin is more obscure, this fact has not been established. Or if the activities of those captains who have not been concerned with promoting new developments have indirectly stimulated the growth of industry, this too is yet to be established.

In one field, however, there seems little question concerning the distinctive role of the captain of industry, and that is in the development of backward regions that knew neither capitalism nor industrialism. Here apparently his influence is so pronounced that it is slight exaggeration to say that without his efforts the heathen might have been left for generations in his blindness with no chance to worship smoke and steel.

Another question concerning the role of the captain of industry in the development of industrialism relates to the improvement of technological equipment. It seems clear, widely held theories to the contrary notwithstanding, that the captain of industry has neither consistently favored nor consistently blocked technological change. Rather his influence has been now in one direction, now in another, depending on many factors, among which his estimate of the relative profits to be gained from speeding or retarding change has always been important and often controlling. The records, however, as they have been compiled and analyzed, do not show in which direction he has leaned most frequently. They furnish some clear examples

of outstanding business men who have actively promoted improvements in production and equally clear examples of industrial leaders who have been indifferent, if not hostile, to new inventions. On their face perhaps the records suggest that the former position is the more common, at least for the captains of industry. But so much of the evidence has been compiled by men who have never questioned the divinity of their gods that the point is far from established.

The influence of the captain of industry is more certain if we turn to the form of organization. It is obvious that his influence has always been toward increasing the size of the business unit. He has not only created large and ever larger enterprises of his own but his success has encouraged others to do likewise, so that even if his own establishment goes to pieces he leaves a permanent impress on industry. Here his contribution has been distinctive; it is hardly too much to say that every signal increase over the customary size of the business unit shows the handiwork of some captain of industry.

With the increase in size of the business enterprise have gone interesting consequences, of which the more obvious are increased possibilities for large scale or mass production. It should not be supposed, however, that an increase in the scale of production follows immediately or even inevitably upon an increase in size of the business unit. It is often true that for years after consolidation of financial operations under a single control no change is made in the size of the productive establishment. But among the contributions of the captain of industry should be set down the large business enterprises which have made for conditions favoring mass production and machine technique. Thus even those captains of industry who were themselves indifferent to technological advance indirectly at least did something to promote it.

Sometimes too the concentration of many business ventures in an industry under a single control has brought elements of order where chaos had prevailed. This would be stated differently by those whose faith rests in the unseen order of free competition. To them the dominant position of a single firm represents not a step toward order but the emergence of the trust problem.

In the hands of the captain of industry the business enterprise has not been confined to a single industry. Especially in more recent years a characteristic of his operations has been the union of alien activities under a single control. Sometimes the activities and their unification have brought about that integration of industry which is such a marked feature of recent industrial development. At other times there seems to have been no pattern followed in extending into various fields, but the union which resulted must be accounted for by the chance of the moment or by the personal interests of the captain of industry. The integration of industry may, as some think, mark a new and desirable stage in industrial organization; in this event the captain of industry must be given credit. The concentration of control with no basis in industrial processes can only represent confusion. And this too must be set down to the account of the captain of industry.

Whatever his role in industrial development, the captain of industry as a figure prominent in the popular imagination has played an important part in social and political life. As a social figure he has often exhibited spectacular, and sometimes vulgar, ostentation. He has helped to extend the range of the canon of conspicuous waste. His intervention in the political life has often exhibited a sense of superiority to the current rules of political morality and even to the law. Often in America at least he has been found, and more often suspected of, dictating his will to officers of the state or corrupting them with his gold. Often he has shown such slight sense of responsibility for the well-being, so little regard for the human rights, of the workers in his establishments that he has almost become a symbol of the oppressive employer. On the other hand, the captain of industry has often exhibited a generous public spirit. He has often stood out as a patron of the arts or sciences; he has contributed freely for broad humanitarian purposes, and the cases are not rare in which he has been active in movements for better government. Often he has taken a genuine interest in the welfare of his employees, and if this interest has too often taken a paternalistic turn, the captain of industry who understands and respects the ideals of organized labor is by no means unknown.

In spite of the general interest in the captain of industry very little is known as to the real character of the type—if it is indeed a type. We have of course a large and growing number of biographies of industrial leaders, but these either deal so exclusively with externals that

they tell little of character or, if they attempt to give qualities, are so obviously cut from a standard pattern that they tell more of the biographer or of the prevailing legend than of the captain of industry. We have also generalized descriptions of the entrepreneur, with suggestions that the captain of industry is this type raised to its highest power. Some of these generalized descriptions are extraordinarily interesting and list many of the qualities that one would expect to find characteristic of captains of industry from the nature of their activities. But the descriptions stop with listing qualities; they do not for the most part even try to point out the special combination of qualities which distinguish the industrial leader and without which no man can become a captain of industry.

It is often suggested that the conditions which have brought the captain of industry into prominence are passing and that he is destined to take his place, as a purely historical figure, alongside the knight and nobles of an earlier age. The scale of industrial and business activity has already become so vast that it is perhaps becoming impossible for one man to win a position of dominance. Organization is becoming so complex that possibly it can be run only by cooperation of specialist with specialist. It may be that a bureaucracy is about to replace the outstanding leader. On the other hand, new men may arise who are able to use the bureaucracy for their own ends or who even as part of the bureaucracy will stand out above others quite as distinctly as a captain above his men. At the present time it is impossible to say whether the captain of industry has seen his day or will in the future compare with those of the late nineteenth and early twentieth century, as a Gary with a Wilkinson, a Rockefeller with a Tubeuf or a Morgan with a Fugger.

HELEN R. WRIGHT

See: ENTREPRENEUR; BUSINESS; CAPITALISM; INDUSTRIALISM; IMPERIALISM; BUSINESS ADMINISTRATION; PLUTOCRACY.

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CARAFFA, GIOVANNI PIETRO. *See* PAUL IV.

CARBONARI was the name of a secret society which spread throughout Italy and France during the period following the Treaty of Vienna as a protest against the attempt of the Holy Alliance to reestablish the political situation which had existed before 1789. According to the treaty

the Bourbons, represented by Louis XVIII, were restored in France. In Italy the kingdoms established by Napoleon were effaced and the peninsula was redivided into a group of petty states. Lombardy and Venetia were governed directly by Austria; Austrian princes ruled in Modena, Parma and Tuscany; Piedmont, while governed by a native ruler, Victor Emmanuel I, was subject to defensive and offensive alliances with Austria; and the Bourbon Ferdinand returned to his Neapolitan throne under a secret pledge to Austria that he would introduce into his kingdom "no principle irreconcilable with those adopted by His Imperial Majesty in the government of His Italian kingdoms"—an unnecessarily indirect endorsement of absolutism. In order to perpetuate its reactionary regime the Alliance instituted an elaborate police system and summoned a series of congresses through which the powers acted "in concert" to suppress dangerous movements. What the Holy Alliance sought to do was to obliterate the traces of liberalism left by the French Revolution; what it actually accomplished was to drive them under cover. The secret society became the customary refuge of revolutionary ideas, not merely because it was secret but because it offered as a counterpoise to the elaborate organization of the Alliance the advantage of cooperative activity. The Carbonari was the most prominent of these societies.

At the beginning of the restoration period Italian Carbonarism had achieved, within a small sphere, a definite organization and had evolved certain political ideals which, although vague and abstract, were to dominate it throughout its existence. This evolution had taken place in the kingdom of Naples under the Napoleonic regime of King Joseph and of Joachim Murat.

As the masons' guild was the prototype of freemasonry, so the charcoal burners' guild of the French forest was the prototype of Carbonarism. The latter first manifested itself as a political force in the province of Franche-Comté during the last years of the old regime and the early years of the French Revolution, when the "Bons Cousins Charbonniers" borrowed the ritual of the ancient guild and formed an association for corporate defense, which became a vehicle of revolutionary ideology. Introduced into Naples about 1806, perhaps through the journalist P. J. Briot, who had been a "Bon Cousin," the society developed into a formidable center of opposition to Napoleon. Spreading first among the disaffected officers of the Grande Armée, where secret societies of a masonic character had long flourished, it soon found willing recruits among the native classes, particularly the landed property holders and priests, who had suffered most from the advent of Napoleon. The Neapolitans were quick to accept the revolutionary, quasi-republican catchwords of the French—an ideological heritage which they were never to outgrow; but as Carbonarism fashioned new bonds, cutting across class and local divisions, they began to nurture the first seeds of nationalism. At the same time, under the influence of the Spanish liberal rising of 1812 and the English rule in Sicily, their amorphous ideals of universal brotherhood and enfranchisement became transformed into a somewhat more specific demand for constitutional government. Thus it was within the ranks of the Carbonari that the two ideals which were to remain the constants of the political thought of the Risorgimento—Italian unity and constitutionalism—had their opaque inception.

When the Napoleonic regime ended and the restoration period began, Carbonarism as it had been organized in Naples spread to other parts of Italy: to the Papal States, where it struggled for its existence against the arch-statesman Consalvi; to Piedmont, where it recruited the students and younger members of the nobility, among whom it became something of a fashion; to Lombardy, where under the guidance of Confalonieri it became something of an intellectual creed; and in lesser degree to the other Italian states. Until 1820, however, the Carbonari remained little more than a threat, an intangible force which the various absolutistic governments now sought to conciliate, now sought to extinguish. Its political aims were entangled in a quasi-masonic ritual of signs, passwords and symbols and were imparted only to the higher orders, to which after a period of apprenticeship under oath of secrecy and obedience members might or might not be admitted. If the Carbonari stood for constitutional government, the exact nature of the fantastic constitutions which they hoped to build varied through every shade of republicanism and limited monarchy. They were equally unspecific about their ideal of Italian unity. Their organization, despite its vast pretensions, was loose, unstable and undemocratic. The lodges or *ventes* in each state were theoretically held together by a Grand Lodge, but schisms were frequent; and the organizations of the various kingdoms were

affiliated only by bonds of sympathy. Moreover, Carbonarism was at no time a popular movement. Its real tendency was to detach itself from the state and to provide a government for its own members, the great majority of whom were in fact drawn from the bourgeoisie. These, and the lack of practical leaders, were the weaknesses of the society. How fundamental they were was to become clear during the Carbonarist rising of 1820–21.

The first manifestation of the rising was in Naples. The Spanish liberal movement of 1820 had resulted in the granting of a constitution, which as prospective heir to the Spanish throne Ferdinand of Naples had recognized. Having at last discovered a definite symbol upon which their political mysticism could fasten, the Carbonari began to demand that Ferdinand grant the Spanish constitution to Naples. By the summer of 1820 their ranks had swollen to perhaps 300,000, consisting principally of small property holders whom the economic distress of 1820 had roused into action and the provincial militia, which since its organization in 1817 had been a stronghold of Carbonarism and which was now dominated by the Carbonaro Guglielmo Pepe and by romantic adventurers. Revolution independently precipitated by a regiment located at Nola spread throughout the kingdom, and Ferdinand, once more forced to bid for his throne, granted the Spanish constitution to Naples. It was after the assemblage of Parliament in October that the inadaptability of Carbonarism to political action was most strikingly revealed. Incapable, except for an insurgent group which demanded a republic, of extending their vision beyond the unworkable Spanish constitution or of providing their bourgeois constituents with much needed social reforms, unwilling to conciliate liberals like the minister Zurlo outside their ranks, powerless in the face of the mounting budget, the Carbonari rapidly lost their hold upon the people. Meanwhile, at the congress of Troppau in 1820 the Holy Alliance had signaled its intention to intervene in Neapolitan affairs; at the congress of Laibach in 1821 Ferdinand solemnly foreswore his oath to the Spanish constitution and consented that an Austrian expeditionary force be sent to Naples. When on the twenty-third of March the Austrian force, having defeated General Pepe's disheartened band at Rieti, entered Naples, the Carbonari had already disintegrated.

The course of the Carbonarist revolution in other parts of Italy is eloquent evidence of the incapacity of the society for concerted action. Under the direction of Santa Rosa the Piedmontese Carbonari had been making more or less indefinite plans for revolution since 1820; but before launching their supreme attempt they were awaiting the word of the young heir to the throne, Charles Albert, whom in their weakness for hero worship they had taken as a symbol of liberalism. It was not until after Rieti that their revolution actually broke out, and then it needed only the duplicity of Charles Albert and a fresh Austrian expeditionary force to seal its doom. With the failure of the Carbonari of Lombardy the heroic period of Italian Carbonarism ended and the period of retribution under the strong hand of Austria began. Most of the prominent leaders were sentenced to exile or imprisonment. Only a few isolated incidents, particularly the risings in Modena and the Papal States after the French revolution of 1830, attested the continued presence of the Carbonari in Italy. Nevertheless, in the Italian imagination the ideas of independence, unity and liberty had become to a large extent associated with Carbonarism. Mazzini saw the weakness of the secret society as an instrument of revolution and in organizing Young Italy attempted to create a movement which should recruit the whole population without restriction of membership and which should have no secret in its doctrine. But the methods of Carbonarism infected Young Italy and it too developed into a secret society.

The last scene of the Carbonarist revolution was France. The French society was organized in 1820 by a group of young students, Bazard, Buchez, Flotard, Joubert and Dugied, who had already been affiliated with another secret society, the Loge des Amis de la Vérité. Besides students the chief elements in the French Carbonari were retired officers and soldiers of Napoleon, natural enemies of the Bourbon regime; members of the active militia, whom the peaceful policy of the government deprived of opportunity for occupation, glory and promotion; and liberal members of the professional classes. The society also gained the adherence of certain prominent radicals in the Chamber of Deputies: Lafayette, Dupont de l'Eure, d'Argenson, Corcelles, Koechlin and Beauséjour. The French Carbonari corrected certain of the weaknesses of the Italian society. They discarded part of its ritual, particularly the religious elements; and in theory at least they created a more democratic, more closely knit organization. A definite hierarchy corresponding to the vari-

ous political divisions of the nation—commune, canton, department, etc.—was headed by a *vente suprême*, which theoretically determined the policy of the entire society through a system of congresses. Nevertheless, the Carbonari failed in France as ignominiously as in Italy. The only common sentiment among the various groups in its composition was hatred of the Bourbon regime; beyond that their allegiance was divided among republicanism, Bonapartism and Orléanism. An attempt was made to find a least common denominator of political principle in the constitution of 1791; but such a program satisfied no one in particular and won only perfunctory acceptance. The standard raised by the Carbonari was that of revolution pure and simple, not of social reform. Hence the masses stood inertly by, permitting the official police and military forces to hold the Carbonari in check. Between December, 1821, and July, 1822, eight conspiracies organized in various sections of France—in Paris, in the departments of the east and southeast, in Normandy and along the Loire—were speedily suppressed, and by 1823 the society had completely disintegrated and dispersed. What it left in its wake was a memory sanctified by the martyrdom of its defeated conspirators—General Berton, Colonel Caron, the four sergeants of La Rochelle—and an indelible impression upon a group of young men, former Carbonari, who were to play an important part in subsequent French history. Buchez, Bazard and Chevalier were disillusioned by their experience and passed over to Saint-Simonism. Others retained their faith in the secret society as a revolutionary force and formed an association which became the nucleus of another society of the restoration, Aide-Toi, Le Ciel T'Aidera. Some republican societies of the July Monarchy were descended in both personnel and ideology from the Carbonari.

GEORGES BOURGIN

See: SECRET SOCIETIES; REVOLUTION; CONSPIRACY; CONSTITUTIONALISM; NATIONALISM; REPUBLICANISM.

Consult: Bourgin, Georges, *La formation de l'unité italienne* (Paris 1929); King, Bolton, *The History of Italian Unity*, 2 vols. (London 1899) vol. i, ch. ii; Dito, Oreste, *Massoneria, carboneria ed altre società segrete nella storia del risorgimento italiana* (Turin 1905); Johnston, R. M., *The Napoleonic Empire in Southern Italy*, 2 vols. (London 1904) vol. ii; Mathiez, Albert, "L'origine franc-comtoise de la charbonnerie italienne" in *Annales historiques de la révolution française*, vols. i–vi (Reims 1924–29) vol. v, p. 551–61; Calmette, A., "Les carbonari en France sous la restauration" in *La révolution de 1848*, vols. i–xxv (Paris 1904–29) vol. ix, p. 401–17, and vol. x, p. 52–73, 117–37, 214–30.

CÁRDENAS, FRANCISCO DE (1816–98), Spanish jurist. His first contribution to the study of Spanish law was a series of essays in *El derecho moderno*, many of which were subsequently collected and published as *Estudios jurídicos* (2 vols., Madrid 1884). He demonstrated his ability as a jurist in his report on the reform of the civil code in 1850 and by his substantial share in the drafting of the current Spanish mortgage law. Cárdenas was affiliated with the conservative party and held many important political positions, including the ministry of justice in the cabinet of Cánovas del Castillo in 1874.

His work "Algunas noticias acerca de los progresos y estado actual de la legislación civil y penal de Inglaterra" (Real Academia de Ciencias Morales y Políticas, *Memorias*, vol. ii, 1867, p. 285–301) and the *Estudios jurídicos* are scientifically interesting, but his most important work is the *Ensayo sobre la historia de la propiedad territorial en España* (2 vols., Madrid 1873–75). This history runs from early times down to the first years of the nineteenth century. The section on mediaeval law, dealing with the feudal system, manorial estates, free cities and Mussulmanic law, was completely superseded by the more recent researches published in the *Anuario de historia del derecho español* (vols. i–vi, Madrid 1924–29), but interest still attaches to parts of the second volume devoted to church property and the influence of the laws of primogeniture on property entailment. Cárdenas' "Estado de la población y del trabajo en las islas de Cuba y Puerto Rico" (Real Academia de Ciencias Morales y Políticas, *Memorias*, vol. iv, 1883, p. 419–54) is important for a critical appreciation of the socio-economic status of the natives and contains valuable data on the agrarian economy and the production of the cane sugar mills in those countries as compared with British Guiana or Barbados, where free instead of slave labor was used.

FERNANDO DE LOS RÍOS

CARDOZO, JACOB NEWTON (1786–1873), American editor and economist. Cardozo became acting editor of the *Southern Patriot* (Charleston, S. C.) in 1817, and from 1823 to 1845 was its proprietor. Although the journal was a recognized free trade organ Cardozo used it in 1822 to support Congress in its retaliatory measures against Great Britain's closing the West Indies to American trade. In 1827 or 1828, at the request of the Charleston Chamber of

Commerce which he had helped to revive, he drew up what he believed was the first memorial from the South protesting against the "Bill of Abominations." Cardozo did not participate, however, in nullification.

In his *Notes on Political Economy* (Charleston 1826) Cardozo sought to refute the Ricardian teachings of John McVickar's *Outlines of Political Economy* (New York 1825). Cardozo was unwilling to have American statesmen guided by the doctrines of the European classical school, which were pessimistic not from the nature of economic law but because of "a vicious social organization." America, "whose institutions and laws have done less to derange the natural order of things," was, he felt, a better place for the investigation of economic laws. Cardozo criticized the Ricardian rent theory and the Malthusian principle of population, connecting increase in population with improvements in agriculture, not with decreasing returns from the soil. To this extent he may be considered a member of the American nationalist school, of which Daniel Raymond was an earlier proponent and Henry C. Carey the later leader. He differed from them, however, in his vigorous advocacy of free trade.

BROADUS MITCHELL

Consult: Elzas, B. A., *The Jews of South Carolina* (Philadelphia 1905) p. 176–79; Turner, J. R., *The Ricardian Rent Theory in Early American Economics* (New York 1921) p. 75–82.

CARDUCCI, GIOSUÈ (1836–1907), Italian poet and literary historian. He was born in Valdicastello and in 1860 became professor of Italian literature at the University of Bologna, where he remained until his death. He was the last of the great classic poets of Italy: a dreamer and idealist, a man of deep moral feeling as well as of a profound sense of sorrow and of love, who clothed his emotions in simple, vigorous forms enriched by living knowledge of the history of art. These qualities are revealed most clearly in the lyrics of his maturity: the *Rime nuove* and the *Odi barbare*. A more practical aspect of Carducci's activity was his role in the political and moral life of Italy after its unification. Absorbing the spiritual tradition of the Risorgimento he presented patriotism not in a nationalistic light but precisely as a moral force permeating the life of the whole community and contributing to its continuous progress toward higher forms. Carducci was democratic and yet at the same time attached to the past: herein lies the key to the evolution of his political views. In his youth he was a republican, a follower of Mazzini and Garibaldi, passionately devoted to Rome, which in those years had not yet been restored to Italy. In later life he came to understand and to acclaim the significance of the monarchy of Savoy, which had forged a bond between the old Italy and the new, had combined political wisdom and military strength with constitutional government and liberty and had unified Italy. His work as a moral educator constantly fostering, by work and example, the qualities of simplicity and strength was in harmony with this imaginative political idealism, as were his investigations as scholar and teacher into the entire history of Italian literature. Carducci's *Opere* have been collected in twenty volumes (Bologna 1889–1909) followed by one volume of works published posthumously and two of letters.

BENEDETTO CROCE

Consult: Chiarini, G., *Memorie della vita di Giosuè Carducci* (2nd ed. Florence 1907); Croce, B., *Giosuè Carducci* (2nd ed. Bari 1927); Meozzi, A., *L'opera di Giosuè Carducci* (Florence 1921); Jeanroy, A., *Giosuè Carducci, l'homme et le poète* (Paris 1911); Williams, O., *Giosuè Carducci* (London 1914).

CAREER. This term is applied to any continuous and conspicuous work in which notable achievement may be won. Its scope changes inevitably with changing institutions, activities and values. What constituted a career in the Athens of Pericles, in the mediaeval church, in Victorian England or in twentieth century America varies as widely as the civilizations themselves. Careers, in other words, have as much to do with the particular social arrangements of the era in which the individual finds himself as with the possession of "innate" talent.

Every age holds in high regard certain fields of activity in which special recognition may be won and also determines by its institutions who shall be eligible to compete for its prizes. The gifted business executive cannot, under the Soviet system, achieve a career as a private capitalist. He may, however, have a career of honor and fame in serving the state. Even in the arts, in which talent would seem to be the one necessary qualification, the possibility of a career depends upon many factors in the social situation, particularly the specific arrangements for the stimulation and reward of talent. Patronage and support may come from rulers, courts, church, nobles, political parties or the general public at

large, but whatever the arrangements for support, careers in art must depend upon and vary with them. And the same is true of careers in general. Whether the system be one of communism or caste, democracy or status, careers are determined by the repute in which different services are held by the community and the support provided for them.

The growth of political and social democracy has had notable effects both upon the conception of career itself and upon those social arrangements which determine the opportunities for careers. The Napoleonic era defined democracy as a condition in which "the career is open to talent," and although it failed to achieve this goal the idea has been one of the guiding principles of all democratic movements. Moreover the tremendous economic changes of the past century have swept away many of the old barriers; and today the demands of the machine age call for talent wherever it can be found, irrespective of class, race or creed. The necessities of industrialism have been gradually breaking down the age long prejudices against certain forms of work which have existed for centuries in different countries and among different races. One recalls the exclusion of the Theban shopkeepers from the magistracies, and the law which forbade the Spartiate to engage in any pecuniary occupation whatever.

This tabu against commercial and industrial employments Veblen explores in his *Theory of the Leisure Class* (New York 1899), pointing out that the normal and characteristic occupations of the upper classes have been government, war, devout observances and sports, and that the more any work has to do with the immediate concerns of getting a living, "elaborating the material means of life," the less honorable it is. Certainly the distinctions between occupations with respect to honor, which Veblen traces back to the distinction made in barbaric times between exploit and drudgery, have with diminishing force persisted even down to our own day. In early modern England, when the aristocracy held a monopoly of political power, careers were identified almost entirely with government posts and were open only to the upper class or to those of the middle class who were elevated to the peerage. Younger sons were indeed sent into trade and the professions, a practise sharply contrasting with that of the continent, where every scion of an aristocratic stock was expected to hold aloof from the vulgarities of trade. The stricter English aristocrats shared the continental dislike of trade and looked with little less scorn on the professions, with the exception of the army and the higher grades in the church. Foreign trade, it might be noted, was held in far greater respect than domestic, and wholesale was more favorably regarded than retail. The waning of the political power and privileges of the aristocracy manifested itself in a change of attitude toward occupational activities. Certain professions, like law and medicine, came to be more highly regarded, as they had long been in Scotland, where every ambitious family was ready to incur heavy sacrifices in order to give the most gifted son the education which would enable him to enter one of the learned professions.

How limited was the field for careers in England as late as 1855 is seen in the report of that year on the *Reorganization of the Civil Service*, in which the need for new careers was emphasized. "Everyone who has had to advise . . . knows how extremely and increasingly common is the case of those young men who scruple to take Orders, have no chance at the bar, and yet possess that kind of ability, and that amount of attainment, which would be inapplicable to engineering and thrown away upon farming. . . . I have known young men, neither ignorant, nor dull, nor idle, nor dissipated, who yet, for want of one more profession to choose from have been condemned to years of inactivity, with little or no fault of theirs."

There is a sharp contrast between this situation and that existing today in America where the field for careers is practically coextensive with the entire field of activity. Conspicuous success in almost any occupation is tantamount to a career, whether it be in the professions or in business. The merging of the conception of career with that of pecuniary success has been accomplished partly by the elevation of business in the general esteem, partly by the devaluation of the non-pecuniary elements in the traditional career. While it is not true that honor is accorded to callings precisely in the measure of their lucrativeness, that the real estate dealer and the artist are reduced to the common scale of money income, nevertheless there is a closer approximation to this condition in America today than has ever appeared in any of the older countries. Conventional patterns of achievement have been broken down, and the man who "makes good in his own line" wins his place in the community. Moreover, America has been par excellence the land of entrepreneurial opportunity; and the

prevailing doctrine of the essential harmony of private and public gain has given to individual success the stamp of public approval.

The most conspicuous extension of the conception of career in the twentieth century and a further step in its democratization is its application to women's work. At the outset of the feminist movement there was a presumption that only the woman with exceptional talent—the great actress or the great singer—was justified in having a career, with all that it meant in the repudiation of ordinary domestic and family duties. Today, however, the term is used for any self-supporting business or professional position outside the home. Outstanding talents and gifts are not required. A career for women has come to mean the carrying on of distinctive individual activity as against being merged in the family group. The causes of this change in woman's status must be sought in the industrial and social changes which have taken to the factory so many of the domestic processes normal to the home of fifty years ago, in the revolutionary changes in women's education and in the feminist movement, which is partly cause and partly effect, registering as well as initiating change.

One of the essential problems of democratic social policy is that of the discovery and reward of talent. The outstanding feature of a democratic scheme of education is that on the widest possible scale it provides for the discovery and training of ability in different fields. The working out of this tendency can be seen in the growing substitution of individual training for rigid classroom methods, in the development of personnel studies and in the building up of schemes of vocational guidance whose aim it is to bring human beings and jobs into such fruitful relations that careers will be opened to the talented and that those without talent may find their most useful place. Here as elsewhere in social theory there is a cleavage between those who would trust largely to the forces of the market place to achieve a nice discrimination in this matter and those who assert the need of conscious purposive control. The advocates of control maintain that the discovery and training of talent as well as its support must be the object of social planning if a society is properly to provide for the maintenance of careers which are essential to its own successful living.

HELEN EVERETT

See: PROFESSIONS; PUBLIC OFFICE; LABOR; CLASS; ARISTOCRACY; STATUS; AMATEUR; LEISURE; DEMOCRACY; BOURGEOISIE; BUSINESS; PLUTOCRACY; WOMAN, POSITION IN SOCIETY; VOCATIONAL GUIDANCE.

CAREY, HENRY CHARLES (1793–1879), American economist and publicist. Retiring as head of a Philadelphia publishing house in 1835, Carey thereafter devoted himself mainly to economic studies and became an outstanding antagonist of the current English political economy. His fundamental postulate was the unity of the laws of nature. Social science was conceived as the discovery of those laws by the application of which man may improve his conditions through the development of human association and individuality. Carey's theory of value, central to his system of thought, is substantially a labor-cost theory. But stressing dynamic improvements in man's power over nature he explained the ratio of exchange, derived from a reciprocity of services ("labor saved"), as expressing labor costs of reproduction. Applied as a universal law to all cases of value (excluding labor), it included land, thus making of rent merely a special case of interest. While the gross returns from land were asserted to rise progressively with the historical movement of cultivation from poorer to better lands, the share of output returned as land rent was to fall with the progress of civilization. Carey denied the Malthusian doctrine and sought to establish a principle of increasing relative remuneration to labor as compared with that of capital.

In its entirety his system was one of economic harmonies comparable to that of Bastiat, whom Carey accused of plagiarism. Philosophically Carey represented essentially a return to Adam Smith; nevertheless he advocated a system of tariff protection. Carey's intellectual associations were most diverse. But his thought is less important as an example of intellectual trends than as a demonstration of the inapplicability of the Ricardian economics to American circumstances. Impressed by America's abundant resources and hopeful prospects Carey attacked the dynamic implications of the Ricardian system. If his protectionism appears as an unconscious deference toward a rising industrialism, his economic philosophy is nevertheless essentially agrarian, stressing the overwhelming importance of a prosperous agriculture.

Carey's writings ran to thirteen volumes and endless pamphlets and articles. He was the first American economist to win a following abroad and was the center of a controversy in which Max Wirth, Eugen von Dühring and Francesco

Ferrara tried to defend his system against the attacks of Lange and Held. His principal books were translated into nine languages and his influence was probably greater abroad than at home.

PAUL T. HOMAN

Important works: *Principles of Political Economy*, 3 vols. (Philadelphia 1837–40); *The Past, the Present and the Future* (Philadelphia 1843); *Principles of Social Science*, 3 vols. (Philadelphia 1858–59); *The Unity of Law: as Exhibited in the Relations of Physical, Social, Mental and Moral Science* (Philadelphia 1872).

Consult: Jenks, J. W., *Henry C. Carey als Nationalökonom*, Sammlung nationalökonomischer und statistischer Abhandlungen des staatswissenschaftlichen Seminars zu Halle, vol. iv, pt. i (Jena 1885); Turner, J. R., *The Ricardian Rent Theory in Early American Economics* (New York 1921) ch. vi; Teilhac, Ernest, *Histoire de la pensée économique aux États-Unis au dix-neuvième siècle* (Paris 1928) ch. ii; Levermore, Charles H., "Henry C. Carey and his Social System" in *Political Science Quarterly*, vol. v (1890) 553–82.

CAREY, MATHEW (1760–1839), American editor, publisher and economist. Carey, a native of Ireland, came to Philadelphia in 1784 after being convicted for libelous criticism of the Irish policy of the British ministry. Here the "persecuted printer" was introduced to Lafayette, whose financial assistance gave Carey his start in American journalism. As editor of the *American Museum* he became identified with the political life centering in Philadelphia. In 1791 he entered the bookselling and publishing business, eventually making the firm of Carey and Lea the chief publishing house of its time. After organizing in 1819 the Philadelphia Society for the Promotion of National Industry he retired from business to become an early champion of the "American system" for the promotion of domestic industry. Under the auspices of this society, which patronized Friedrich List during his American residence, Carey published most of his writings.

Carey's first work of general interest was *The Olive Branch* (Philadelphia 1814; 10th ed. 1830), an effort to harmonize the factional interests during the War of 1812. *The New Olive Branch* (Philadelphia 1820; 2nd ed. 1821) is an impassioned commentary on the ruin spread among American industries by the heavy influx of European goods after the Napoleonic wars. Its main burden, taken up repeatedly throughout his many tracts and his *Essays on Political Economy* (Philadelphia 1822), is the need of protective tariffs to encourage American manufactures and to expand the domestic market for raw materials. In addition to the tariff he urged a program of internal improvements to achieve an economic "harmony of interests" conducive to the preservation of the Union. In the less important of his pamphlets, some of which were published anonymously or under various pseudonyms, Carey dealt with such public questions as banking and currency reform, factory labor, immigration, charities and religious liberty.

A. D. H. KAPLAN

Consult: Bradsher, E. L., *Mathew Carey*, Columbia University, Studies in English, 2nd ser., no. xix (New York 1912); Maier, E. F. J., in American Catholic Historical Society, *Records*, vol. xxxix (1928) 71–154, containing bibliography.

CARLE, GIUSEPPE (1845–1917), Italian legal philosopher. Carle became professor of the philosophy of law in the University of Turin in 1872 and was later senator of the realm. Following in the path of Vico, Romagnosi and Gioberti he turned from the metaphysical abstractions and exaggerations of Spencerian positivism to the historical and psychological method grounded in the methods and findings of the social sciences, which he was among the first to introduce and apply in Italy. In his *La vita del diritto nei suoi rapporti colla vita sociale* (Turin 1880, 2nd ed. 1890) he discussed law in its relation to the life of society, examining the latter in its three stages, patriarchal organization, city-state and modern national state. In *Le origini del diritto romano* (Turin 1888) he reconstructed organically, by sociological methods, the primitive Roman law and showed that the formation of Rome and of its law was not the outcome of a process of true evolution but rather the result of a selection of elements inherent in the gentile organization. In *La filosofia del diritto nello stato moderno* (Turin 1903), of which only one volume was published, he laid the foundations of a system of legal philosophy sufficiently comprehensive to meet the requirements of the modern nation state, and particularly of the new state of Italy. Like Gioberti, Carle had a vital conviction of Italian supremacy in juristic and social studies and like his teacher, Mancini, he stressed nationality as the basis of the modern state.

G. SOLARI

Consult: Solari, G., "La vita e il pensiero civile di Giuseppe Carle" in R. Accademia delle Scienze di Torino, *Memorie*, 2nd ser., vol. lxvi (1926) no. 8.

CARLETON, GUY, FIRST BARON DORCHESTER (1724–1808), British soldier and colonial administrator. He governed Canada from 1766 to

1778 and, after having served as British commander-in-chief at the close of the Revolutionary War, from 1786 to 1796. The beginning of the office of governor general may be traced to his appointment in 1786 as governor not only of Canada but also of Nova Scotia, New Brunswick and Prince Edward Island in order to consolidate what was left of British North America after the wreck.

His influence is still felt through the Quebec Act (1774), for which he has been held chiefly responsible. This act was based on his assumption of the impossibility of imposing British institutions upon the Canadians, who were at that time almost all French, and on the failure to attract more than a few hundred English speaking urban settlers to the country. In the face of the troubles with the old colonies Carleton sought to win over the Canadians by giving them a constitution that they desired. Because the Quebec Act guaranteed them their religious system and their civil law French Canadians today regard it as their charter of liberties, but at the time the clergy and the *seigneurs* were the only classes in Canada which welcomed it, because Carleton committed two errors. Failing to perceive the emancipating influence of frontier conditions he aimed at controlling the *habitants* through the *seigneurs*, thus arousing the resentment of the former. He also alienated the small but influential English speaking mercantile minority by disobeying the home government's instructions to modify the legal system in their favor. The consequent discontent opened Canada to invading armies from the revolting colonies, where the act was considered one of the "Five Intolerable Acts," and also contributed to the racial strife of the early nineteenth century.

A. L. BURT

Consult: Wood, W., *The Father of British Canada* (Toronto 1916); Bradley, A. G., *Lord Dorchester* (2nd ed. by A. L. Burt, Toronto 1926); *The Cambridge History of the British Empire*, vol. vi, *Canada and Newfoundland* (Cambridge, Eng. 1930); Smith, W., "The Struggle over the Laws of Canada 1763–83" in *Canadian Historical Review*, vol. i (1920) 166–86; Soward, F. H., "The Struggle over the Laws of Canada, 1783–91" in *Canadian Historical Review*, vol. v (1924) 314–35.

CARLI, GIAN RINALDO, CONTE (1720–95), Italian economist, poet and scholar. He was born in Capo d'Istria and in 1753 moved to Milan, where eighteen years later he became president of the Council of Finance. In this capacity he assisted in abolishing many abuses and carried out a complete reformation of the coinage system according to a plan he had previously proposed in his *Osservazioni preventive al piano intorno alle monete di Milano* (Milan 1766). A man of catholic interests and knowledge Carli devoted much attention to monetary questions. Included in his great *Delle monete e dell' istituzione delle zecche d'Italia* (4 vols., Venice 1754–60) is the essay *Del valore e della proporzione dei metalli monetati con i generi in Italia*, in which he compares the purchasing power of a unit of money at the time of the discovery of America with that of the same unit in 1750. By showing that the bullion content of the monetary unit had decreased Carli refuted the theory of contemporary economists that the trebling of commodity prices indicated a corresponding increase in the quantity of metal in the country. In his *Breve regionamento sopra i bilanci economici delle nazioni* (1769) he criticized vigorously the doctrine of the balance of trade. His observations on the non-commodity items which must be included in computing the balance distinguish him as a pioneer of a new conception, the balance of payments. Carli was not, however, a free trader and in his *Del libero commercio dei grani* (Milan 1771) he strongly advocated government regulation of the grain trade, pointing out that the question must always be settled on practical rather than theoretical grounds. Important among his other works was *Relazione del censimento dello stato di Milano* (1776), containing a critical history of methods of evaluating property and an analysis of the newly established Milanese county council which reveals Carli's sympathy with the division of society into social classes. Carli's interest in American politics and economics was manifested in *Delle lettere americane* (2 vols., Florence 1780; new ed. 4 vols., Milan 1786). Some of Carli's works have been republished in the Custodi collection.

ROBERTO MICHELS

Consult: Pecchio, G., *Storia della economia pubblica in Italia* (Lugano 1829) p. 111–22; Michels, R., "Die Kritik der Handelsbilanztheorie bei Gian-Rinaldo Carli" in *Weltwirtschaftliches Archiv*, vol. xxix (1929) 221–46; Luzzatto, Fabio, "Gian Rinaldo Carli e la filosofia del diritto" in *Rivista internazionale di filosofia del diritto*, vol. vii (1927) 467–501.

CARLILE, RICHARD (1790–1843), English social reformer, free press agitator, pioneer in the birth control movement and editor of free thought periodicals. Carlile became perhaps the most daring of Francis Place's disciples in the

British birth control agitation of 1825–30. His chief work is probably the pamphlet, *Every Woman's Book; or, What is Love?* (London 1826), the first tract in the English language devoted exclusively to the medical as well as to the social and economic aspects of contraception. Although short lived it was widely distributed; its influence upon Robert Dale Owen and through him upon the founding of the American birth control movement was not inconsiderable.

Carlile's efforts in behalf of the liberation of the English press, which began in 1817 with the attempt to revive the influence of Thomas Paine, were, if not unique, enduring, and many have thought that he suffered more for this cause than any other Englishman of the nineteenth century. He was imprisoned more than nine years for publishing his republican-political and deistic-religious opinions. Persecution by the ultraconservative government, however, helped make him; he throve upon it. Bentham befriended him, even as Place counseled him. His spirit remained to the last unbroken. Chief among the dozen journals he edited are the *Republican* (1819–26) and the *Lion* (1828–29).

NORMAN E. HIMES

Consult: Holyoake, G. J., *The Life and Character of Richard Carlile* (London 1849); Campbell, Theophilia C., *The Battle of the Press* (London 1899); Wickwar, W. H., *The Struggle for the Freedom of the Press, 1819–1832* (London 1928); Himes, Norman E., "The Place of John Stuart Mill and of Robert Owen in the History of English Neo-Malthusianism" in *Quarterly Journal of Economics*, vol. xlii (1927–28) 627–40, and "John Stuart Mill's Attitude Toward Neo-Malthusianism" in *Economic Journal*, Economic History Supplement, no. 4 (1929) 457–84; and notes by N. E. Himes in his edition of Francis Place's *Illustrations and Proofs of the Principle of Population* (London 1930).

CARLYLE, THOMAS (1795–1881), Scottish historian and critic of society. Carlyle was not in the scientific sense a political theorist or a sociologist. His chief gift, a capacity for moral indignation, is perhaps not the best that can be given to the thinker. In fact, he pretty completely denied the value of the instrument of thought in social questions, affirming instead the force of personality. On the other hand he was more than a preacher and a moralist. Most of his writing was an attempt to shake his fellows out of their unawareness, or their acceptance, of misery. Because he loathed the disorder and suffering which accompanied the industrial revolution Carlyle was accepted, in part, by the new generation of liberals, such as John Morley, that grew up in the second half of the century. He influenced Ruskin and the two combined to influence intellectuals of both political extremes, a Shaw and a George Wyndham, for example.

Carlyle as historian was vivid, usually accurate, preeminently dramatic and biographical in his method. *Oliver Cromwell's Letters and Speeches* (4 vols., 1845) effected a rehabilitation of the Protector in the eyes of his countrymen. *The History of Frederick the Great* (6 vols., 1858–65) is detailed, accurate, documented, very prejudiced in favor of Frederick, almost silent on his civil achievements, extremely good on military history. But the *French Revolution* (1837) is a classic. It is a grand metaphysical drama which works itself out in a hundred exciting episodes. Moreover, it is historically accurate in detail, as Carlyle made critical use of the sources available at the time. Yet no modern historian will accept it as an adequate account for it wholly neglects economic and social history, simplifies the issues involved and is based on a metaphysics no longer in fashion. It has had an enormous influence on lay readers in English speaking countries and is largely responsible for the commonly held view of the French Revolution as a violent uprising of an oppressed people, a cataclysmic social revolution quite unlike anything else in European history.

Carlyle's enthusiasm for Germany did much to spread the Teutonism so popular in Victorian England, just as his sympathy for the romantic philosophy of the Germans was a vital influence in his own thinking. In his eyes the Teutonic races are virtuous, protestant and inspired by a moral intuition above mere reason (*Life of Friedrich Schiller*, 1825; many translations from the German; essays and pamphlets on German culture). The Latin races are corrupt, worldly, selfish and addicted to barren logic. To follow them is to fall into utilitarianism, orthodox economics and the industrial revolution. Modern England is overemphasizing the importance of the common man, denying the superrational value of custom and tradition, and approaching democracy. This process had already brought widespread suffering to the poor and a cramped spiritual life to the rich (*Chartism*, 1839; *Past and Present*, 1843).

The solution of these difficulties Carlyle felt to be a reversion to the rule of the best, to benevolent despotism. The common man, left to himself, is ignorant and weak. He must at times be kept in his place by force. Carlyle ends

by identifying the forces of might and right (*Latter-Day Pamphlets*, 1850; *Shooting Niagara*, 1867) or, according to his enemies, by accepting the doctrine that might makes right.

CRANE BRINTON

Works: *Works*, 30 vols. (Centenary ed. London 1896–99).

Consult: Morley, John, *Critical Miscellanies, first series* (new ed. London 1878) p. 157–202; Cazamian, Louis, *Carlyle* (Paris 1913); Roe, F. W., *The Social Philosophy of Carlyle and Ruskin* (New York 1921); MacCunn, John, *Six Radical Thinkers* (London 1907) p. 141–82; Schulze-Gaevernitz, Gerhart von, *Zum socialen Frieden*, 2 vols. (Leipsic 1890) vol. i, bk. i; Bodelsen, C. A., *Studies in Mid-Victorian Imperialism* (Copenhagen 1924) p. 22–32; Gooch, G. P., *History and Historians in the Nineteenth Century* (London 1913) p. 323–32; Vaughan, C. E., "Carlyle and his German Masters" in *Essays and Studies*, by members of the English Association (Oxford 1910) p. 168–96.

CARMIGNANI, GIOVANNI (1768–1847), Italian penologist. In 1791 he received the degree of doctor of legal science from the University of Pisa and after a few years of literary activity inspired largely by Alfieri took up the practise of law. He established a reputation as jurist by the publication of *Saggio sulla teoria delle leggi civili* (Florence 1794) and *Saggio di giurisprudenza criminale* (Florence 1795) and was appointed professor of penal law at Pisa in 1801. This chair he occupied until 1840, when he became professor of legal philosophy at the same institution.

Together with his disciple Francesco Carrara, Carmignani gave to the traditional penological theories of the so-called classical school initiated by Beccaria the final form in which they were to be attacked by Lombroso. The justification of criminal law could be deduced immediately from primordial natural law, according to which every individual is endowed with the right of self-defense. The state assumes the guardianship of these rights and becomes the executor of natural law. In imposing penalities for crime its purpose is not revenge but the prevention of future aggressions against its members. The essential problem of the penologist, therefore, is to determine the exact nature and degree of punishment or rather of "moral coercion" necessary to deter one individual from violating the rights of another. These ideas Carmignani developed in his two principal works, *Elementi del dirritto criminale* (Florence 1808; ed. by Caruana Dingli, 2 vols., Malta 1847–48; and by Filippo Ambrosoli, 2nd ed. Milan 1882) and *Teoria delle leggi della sicurezza sociale* (4 vols., Pisa 1831–32). Although in his early years he favored capital punishment he later became a zealous advocate of its abolition; his mature views on the subject were set forth in *Una lezione academica sulla pena di morte* (Pisa 1836).

VINCENZO MANZINI

Consult: Biographical sketch by Caruana Dingli in his edition of the *Elementi*; Carrara, Francesco, *Ambrosoli e Carmignani* (Lucca 1866).

CARNEGIE, ANDREW (1835–1919), American industrialist and philanthropist. Born in Scotland, he came to the United States with his parents in 1848. His duties as private secretary to Thomas A. Scott of the Pennsylvania Railroad permitted him to make personal and business contacts which served him well both at the time and later when he ventured into the iron industry. After his retirement from the railroad in 1865 he combined enterprises in railroad financing and oil with his growing interests in the iron industry. The Pennsylvania Railroad was for a time one of the best customers of his bridge construction company and a party to rebating arrangements with him. By the early seventies he had devoted himself exclusively to the successive partnerships which eventually became the Carnegie Steel Company, dominant in its field. In 1901 he sold the company to the United States Steel Corporation for $447,000,000.

Carnegie was never a practical "ironmaster." His objections delayed for several years the entrance of his concern into the steel industry. Once convinced of the value of a process, however, he backed it to the full and did not hesitate to scrap existing equipment. He ran his plants to capacity and made extensions and improvements during depressions in order to be prepared for prosperity. A rugged individualist, believing in unlimited competition and the survival of the fittest, he frowned upon combination or amalgamation proposals which involved absorbing plants without regard to their industrial value. He attributed his success to his talent for organization and to his ability to hire men "cleverer than himself" and to hold their loyalty by giving them wide scope for activity and liberal rewards. To his workers he paid only the market price. He had no sympathy with labor organizations, and gave at least passive acquiescence to the militant anti-union policy which characterized his industry.

Carnegie retired with over a quarter of a

billion dollars, and set about putting into practise his conception of the obligation of wealth. He believed that all men of wealth, after having provided a competence for their families, should consider their surplus wealth as a trust fund to be administered in the interest of humanity. Accordingly he gave away a total of $288,000,000 within the United States and $62,000,000 in Great Britain. His contributions to libraries and educational agencies reflect his own early efforts to obtain an education; and his donations to further world peace continued an interest evidenced earlier in life.

PAUL WEBBINK

Important works: *Triumphant Democracy* (New York 1886, rev. ed. 1893); *The Gospel of Wealth and Other Timely Essays* (New York 1900); *The Empire of Business* (New York 1902); *Problems of Today* (New York 1908). See also his *Autobiography*, ed. by J. C. Van Dyke (Boston 1920).

Consult: Alderson, Bernard, *Andrew Carnegie: the Man and his Work* (New York 1902); Myers, Gustavus, "Das Carnegie-Vermögen" in *Neue Rundschau*, vol. xxv (1914) pt. i, 664–93, 821–39; Moody, John, *The Masters of Capital*, Chronicles of America series, vol. xli (New Haven 1919) chs. iii, v; Grattan, C. H., "Saint Andy" in *American Mercury*, vol. xiv (1928) 364–69.

CARNIVALS. *See* FAIRS; FESTIVALS.

CARNOT, LAZARE NICOLAS MARGUERITE (1753–1823), French statesman and military engineer. Carnot, the son of a notary, was born at Nolay. He was a member of the Legislative Assembly (1791–92) and of the Convention (1792–93), and was named to the Committee of Public Safety on August 14, 1793. While his colleagues regulated munitions, food and propaganda Carnot organized the army. The *levée en masse* drafted by Carnot and Barère and enacted on August 23, 1793, was the first attempt in modern history to mobilize all the available man power and resources of a nation for war. By means of so-called deputies on mission to the army, summary demotions, frequent executions of commanders and rapid promotions of young officers Carnot created an intensely national and republican force under a centralized command. He was the most active member of the committee, responsible for most of the terrorist measures that suppressed insurrection and converted retreat on four fronts into victorious advance. When success was assured and reaction against the committee set in Carnot was saved from trial as a terrorist only by the cry that he was the organizer of victory. As one of the five members of the Directorate (1795–97) Carnot again managed military affairs and was partly responsible for appointing Bonaparte to command in Italy. After an interval of exile he became minister of war (1800) and member of the Tribunate (1802–07). In 1814 he commanded at Antwerp, surrendering only after Napoleon's abdication. Having served as minister of the interior during the Hundred Days he was exiled by the Bourbons and died at Magdeburg.

LOUIS R. GOTTSCHALK

Consult: Carnot, Hippolyte, *Mémoires sur Lazare Carnot, 1753–1823, par son fils*, 2 vols. (new ed. Paris 1907); Hennet, Léon, *Lazare Carnot* (Paris 1888); Mathiot, Charles, *Pour vaincre Lazare Carnot* (Paris 1917).

CARPENTER, MARY (1807–77), English social reformer. At the age of twenty-six she was profoundly influenced by two visitors in her parental home—Rammohun Roy, a great Indian who gave her a lifelong interest in his country, and Dr. Joseph Tuckerman, who was distinguished for philanthropic work in Boston. Her attention was directed to the needs of the poor and in 1835 she formed in Bristol the Working and Visiting Society, whose activities were in many respects similar to case work. In 1846 she founded a "ragged school" in Bristol, but she soon became convinced of the inadequacy of such schools to meet the needs of the young criminal class. Accordingly she suggested the need of reformatory schools for children who had become habitual thieves and beggars, at the same time urging state aid for ragged schools. She recommended free day schools, "industrial feeding schools" with compulsory attendance and correctional and reformatory schools to take the children out of the prisons. In 1852 she founded Kingswood School and in 1854 Red Lodge (both near Bristol) for juvenile offenders. She was also influential in securing the passage in Parliament of the Youthful Offenders Act of 1854, legalizing reformatory schools, and the Industrial Schools Act of 1857.

Her interest in the education of the women of India led her to visit that country in 1866 and again in 1868, 1869 and 1875. In 1870 she founded in Bristol the National Indian Association to promote a better understanding between the Indians and the English. Before her death many of her plans for social reform in India were put into practise. Her projects for prison

reform received further impetus from her attendance at a congress in Darmstadt in 1872 and from a visit to the United States and Canada in 1873.

Mary Carpenter's work was done in a period of great destitution, vagrancy and criminality. Her achievements in educational and penal reform were the more remarkable in view of the contemporary lassitude toward social abuses. She was a woman with a vigorous and constructive mind and possessed administrative and organizing capacity unusual at a time when the sphere of women was conventionally narrow and limited.

EDITH ABBOTT

Important works: *Reformatory Schools for the Children of the Perishing and Dangerous Classes, and for Juvenile Offenders* (London 1851); *Juvenile Delinquents, Their Condition and Treatment* (London 1853); *Our Convicts, How They Are Made and Should be Treated*, 2 vols. (London 1864); *Six Months in India*, 2 vols. (London 1868); *Letters . . . on Female Education in India, Prison Discipline and the Necessity for a Factory Act in India* (Bristol 1877); and numerous pamphlets, papers and open letters to newspapers on juvenile delinquency and education.

Consult: Carpenter, J. E., *The Life and Work of Mary Carpenter* (2nd ed. London 1881); Tabor, Margaret E., *Pioneer Women, Second Series* (London 1927) ch. ii.

CARPETBAGGERS. *See* RECONSTRUCTION.

CARPZOV, BENEDIKT (1595–1666), German jurist. He was the most noted member of a learned family which included nine jurists and five theologians. For forty years Carpzov was a member of the Leipsic Schöffenstuhl, whose decisions at that time made it the most highly regarded court in Germany. It combined the faithful observance of the customary law of Saxony with a vigorous development of the received Roman law and independent quasi-legislative pronouncements. Carpzov integrated all these elements so thoroughly and clearly that his works may be said to be the culmination of the centuries of the reception and to lay the foundation for the jurisprudence of the next century. His authority is comparable to that of Bartolus.

Carpzov's work lay chiefly in criminal law and criminal procedure, and he is regarded as the father of German criminalists. His *Practica nova imperialis saxonica rerum criminalium* (3 vols., Wittenberg 1635; reprinted Basel 1751 and Frankfort 1758) was the first systematic treatment of German criminal law and enjoyed virtually the authority of law. He drew not only on Roman and canonical doctrine but also on the Sachsenspiegel, on the Saxon constitutions and on the *Constitutio criminalis carolina*, which first attained through him its full recognition in Germany. Because of the 20,000 death sentences which he is said to have pronounced Carpzov is regarded as the exponent of a cruel criminal law. Such a reputation is unjust. It must be remembered that Carpzov lived in the stormy period of the Thirty Years' War, and that although he believed that punishment should inspire fear and looked upon the Mosaic law as *jus divinum* he nevertheless set himself against arbitrariness, inhumanity and injustice.

His work *Jurisprudentia forensis romano-saxonica* (Frankfort 1638, reprinted Leipsic 1721) borrowed from his own practise and the books of the Leipsic court. He expounded civil procedure, with its admixture of German and Roman elements, in the *Processus juris in foro saxonico* (Jena 1657, 3rd ed. 1667; reprinted Leipsic 1708). When Carpzov became professor at the University of Leipsic he had to lecture also on canonical law, and it was during this period that he wrote his epoch making work, *Jurisprudentia ecclesiastica* (Leipsic 1649, reprinted Leipsic 1721), in which he may be said to have founded the Protestant ecclesiastical law. Carpzov also produced works on feudal and constitutional law as well as a political polemic against Innocent X, *Vindiciae pacificationis Osnabrugensis*, which appeared in 1653, probably in London, under the pseudonym Ludovicus de Montesperato.

EBERHARD VON KÜNSSBERG

Consult: Jugler, J. F., *Beiträge zur juristischen Biographie*, 3 vols. (Leipsic 1773–80) vol. 1, p. 280–303; Muther, Th., in *Allgemeine deutsche Biographie*, vol. iv (1876) p. 11–20; Stintzing, R., and Landsberg, E., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880–1910) vol. ii, p. 55–100; Schulte, J. F. von, *Die Geschichte der Quellen und Literatur des canonischen Rechts*, 3 vols. (Stuttgart 1875–80) vol. iii, p. 39–42; Du Boys, Albert, *Histoire du droit criminel de la France, depuis le XVIe jusqu'au XIXe siècle, comparé avec celui de l'Italie, de l'Allemagne et de l'Angleterre*, 2 vols. (Paris 1874) vol. i, p. 382–94.

CARRANZA, ALONSO (dates of birth and death unknown), Spanish economist and jurist of the early seventeenth century. He wrote *El ajustamiento i proporción de las monedas de oro, plata i cobre* (Madrid 1629), his chief work, to defend and popularize Tomás de Cardona's nostrum for monetary reform. Accepting the mercantilist premise that treasure, peculiarly desir-

able wealth, can be attracted or retained by inflation, Carranza advocated a twenty-five percent debasement of gold and silver money in order to prevent the export of specie, stimulate the languishing production of precious metals in Spain and the Indies, decrease frauds in the royal quint and prevent smuggling of treasure on the galleons. This scheme, considered by government commissions over a period of more than thirty years, may have influenced the twenty-five percent inflation of gold and silver in 1642. Repeated divagations into theology and sacred history rendered Carranza's literary style unattractive, but his extended residence in Seville and intimate contact with Tomás de Cardona, sometime silver master on treasure fleets, enabled him to describe empirically the mechanism through which Mexican and Peruvian specie reached Europe and entered circulation. *De partu naturali et legitimo* (Madrid 1628), a study of the rights of natural and legitimate children, which is Carranza's best known treatise on law and which passed through numerous editions in Spain and abroad, exemplifies the influence of Roman law on Spanish jurisprudence in the seventeenth century.

EARL J. HAMILTON

Consult: Antonio, Nicolás, *Bibliotheca hispana nova*, 2 vols. (2nd ed. Madrid 1783–88) vol. i, p. 14–15; Cantos Benitez, Pedro de, *Escrutinio de maravedises* (Madrid 1763) p. cxxii; Colmeiro, Manuel, *Biblioteca de los economistas españoles* (new ed. Madrid 1880) p. 67–68; *Biographie universelle ancienne et moderne*, ed. by J. F. Michaud (2nd ed. Paris 1880) vol. vi, p. 653.

CARRANZA, VENUSTIANO (1859–1920), Mexican statesman. Carranza was born in Cuatro Cienegas, Coahuila, Mexico. After serving some years as senator, in which office he was a member of the group always readily responsive to the will of Porfirio Díaz, the dictator, Carranza was elected governor of his state in 1910. When he was unseated he joined the rebellion of Francisco I. Madero against Díaz. In 1911 he became secretary of war in Madero's cabinet but relinquished this office to finish out his term as governor. When Victoriano Huerta, Madero's new war minister, seized power Carranza, backed by the Coahuila legislature, announced on February 19, 1913, the dissidence of his state. He launched the Plan de Guadalupe, rejecting Huerta, and became the first chief of the constitutionalist army, charged with executive power. After Huerta was overthrown Francisco (Pancho) Villa, heading the "Conventionalists," and Emiliano Zapata disavowed Carranza and the Constitutionalists, precipitating civil war anew. Carranza, driven out of Mexico City, set up his provisional government in Vera Cruz. These unsettled conditions aroused the concern of President Wilson and resulted in several pan-American conferences, out of which came the recognition of Carranza as de facto president on October 19, 1915, by nine American countries, including the United States. He was elected president on March 11, 1917, and served until May, 1920, when he was driven from the capital by the "revindicating revolution" of Alvaro Obregón and assassinated in the Indian town of Tlaxcalantongo, Puebla, supposedly by rebel troops under General Herrero, an ex-bandit.

From 1915 to 1920 two outstanding concerns dominated Carranza's policy: the necessity of establishing constitutional order and peace; and the problem of relations with the United States, which were complicated by petroleum interests and resulted in the Tampico incident and the consequent American occupation of Vera Cruz as well as in the Villa Columbus raid and the Pershing Punitive Expedition. In 1916 he called a constitutional convention in Querétaro which, on February 5, 1917, promulgated a new constitution for Mexico. The new document followed the framework of the 1857 constitution of Benito Juárez, retaining the threefold division of powers and a legislative system similar to that of the United States. It represented a further thrust at the power of the Roman Catholic church, and aimed at conservation of national resources, regulation of foreign capital, renovation of the judiciary and radical safeguarding of the rights of workers and peasants. Because of Article 27 nationalizing the subsoil it aroused the opposition of American oil companies and provoked danger of American intervention. Antagonism was also aroused between the two countries by Carranza's pro-German neutrality during the World War, by his frequent denunciations of the Monroe Doctrine and by his promulgation of a new doctrine of Latin American solidarity against the United States.

In spite of the corrupt military clique in his government Carranza merits credit for having determined in a coherent manner the outlines, purposes and powers of the revolutionary movement which began with Madero and culminated in Calles. He shaped the constitutional and legal framework on which present day Mexico rests.

CARLETON BEALS

Consult: Priestley, H. I., *The Mexican Nation, A*

History (New York 1923) p. 411–55; Beals, C., *Mexico: An Interpretation* (New York 1923); Gruening, E., *Mexico and its Heritage* (New York 1928).

CARRARA, FRANCESCO (1805–88), Italian penologist. In 1859, after a life dedicated to scholarship and the practise of law, he was appointed professor of penal law in the University of Pisa. Carrara took no part in the movement for the unification of Italy, although after its realization he served as deputy in parliament through two sessions and in 1876 was nominated senator. He was active in the preparation of the project for a unified penal code, which became law in 1889.

In penology Carrara holds an important place in the series of distinguished Italian legal philosophers—Beccaria, Pagano, Romagnosi, Filangieri, Pellegrino Rossi and Carmignani—who through two centuries reconstructed the science of penal law and induced the government to abolish all vestiges of barbarous punishments. He was a disciple of Carmignani but developed the ideas of his master in a direction that excluded all foreign influence. According to Carrara penal law is derived from primordial natural law. It is immutable, being the will of God. Man is endowed with the right of self-defense. If he violates the rights of others, he exposes himself to punishment by the state as guardian of individual rights. State action in defense of individual rights should operate principally through moral coercion, that is, through the threat of punishment, and only as a last resort through the actual infliction of punishment. Carrara was a convinced but philosophical advocate of the abolition of capital punishment. It is in part due to the influence of Carrara that the ideas of Lombroso, as developed by Ferri, never made serious headway in Italy.

VINCENZO MANZINI

Works: *Programma del corso di diritto criminale. Parte generale* (Lucca 1860; 10th ed. 2 vols., Florence 1907), *Parte speciale*, 7 vols. (Lucca 1864–70, 8th ed. Florence 1906–07); *Opuscoli di diritto criminale*, 2 vols. (Lucca 1859–67; 2nd ed. 7 vols., Lucca 1870–77); *Reminiscenze di cattedra e di foro* (Lucca 1883, 2nd ed. Florence 1905); *Lineamenti di pratica legislativa penale* (Turin 1874, 2nd ed. 1882). For a bibliography of Carrara's works and works about him see Finzi, Vittorio, "Bibliografia carrariana" in *La bibliofilia*, vol. xix (1917–18) 39–50, 170–85 and 239–53.

CARTEL. The term cartel designates an association based upon a contractual agreement between enterprises in the same field of business which, while retaining their legal independence, associate themselves with a view to exerting a monopolistic influence on the market. The only part of this definition to which anyone may take exception is the assumption that the tendency of the cartel is monopolistic. Any such exception rests, however, on political not on scientific grounds. Unquestionably the treatment of the cartel in any system of economic theory must be connected directly with the treatment of monopoly (*q.v.*).

Monopoly as relevant to the discussion of cartels is a condition in which a majority of the buyers have to deal with an organized group of sellers. Many prefer to describe the activity of the cartel as a regulation of the market rather than as the exertion of monopolistic influence. But this is merely a vague rendering of the same idea. As a rule a cartel comes into existence only when the greater number of the undertakings which were formerly competing become associated in it. Cartels are collective monopolies of entrepreneurs in their capacity as sellers. Monopolistic organizations of consumers, such as organizations for collective buying, should not be designated as cartels, because their effects are quite different from those of associations of sellers. For the same reason employers' associations, in which the members combine as against the organizations of employees, should be distinguished from cartels.

The cartel must not be confused with the corner or the ring. A corner involves the buying up of a commodity in the market with a view to forcing up the price. It is monopolistic in its operation and may be launched by a single individual. A ring is the association of several individuals for the purpose of carrying out a corner. The difference between the ring and the cartel consists in the fact that the former is not an organization made up of the majority of those engaged in a certain industry or trade, but an association of persons, frequently standing outside of the industry or trade, who through speculative buying may create an artificial shortage and thus profit from selling at the resulting higher prices. A ring is a speculative association, not a union of independent enterprises.

In the sense in which it is used here the term cartel, which is derived from *charta*, a contract, first became current in the late seventies in Germany. It has been established, however, that similar organizations existed in England as early as the end of the eighteenth century, in the coal industry, and also in Ger-

many and France during the first part of the nineteenth century. In the Middle Ages there existed in various industries not controlled by the guilds and also in certain branches of trade monopolistic organizations which did not differ in form from the cartel.

In general, only associations of the larger independent enterprises are designated as cartels. But agreements in the field of small scale industry and retail trade are of essentially the same character, and a monopolistic tendency characterizes the trade unions as well as some organizations of the so-called liberal professions. The concept, "cartel," refers not so much to a particular form of organization as to a definite group of economic persons who operate with a large capital. The risks to capital play a major part in the development of cartels.

The cartel is not, however, a form of capital organization. It is, to be sure, a manifestation of the modern movement toward concentration but not of consolidation of capital. In this respect it differs from trusts (*q.v.*). Cartels are not business undertakings in themselves even when they are closely organized for collective selling through a special agency. In this form of organization the cartels present the character of a sales cooperative with a monopolistic purpose, but apart from this they are no more than contractual associations, which need not assume any external form whatever. For this reason the legal character of the cartel agreement may vary widely. The cartel differs from the ordinary trade associations (*q.v.*) by the fact that its members are obligated to a particular action or omission, with a view to the common purpose of regulating the entire industry. (In German this difference is expressed by the word *Verbände* as contrasted with *Vereine*.) The two forms of association frequently overlap; both may be formed within the same membership, and particularly in Germany those trade associations whose original purpose was the general advancement of their trade often furnished the basis for the organization of cartels.

Cartels may be divided into three basic types according to the methods by which they exert their influence upon the market. There are cartels whose direct object is price fixing, cartels which aim at limitation of production or supply, cartels which operate through division of territory. Those of the first type, which may be called price cartels, fix by agreement either definite uniform prices or minimum prices, thus eliminating price cutting. In cartels of the second type, which may be called production cartels, restriction of output is jointly agreed upon in order to place supply in a favorable relation to demand. Production cartels are organized especially in time of business recession, when prices are depressed by overproduction. They are often a preliminary step toward the organization of price cartels, because price agreements, particularly agreements for increase in prices, are usually possible only when preceded by restriction of output. It is sometimes agreed that the several parties composing the production cartel shall close down their plant for a definite period or operate it at a fraction of its full capacity. In recent times, following the precedent of the American trusts, cartels sometimes dismantle the plants of the members who operate at the greatest disadvantage and compensate the owners through contributions from the remaining members. Sometimes an establishment is bought by a cartel for the purpose of dismantling it. The cartels operating through division of territory assign definite markets exclusively to certain of their members. This would make a complete monopoly possible if every member could be assigned a definite territory. As a rule the cartel assigns territory to groups of its members, not to individual members. There are a number of territorial cartel agreements with enterprises in foreign countries for the delimitation of markets and spheres of interest. The international shipping cartels bear this character in part, but they are in the main price cartels.

These three types of cartels are to be found in a higher stage of development in the so-called *Kontingentierung* or quota cartels. In these the total supply of a commodity may be fixed and each member allotted a definite production quota. More frequently all orders are referred to one selling agency, called a syndicate, which distributes them among the members of the cartel by percentages fixed in advance. Or, finally, the profits may be pooled and divided among the membership in definite proportions. In this case a common understanding regarding prices is not necessary because it is not to the interest of any member to extend its sales at the expense of other members, since it receives only a predetermined share of the aggregate profits. The last two types of cartels are sometimes merged. The selling syndicate takes the product of the members, sells it and distributes the profits as agreed on in advance. In general it may be said

that these profit sharing cartels are a later development and do not appear in all industries, as, for example, in many of the branches of the textile industry. They do, however, play an important role in the iron industry. In addition to these specific cartels there is still another form of industrial organization which is closely related to them but which in itself does not aim at a monopolistic status for its members: associations for dealing with terms of payment, discounts, cost of packing and the like. Such items, if not determined by common understanding, might easily make price agreements illusory. Associations of this nature have been of great importance, especially in the textile industry, in connection with price and production cartels. Apart from their relation to the cartels these associations are very useful to their membership and are very numerous both in trade and in industry.

Germany is considered the classic land of the cartel; it is in Germany that the movement has attained its greatest development. This may be explained partly by the fact that the German law is more favorable to cartels than that of other countries, especially England and America, and partly by the fact that business in Germany had not grown away from governmental control and organization to any such extent as in the western countries. Moreover, there has long been in Germany a strong tendency toward mutual organization. Capitalistic development was by no means so rapid as in America nor had corporate undertakings come to play so prominent a part in the national economic life. The majority of German enterprises is still in the hands of individual owners and the establishment of modest size the prevailing type. The political and social contrasts between the several states of Germany are still very marked, and the German Empire is too large and too varied in its economic development to admit of the development in most industries of nation wide unified enterprises like the trusts. For this reason large undertakings have developed only in special industries. In spite of the fact that financial concentration has made marked progress the importance of the cartel has in no way been diminished.

There are some industries in which conditions are unfavorable to the development of cartels. This is true of agriculture, where cartels play a minor role. In this industry the economic units are too numerous, the variety of products too great, differences in qualities of products too marked, changes in the quantity and quality of the harvests too pronounced, to admit of a collective control of production or prices. Industries in which qualitative differences, unique models and patterns play a large role, and in which the reputation of the individual firm is an important factor, as well as industries which cater to demand created in large part by fashion, are not well adapted to the operations of the cartel. On the other hand, industries in which differences in quality are unimportant and mass production prevails, such as the pig iron industry and certain other branches of the metal industry, the stone and clay, chemical and paper industries, figure prominently in the history of successful cartels.

The first epoch of cartel formation opened with the great crisis at the beginning of the seventies. The early cartels were justly described as the children of need but it was soon recognized that these associations might prove beneficial to their members in prosperous times as well, since they offered a means for exploiting favorable opportunities to the full. Good times have since been quite as conducive to the formation of cartels as times of depression.

The protective tariff played an extremely important part in the development of the cartel, through restricting foreign competition in certain industries. But a protective tariff is not a prerequisite to the development of cartels. International cartels are possible independently of the tariff system.

After the World War and during the period of inflation the importance of cartels in Germany declined for a time because of the necessity for financial union through mergers and concerns. But this tendency toward union rarely attained the point of monopolistic fusion or trust. The I. G. Farbenindustrie might be looked upon as an exception. Usually an industry remained under the divided control of a number of important concerns which continued to regulate their interrelations through cartels; this was true even in the iron industry. A similar situation appeared in other countries.

In general, cartels are not very permanent organizations. Often they overreach themselves in raising prices and thus give an impetus to new competition. In consequence they are undersold and may be forced to dissolve. When overproduction becomes serious and prices fall sharply, some of the entrepreneurs give up the attempt to continue production at a loss, while others form a new association designed to im-

prove their condition through agreements controlling production and price.

In the last two decades before the war there was in many branches of business a distinct tendency toward firmly organized cartels of greater permanence. Certain of these cartels, often called syndicates, found it more desirable to maintain prices that were fairly stable compared with the fluctuations formerly prevailing. In periods of depression they lowered prices only slightly and kept them from rising too rapidly in flush times. This stabilization of prices represents the most favorable influence of the cartels upon the general economic position.

As a result of their experience with cartels business men have come to recognize more and more clearly that it is more advantageous for them to keep prices as stable as possible than to exploit their monopolistic position to the limit. There will of course always be an element within a cartel which has no sense of moderation and insists on the highest possible prices. But the policy of fixing extortionate prices is inimical to the industry as well as to society at large. In times of marked fluctuation of prices such considerations may lose their force and there is a danger that the cartel organization may be used to obtain the highest possible profits for the members. The remedy for this evil lies in appropriate legislation. It must be borne in mind that it is not only the large scale industries which can make use of the cartel as an instrument for securing monopoly profits. Associations of small local businesses and sometimes even of agriculturists may form price agreements that are quite as injurious to the ultimate consumer.

The cartels call for certain sacrifices on the part of their members—above all, restrictions upon their independence of action. The members are bound by their agreements, which at times involve extensive interference in their private management; they must submit to measures of control which frequently affect the most intimate relations of the business; and in the case of the firmly organized cartel the members often have to transfer a considerable part of their business activity, particularly the business of selling, to the syndicate.

It is frequently the largest enterprises which out of a sense of self-sufficiency do not wish to join the cartels. When the stronger businesses in an industry remain aloof the cartel can have no stability. On the other hand, it is sometimes these very groups that take the initiative in cartel formation, while the numerous smaller businesses, some of which may represent special interests, are brought into line with much difficulty.

On the whole, the cartels are conservative and operate to protect their weaker members. As competition increases in intensity, capitalistic concentration and the elimination of the smaller enterprises would, as the socialistic formula assumes, proceed more rapidly if the cartels did not exert their conservative influence.

Yet it cannot be said that the cartels have checked economic progress or that they have served merely to secure for existing businesses as high profits as possible. The charge that they have hindered technical progress is not borne out by experience. It remains to the interest of every member of a cartel to introduce technical improvements and to reduce costs. The cartels have sometimes given an impetus to technical progress through making available to their entire membership inventions that would otherwise have been monopolized by a single business. Particularly in countries, such as postwar Germany, that suffer from a shortage of capital the too rapid application of technical improvements involving increased investment is not desirable. That cartels are not an obstacle to progress toward new and higher types of organization, but merely reduce the hardships of the transition period, is proved by the fact that there has been a marked tendency under the influence of the cartel toward the formation of more integrated types of organization such as combines and consolidations.

The cartels are not directed against labor. For dealing with labor the members of the cartels avail themselves of the services of the employers' associations. The cartel is often beneficial to labor because it helps the employers to meet demands for higher wages by raising prices and thus shifting the cost to the consumer. Thus it is conceivable that where cartels exist the struggle between employers and employees may diminish in intensity.

The chief menace to economic society from the cartels lies in the possibility of their making full use of the monopoly position they seek to establish. If their customers, either in industries which take their products for further manufacture, or in trade, are themselves organized in cartels it is possible to pass on to the ultimate consumer the pressure accumulated all the way from the producer of raw material. Since it is the ultimate consumers who find the greatest

difficulty in organizing, they run the greatest risk of becoming the victims of the process. The most effective means for meeting this situation is the purchasing association, which in the future will no doubt play an important part in connection with this problem. These associations may be organized by producers who take the products of cartels for further manufacture or by the ultimate consumers under the form of cooperatives. The organization of such associations should be encouraged. Further direct state intervention in the matter of prices is also necessary under certain conditions.

The activities of the cartel are not, however, an unmixed evil from the customer's point of view. It is to the great advantage of all customers that through cartel price regulation they are placed on an equal footing. No one can secure raw materials or finished products at a lower price than his competitors. In so far as the cartels succeed in bringing about greater stability in prices the customer finds it simpler to make his calculations and his business position is consequently more secure.

The effects of cartels upon the several types of customers vary widely. The middleman or trader has probably been most affected by the cartels that control production. Among the most striking effects of the organization of cartels are the changes that have been wrought in the structure of trade. In general the cartels that are firmly organized as syndicates have exhibited the greatest capacity for reducing trade to a condition of dependence; in some cases they have even partially eliminated the wholesaler. In other cases they have confined direct sales to a small body of wholesalers, reducing the others to a position of dependence upon this small body.

Until the war the effect of the organization of producers' cartels was, on the whole, to weaken the position of trade. Before the cartels appeared trade had often pitted the isolated producer against his competitors; it had often derived greater advantage from rising prices in time of prosperity but it also carried some of the producers' risk in time of depression. Since the war the balance of power between the producers' cartels and trade has shifted more and more to the side of trade. The most mobile elements in economic life, trade and speculation, are the chief gainers from marked price fluctuation. The profits realized in post-war trade enabled the large wholesale trading enterprises to penetrate deeply into the field of production. There are great industrial concerns which have grown out of the activities of mercantile firms.

The successful operation of cartels in industry has given a great impetus to the formation of cartels in trade. They were first organized with the purpose of passing on to others the pressure imposed upon them by the industrial cartels. Traders have also organized purchasing associations in order to meet the pressure of the cartels, and not infrequently groups of traders or of producers of finished products have set up industrial establishments to supply themselves with the goods they require, thus making themselves independent of the cartels.

It is a characteristic of modern economic life that those engaged in the various fields of economic endeavor no longer face one another as isolated individuals but as members of organized groups of many types and forms. While it is true that this may sharpen economic conflicts it also makes it more possible to establish understandings between different groups. There can be no doubt that the further development of the existing economic system is closely bound up with the tendencies manifested in these multiform organizations.

Most cartels have a natural territory in which, up to certain price limits, they are protected against outside competition by their advantage in transportation costs. Outside of this territory, where they have to meet the competition of other producers, they have to sell at lower prices. In the case of nation wide cartels the internal market is often secure against competition within a certain price level determined by the rate of protective duties. Outside of the protected national market the lower prices of the world market prevail.

Cut price sales in foreign markets, or dumping (*q.v.*), have led to violent attacks on the cartels by those who take the point of view of the national consumer. It is charged that the national wealth is being wasted on the foreigner. But it is worth noting that neither are these low export prices popular in foreign countries, with whose industries they seriously compete. To the charge that dumping represents a waste of national wealth it may be replied that goods are exported at low prices only to keep the wheels of industry going and to provide employment for the workers. It is not a regular business practise; it appears as a rule only during periods of domestic depression and therefore cannot serve as a reliable basis for the building up of foreign industries using such

goods as materials for further manufacture. From a national point of view much depends on the kind of goods which are dumped abroad. Serious problems are presented by the dumping of raw materials. The artificially cheap material places the foreign manufacturer in a strong competitive position and makes it difficult for the domestic manufacturer to compete in the world market.

A closer examination of the case reveals that what places the domestic manufacturer at a disadvantage in the world market is not so much the low prices fixed by the cartel on foreign sales of raw material as the high prices on domestic sales. If a cartel puts prices of raw material at a high level the manufacturer cannot sell abroad in competition with manufacturers enjoying cheaper material, even if the cartel does not export at all. If foreign countries should engage in dumping materials, the home manufacturer might avail himself of the low prices to produce at artificially low costs and to compete in the world market.

A comprehensive policy of dumping is quite irrational. It excites retaliatory measures on the part of foreign countries, such as countervailing duties and import embargoes, and it introduces into the domestic economic life an element of great uncertainty. Cut price exports, even of raw materials and semi-manufactured goods, are usually disadvantageous to the importing country since it cannot count upon receiving them regularly at such low prices.

Dumping at cut prices is usually associated with protective tariffs because duties serve to keep the exported goods from flowing back or to keep out similar foreign goods. But it is quite possible for dumping to arise under free trade. Transportation costs alone are an obstacle to the back flow of the cut price goods. The waste involved in dumping under these conditions is measured by the cost of transportation.

The monopolistic position of the cartel offers a great incentive to the extension of production. Frequently new enterprises spring up outside of the cartel and underbid it in an effort to capture part of its custom. The cartels employ various means to combat such outside concerns. In part they endeavor to put them out of business by the methods of cut-throat competition, fixing extraordinarily low prices wherever the outside competitors appear. Occasionally attempts are made to buy out these competitors, a measure which can, of course, be applied only to a limited extent.

The principal weapons employed by the cartel to maintain its monopoly position and to suppress competition are the exclusive contract and exclusive trade relations. These contracts and agreements are directed against the outside competitor, but the obligations involved are binding only upon the businesses which supply the cartel with its materials or take its products. Agreements of the same nature may be employed to tie union labor to the cartel. The producer of raw material, the trade union or the purchaser of cartel products is bound by the agreement to do business only with the cartel. These agreements are differentiated as exclusive selling contracts and exclusive buying contracts.

Exclusive contracts are not confined to the cartels. They may also be applied by individual enterprises and by trusts. They are a very common means of protecting a preferential position in the economic struggle. Such agreements are especially effective measures for forcing the outsiders to join the cartel, just as the refusal of union laborers to work with non-union men is an effective means of forcing the latter into the union. Often the mere threat of applying the exclusive contract is sufficient to induce the outsiders to join the cartel. When the exclusive agreement is actually put into effect it may in some circumstances ruin the competitor. In spite of the inclination to pass a severe judgment upon such business practises it must be borne in mind that the outsider who is being crushed out deserves little sympathy. Like the worker who refuses to join the union he remains outside of the organization with the hope of profiting by the higher prices it establishes, while avoiding his share of the cost of maintaining the organization. If all business men pursued a similar plan the regulation of any industry by means of monopolistic associations would be impossible.

While these obligations are directed against outsiders they are binding only upon those who supply material to the cartel or take its products, as the case may be. How far are these buyers or sellers justified in binding themselves to deal only with the cartel and to refrain from dealings with outsiders? Here too it is extremely difficult to lay down a general rule. There is no such thing as a general right of the seller to sell to whomsoever he may wish, nor is there a general right of the buyer to buy where he pleases. But the plan of binding either the seller or the consumer to the cartel can also be carried too

far and may lead to serious restrictions upon economic activity and freedom of enterprise. Nevertheless, it must be remembered that a great organizing force resides in contracts and agreements of this character. This force cannot be dispensed with in economic life. It is, for instance, the basis of the beneficent collective trade agreements by which employers bind themselves to engage only workers belonging to the union, who in turn agree to work only for employers who are faithful to the trade agreement.

International cartels have existed for many decades, particularly in industries in which the number of producers in the several countries is small, or among steamship companies. In consequence of the disruption of interrelated economic areas by arbitrary peace treaties and in consequence of the growing capitalistic interpenetration of the various national economies—a trend which is, however, counteracted by the growing tendency toward national isolation—the international cartels have acquired a greater importance, particularly during the last decade, and may confidently be expected to attain yet greater importance in the future. Parallel with the establishment of international cartels is the development of large international concerns with their numerous foreign branches. These concerns may in their turn unite in international cartels.

It is obvious that international cartels will vary both in aims and in methods of operation. In the case of cartels based on division of territory, which are the most common form of international cartel, every country reserves its own territory to itself. Frequently a third country or a disputed market is definitely assigned to one of the contracting parties. Cartels of this type are essentially independent of national tariff systems. The protective tariff, as we have seen, makes dumping easier; but the international cartel of the division of territory type seeks by means of control of imports and exports to eliminate dumping.

It is more difficult to organize international price agreements. Such agreements are important chiefly in relation to market areas in which the producers of the several countries compete. They are often supplementary to territorial cartels, by which the national territory and additional market areas are assigned to the producers of each country.

The formation of international cartels for the control of output is even more difficult, particularly when the object is to cut down production. It is hard to determine whether the agreement is being lived up to and it is quite impossible to enforce it. Even agreements as to the division of output are very hard to carry through. Yet this is the nature of the most important international cartel that has been organized, namely the Continental Steel Association, which was formed in September, 1926, and which aimed to regulate relations in the steel industry of western Europe. The apportioning of the steel production among Germany, France, Belgium, Luxemburg and the Saar district involves the payment to the regulating agency of a specific sum for every ton produced within the quota and the payment of a higher sum for every ton of production exceeding the quota. Up to a certain point a country has a claim to compensation for every ton by which it falls short of its quota. Various other international cartels operating in the field of steel manufactures have attached themselves to the Continental Steel Association.

The international sales syndicates have gone even farther. Either all orders or those which are intended for export are apportioned among the membership in accordance with a predetermined quota. This was the character of the great railmakers' cartel of 1904, which broke up during the war but was revived in 1926 under the name of "Erma" (European Rail Makers' Association).

International cartels have reached their highest development in two quite different types of industry: the great raw material and key industries, and the specialized industries made up of a small number of establishments which are deeply interested in the export trade. Of the latter group the most important are the great chemical industry with its innumerable special products and the electrical industry.

In industries of the first group international cartels are usually possible only when the several national industries have already been organized in cartels. In many countries cartels are hardly developed at all and this has been a serious obstacle to the formation of international organizations. Differences in legislation are also partly responsible for the fact that most international cartels are somewhat short lived and unstable enterprises.

In industries of the second group international cartels may be organized directly among individual enterprises, particularly if these are large concerns. In these industries international

associations are frequently formed to regulate the terms on which patents may be used. Agreements concerning patent rights are of course not cartels per se, but ordinarily they carry provisions which affect the licensee's position in the market. Thus they may specify the territory in which the licensee may offer the product for sale or the price policy he is required to follow. Such agreements are the most essential part of the international incandescent lamp cartel, which includes in its membership the greatest producers of the whole world.

The relation of the protective tariff to the international cartel is still a moot question. In some circumstances these associations may render protective tariffs superfluous; but in the main the widespread system of protective tariffs facilitates dumping and thus evokes the formation of international cartels as a means of checking the evil. In the writer's opinion, the chief benefit from the international cartels consists in the limitation or prevention of dumping. The cartels contribute nothing, however, toward a more rational division of labor among different countries. Like the protective tariff they exert a conservative influence in helping to preserve home industries whether or not such industries can be conducted as efficiently and economically in the country in question as in other parts of the world.

The chief danger from the international cartel lies perhaps in the security it gives to the national cartel when the latter seeks to exploit its monopoly position. The only possibility of controlling the action of international cartels lies in the national legislation; to work out an international law regulating cartels is a problem for the distant future.

In England, the United States, France, Austria and many other countries cartels and similar associations are forbidden by law. The agreements on which they rest are void and the obligations undertaken by the membership are not enforcible in law. In Germany these agreements are legally valid. The law dealing with them is concerned chiefly with the prevention of abuses arising out of exclusive contracts when they threaten the ruin of either the members or the outsiders against whom they are directed.

In some countries, however, the establishment of cartels has been occasionally encouraged by the government itself through the formation of certain compulsory cartels. A compulsory cartel was formed in the German potash industry in 1910, and similar cartels were formed in many branches of industry during the World War. A compulsory cartel was organized by the Italian government in the Sicilian sulphur industry in 1906, and recently such cartels have appeared in many other Italian industries; they have also appeared in Russia, Spain and Rumania.

It is often proposed that a special administrative organ should be created, a bureau or a registry of cartels, to maintain a general supervision of their practises. This is thought necessary because these associations prefer to operate under secret arrangements. No such agency has as yet been created in any European country except Norway. It has been proposed that a particular legal form should be prescribed for all cartels but this reform has nowhere been realized. In several countries, particularly in the United States, there have been extensive public investigations of the problem of cartels and trusts. Similar investigations were conducted in Germany in 1905–06 and again in 1927, and in Austria in 1912.

Special laws on cartels have recently been enacted, particularly in Germany and Norway. By the German act for the prevention of the abuse of economic power of November, 1923, a special cartel court was established under the Reichswirtschaftsgericht, to which appeals may be taken not only by the parties to the cartel contract but also by the government. So far the provisions of the act that have proved to be of chief practical importance are those appearing in Sections 8 and 9. Section 8 provides that "every party to contracts and agreements of the kind designated in Section 1 [cartel agreements] may withdraw without previous notice for valid reason." A valid reason is, according to the act, any unfair restriction upon the economic freedom of action of the party seeking to withdraw, particularly as regards production, sale or price fixing. Section 9 provides that "without the consent of the president of the cartel court no bonds may be forfeited nor may any boycott or similar measure be applied in consequence of violation of the kind of agreements or resolutions designated in Section 1." The decisions of the cartel court as to when a valid reason for notice of immediate withdrawal exists or when a boycott is justified are based mainly on the rule of reason and it is difficult therefore to formulate uniform principles underlying them. Recently the court has freely recommended resort to arbitration in disputes arising out of the practises of the cartels.

The Norwegian cartel law of 1926 dealing with the regulation of restrictions upon competition and the abuse of price fixing envisages particularly measures of inspection. Since 1921 Norway has had a compulsory registration law for cartels, trusts and monopolies, under which 418 cartels, 51 other forms of agreements and 58 large monopolistic concerns have been registered. The law of 1926 created two agencies of regulation, the control bureau and the control council. The control bureau administers the provisions for registration, and all business men whose affairs come under its purview may be required to answer a wide range of inquiries into the character of their business operations. The control council functions essentially in the same way as the German cartel court.

The effectiveness of state regulation must not be overestimated. Some monopolistic combines, particularly those of a local character or small membership, will be able to evade control. In most cases public complaints about the practises of a cartel and proceedings before the cartel court and the control office will probably suffice to prevent abuses on the part of cartels. The state is also in a position to exert pressure upon the cartels through the application of various measures of economic policy, one of the most effective of which is the power to reduce the import duties on raw materials when a cartel raises prices excessively. Another practical measure that would have a similar effect is the reduction of railway rates to encourage the importation of goods competing with the products of the cartel. Reducing the tariff in order to control domestic monopolies is a policy that has been applied chiefly by Canada and New Zealand. On the other hand, increased duties may be employed against foreign monopolies which export at cut prices. Such "dumping duties" have been applied especially in Canada, and also in the United States. It is much more difficult to combat international cartels or concerns, which put up prices in every country. The problem of the control of international cartels has far reaching implications, which have been much discussed in connection with the question of the alleged imperialistic tendencies of the Anglo-Saxon world empire. Still, no such thing as a real world monopoly of the more important commodities exists, and the cartel is probably a form of organization too loose and unstable to be able to create such a monopoly.

Many people are inclined always to see the idea of socialization in the background of all measures for the regulation of cartels and trusts. The branches of industry in which these organizations play a large role are looked upon as "ripe for socialization." It is urged that they should be taken over by the state. Those who take this position fail as a rule to recognize that these industries, with very few exceptions, are unsuitable for public operation, whether by the state itself or by a special administrative organ operating independently of political control. So long as economic life in general remains organized on the basis of private profit—and the socialists themselves recognize more and more that the profit motive cannot be generally eliminated—it is not possible to withdraw important branches of industry from the field of private enterprise and operate them on principles for which the fundamental basis has never been established. Marx's assumption that the competitive struggle leads of necessity to a growing concentration of enterprises and to the exploitation of the masses by a few surviving great businesses, which would have to be expropriated by the state, has not proved itself valid. Indeed, the tendency of the cartel itself is to prevent the competitive struggle from going to the extreme assumed as inevitable by Marx. And even though concerns and trusts will become increasingly important in the future, the cartels, both national and international, will long retain the position of greatest significance in the world economy.

ROBERT LIEFMANN

See: COMBINATIONS, INDUSTRIAL; TRUSTS; POOLS; TRADE ASSOCIATIONS; CONSUMERS' COOPERATION; PROTECTION; DUMPING; INTERNATIONAL TRADE; MONOPOLY; COMPETITION; UNFAIR COMPETITION; MARKET; MARKETING; STANDARDIZATION; RATIONALIZATION; NATIONAL ECONOMIC PLANNING; GOVERNMENT REGULATION OF INDUSTRY.

Consult: For a general treatment of cartels: Liefmann, Robert, *Kartelle, Konzerne und Trusts*, 2 vols. (7th ed. Stuttgart 1927). The earliest monograph on the subject is Kleinwächter, F. von, *Die Kartelle: ein Beitrag zur Frage der Organisation der Volkswirtschaft* (Innsbruck 1883). Among the publications of the post-war period the more important are: De Rousiers, Paul, *Cartels and Trusts and Their Development*, League of Nations, II Economic and Financial, 1927. II. 21, C.E.C.P. 95 (Geneva 1927); Wiedenfeld, Kurt, *Cartels and Combines*, League of Nations, Economic Conference Section, C.E.C.P. 57 (Geneva 1927); Lammers, Clemens, *Review of Legislation on Cartels and Trusts*, League of Nations, II Economic and Financial, 1927. II. 33, C.E.I. 35 (Geneva 1927); Germany, Ausschuss zur Untersuchung der Erzeugungs- und Arbeitsbedingungen der deutschen Wirtschaft, Unterausschuss für allgemeine Wirtschafts-

struktur, Arbeitsgruppe 3: Wandlungen in der wirtschaftlichen Organisationsformen, *Verhandlungen und Berichte*, published irregularly in Berlin since 1928; Beckrath, H. von, *Industrielle Kartellprobleme der Gegenwart* (Berlin 1926); Tschierschky, Siegfried, *Kartellorganisation* (Berlin 1928); Cohen, Otto, *Der Kampf der Kartelle und Trusts gegen ihre Aussenseiter* (Cologne 1927); Kestner, F., *Der Organisationszwang* (2nd ed. by O. Lehnich, Berlin 1927); Flechtheim, Julius, *Die rechtliche Organisation der Kartelle* (Mannheim 1923); Isay, R., and Tschierschky, S., *Kartellverordnung* (*Verordnung gegen Missbrauch wirtschaftlicher Machtstellungen*) (Mannheim 1925); Haussmann, F., and Holländer, A., *Die Kartellverordnung* (Munich 1925); Reichsverband der deutschen Industrie, Kartellstelle, *Sammlung von Entscheidungen und Gutachten des Kartellgerichts*, published currently since 1923; Vershofen, Wilhelm, *Die Marktverbände* (Nuremberg 1928); Berkenkopf, Paul, *Die Neuorganisation der deutschen Grosseisenindustrie seit der Währungs-Stabilisierung* (Essen 1928); Fischer, P. T., and Wagenfuehr, H., *Kartelle in Europa* (*ohne Deutschland*) (Nuremberg 1929); *Kartell- und Konzernrecht des Auslandes*, ed. by R. Isay, 2 pts. (Berlin 1927); Fitzgerald, Patrick, *Industrial Combination in England* (London 1927); Levy, Hermann, *Monopolies, Cartels and Trusts in British Industry* (London 1927); Gordon, A. P. L., *The Problem of Trust and Monopoly Control* (London 1928); Seager, H. R., and Gulick, C. A., Jr., *Trust and Corporation Problems* (New York 1929); Liefmann, Robert, *International Cartels, Combines and Trusts* (London 1927); MacGregor, D. H., *International Cartels*, League of Nations, II Economic and Financial, 1927. II. 16, C.E.C.P. 93 (Geneva 1927); Oualid, William, *The Social Effects of International Industrial Agreements. The Protection of Workers and Consumers*, League of Nations, International Labour Office, C.E.C.P. 94 (Geneva 1926); Domeratzky, Louis, *The International Cartel Movement*, United States, Bureau of Foreign and Domestic Commerce, Trade Information Bulletin no. 556 (1928).

CARTER, HENRY ROSE (1852–1925), American sanitarian. After completing an engineering course at the University of Virginia in 1873 he studied medicine at the University of Maryland. Following his graduation in 1879 he entered the marine hospital service and by 1915 had reached the grade of assistant surgeon general. The study and prevention of yellow fever and malaria occupied a large part of his career. While detailed at Ship Island quarantine station in the Gulf of Mexico he gained the experience upon which was based his recommendations for the control of maritime quarantine by the central government. He was charged with the control of several epidemics of yellow fever in the southern states and later had charge of the antimalaria campaign in the same section. In 1900 he published a description of the "extrinsic incubation" of yellow fever, which had a profound influence upon the decision of the Reed board to investigate the possibility of mosquito transmission of the disease. His observations showed that a definite period always elapsed between the first and succeeding cases in a locality. This interval was later shown to be the time necessary for the development of the virus in the body of the Stegomyia. Dr. Carter inaugurated a quarantine system in Cuba in 1899 and from 1905 to 1909 was director of hospitals in the Panama Canal Zone. As a member of the International Health Board he investigated yellow fever in Central and South America in 1916 and acted as sanitary adviser in Peru in 1920–21. At the time of his death he was engaged upon an encyclopaedic history of yellow fever.

JAMES M. PHALEN

Consult: Carter, H. R., "Protecting the United States from Disease" in *Hygeia*, vol. iii (1925) 39–43, 91–94; *American Journal of Tropical Medicine*, vol. v (1925) 385–88; Gorgas, M. D., and Hendricks, B. J., *William Crawford Gorgas* (Garden City 1924).

CARTER, JAMES COOLIDGE (1827–1905), American jurist. Carter was one of those leaders of the New York bar whose clients' cases are either so desperate or so important that they dare employ no other counsel; but he was unique in the moderation of his fees. His writing proceeded mainly from his successful fight from 1878 to 1887 to keep the ill considered Field Civil Code from adoption in New York. His widely distributed pamphlet, *The Proposed Codification of Our Common Law* (New York 1884), argued that in private law justice is of vastly more import than certainty, and that the situations which will arise are unforeseeable. Hence only case law, laying down rules which are at best provisional and can be revised for new situations, can fill the need. The fixed rules of a codification are of necessity either guesses too wild to be risked or definitely unjust. In *Provinces of the Written and the Unwritten Law* (New York 1889) the foundation of the argument shifts from justice to inherent necessity. Principles of "the national standard of justice" do in fact govern private transactions; they are absolute; they cannot be made by human enactment but are growths; they can be discovered only by study from case to case; the judges are the experts in discovery. In *The Ideal and the Actual in the Law* (Philadelphia 1890) the doctrine takes on its most satisfactory form. Only in that essay do "thoughts" of the people appear alongside "universal customs" as the essence or sole effective cause of law; there too is the most suc-

cessful approach to describing the work of judge or legislator when custom is indefinite or conflicting or in process of formation. *Law, Its Origin, Growth and Function* (New York 1907), Carter's best known work, builds rather out of the *Provinces* than out of the later paper and suffers accordingly. While judges and legislators approach creative activity when they "seize on tendencies and convert growing custom into positive rules," they cannot create custom; and their attempts to declare it are experiments, futile and "tyrannous" if the rule declared does not fit. Custom "is—what is more and better than known—felt." In his work Carter thus develops, largely independently, ideas approaching those of Savigny, yet more extreme; Savigny's "expert" speaks for and is *pro tanto* the *Volkgeist*, Carter's expert is one only in knowing what lay custom is. The chief virtue of Carter's position is his insistence on the huge scope of extra-official controls in law and on the limitations set thereby to official action. The chief vice of the positive analysis is oversimplification. Carter deliberately disregards, for example, the whole law of governmental organization and of legal procedure; he overlooks modern administrative regulation. The multiformity and conflict of subgroup "customs" is hopelessly scanted. The realm of flux in which there is no custom and in which officials really create; even more the realm of tolerance in which official determinations, though they counter existing custom, are carried through; and finally the practical effects of judicial "tyranny"—these are too detailed for the vague vastness of Carter's picture. Negatively, his argument attacks not codification as it is—a fresh and fertile start for case law, which at its best already incorporates existing tendencies—but the utopian ideal of the blinder advocates of codification: a closed system, "certain"—and dead.

K. N. LLEWELLYN

Consult: Miller, G. A., in *Great American Lawyers*, ed. by W. D. Lewis, 8 vols. (Philadelphia 1907–09) vol. viii, p. 1–41; Gray, J. C., *The Nature and Sources of the Law* (2nd ed. New York 1921) p. 233–39, 283–92.

CARTER, JAMES GORDON (1795–1849), American educational reformer. Carter's serious education did not begin until he was seventeen years old, when he began to work his way through Groton Academy and later through Harvard College. Immediately upon his graduation from Harvard in 1820 he opened a private school at Lancaster, Massachusetts. It was the common school, however, which engaged his chief attention both then and throughout the remainder of his active life. As early as 1821, in a series of letters in the Boston *Transcript* collected as *Letters to the Hon. William Prescott*, LL.D., *on the Free Schools of New England* (Boston 1924), he indicated the direction which his efforts to improve free education were to take, by the formulation of the two principal weaknesses of the system: the lack of scientifically constructed schoolbooks and the incompetence of teachers. According to Carter textbooks should aim to teach inductively, first making appeal to experiences familiar to the pupil or to concrete instances, upon which principle and rules could be built. His remedy for the second weakness was described in his *Essays upon Popular Education, Containing a Particular Examination of the Schools of Massachusetts and an Outline for an Institution for the Education of Teachers* (Boston 1826). As the first strong plea for the establishment of normal schools Carter's *Essays* attracted considerable attention in the educational world, but he was unable to persuade the Massachusetts legislature to support his project. In 1827 he therefore founded at Lancaster, Massachusetts, a private institution for the training of teachers. During his membership in the Massachusetts legislature (1835–39), where he served as chairman of the committee on education, he continued to urge the cause of the common school and in 1837 succeeded in securing the creation of a state board of education. He was deeply disappointed by his failure to secure the secretaryship of the board, which went to Horace Mann, and from that time on he became involved in political and financial transactions which caused his influence to decline. Except for his establishment of the American Institute of Education in 1830 the sphere of his activities had been confined almost entirely to the state of Massachusetts. Nevertheless, the ultimate influence of his propaganda in behalf of free education and of normal schools was nation wide.

I. L. KANDEL

Consult: Barnard, H., *Memoirs of Teachers, Educators, and Promoters and Benefactors of Education, Literature and Science* (2nd ed. New York 1861) p. 182–94.

CARTIER, GEORGES ÉTIENNE (1814–73), French-Canadian politician, legal reformer and promoter of transportation. Cartier entered the legislature in 1849, where he allied himself with John A. Macdonald, leader of the Upper

Canadian Conservatives, and became premier of the United Province of Canada.

As attorney general for Lower Canada he secured the decentralization of the administration of justice by the establishment of judicial districts with resident judges. His chief legal reform was the codification, largely on the Napoleonic model, of civil law and civil procedure in Lower Canada, effective in 1866. He was an active supporter of the Seigniorial Act of 1854, and in 1859 he secured a large increase in the grant for the redemption of seigniors' rights. He also sponsored measures for the improvement of primary education in Lower Canada.

He promoted the development (and use) of river and canals to secure the Great Lakes commerce for the St. Lawrence route, and as chairman of the railway committee of the legislature from 1852–67 and attorney for the Grand Trunk Railway he secured favorable legislation and governmental financial aid for that road, which he deemed essential to national welfare. Later he promoted the construction of the Intercolonial and the early plans for the Canadian Pacific.

Federal union, for which railways were a necessary economic foundation, appealed to him especially as a means of preserving French culture and institutions in Canada. In 1864 he was a party to the coalition which negotiated a scheme of union with the maritime provinces. In defense of local French autonomy he insisted that the new union be federal and carried French Canada with him for "Confederation."

REGINALD G. TROTTER

Consult: *Revue canadienne*, n.s., vol. xiv (1914) 193–288; Boyd, J., *Sir George Étienne Cartier, Bart.* (Toronto 1914).

CARTWRIGHT, JOHN (1740–1824), English political reformer. Cartwright, who was brother to Edmund Cartwright, inventor of the power loom, sacrificed a promising naval career by refusing in 1776 to serve against the American colonists, and in 1792 he was deprived of his majority in the Nottinghamshire militia for his liberal opinions. His doctrine of reform can be traced back to his *American Independence, the Interest and Glory of Great Britain* . . . (London 1774, 2nd ed. 1775), a reprint, with prefatory matter, of letters signed "Constitutio" contributed to Woodfall's *Public Advertiser* on various dates from March 30 to June 6, 1774. He held that a people should determine its own form of government and argued therefore that sovereignty over America was not in the British Parliament but in the crown alone, acting through colonial assemblies. He maintained also that the British Parliament, having lost its originally representative character, needed restoration by drastic reforms. His proposals in *Take Your Choice* (London 1776, 2nd ed. 1777), which were repeated with little change of substance in his later writings, such as *The People's Barrier* (London 1780), were in essence those afterwards revived by the Chartists. In his arguments Cartwright followed the historical method. His history is usually wrong, but his conclusions are sensible, for his method saved him from some of the dangers of a doctrinaire temper. He founded, or shared in organizing, many reform societies from the Society for Constitutional Information in 1780 to the Hampden Club in 1811. He was called "the father of reform" and was indefatigable as pamphleteer, organizer and political speaker.

GEORGE STEAD VEITCH

Consult: *The Life and Correspondence of Major Cartwright*, ed. by F. D. Cartwright, 2 vols. (London 1826), containing list of his writings, vol. ii, p. 299–302; Veitch, G. S., *The Genesis of Parliamentary Reform* (London 1913); Davis, H. W. C., *The Age of Grey and Peel* (Oxford 1929).

CARTWRIGHT, THOMAS (1535–1603), English Puritan divine. He was the leader of the Puritan party which in the reign of Elizabeth aimed at the Presbyterianization of the English church. Primarily he was a Puritan and not a political philosopher. It was as a defender of the Puritan Presbyterian program against Whitgift that he expounded his views of the relationship between church and state and incidentally disclosed his general political principles. In spite of his disclaimer that he did not deliberately "shoot at" the state his teaching teems with political implications. According to his theory of the two kingdoms church and state are two *societates perfectae*, distinct but interdependent like the Hippocratic twins. Cartwright applied his ideas of sovereignty to the church, but his opponents pointed out their applicability to the state. In the ideal church the mixed sovereignty —democratic, aristocratic and monarchical—is exercised by the members, the office bearers and Christ respectively. Cartwright took the oath of supremacy but on the understanding that Elizabeth's governorship of the church was limited by the absolute sovereignty of God, the headship of Christ and the *jus divinum* of Presbyterianism. He differed from the Calvinistic monarchomachs in Scotland, France and

Holland because he lived in different circumstances. Elizabeth was neither an absolute tyrant nor a Romanist. Her anti-Spanish, anti-Jesuit, anti-Guisian activities were favored by the Puritans. She was not bad enough to make Cartwright and his fellows preach resistance and tyrannicide.

As a Calvinistic reformer, humanist and Englishman Cartwright brought a largely unconscious bias to the interpretation of the Bible, the ostensible source of his views. He was intimately acquainted with Aristotle's *Politics* and many Aristotelian principles are embodied in his teaching. The revival of Aristotelianism which roused the violent opposition of Hobbes, the great protagonist of the unitary state and absolute monarchy, synchronized with the recrudescence of Cartwrightism in the seventeenth century. It is interesting to note the relationship of Cartwright to Melville, the advocate of the two kingdoms theory in Scotland; and to Hooker, whose *Ecclesiastical Polity* was largely a counterblast to Cartwright's position; and also the connection between Cartwright's tenets and the Puritan program during the civil war of the seventeenth century.

A. F. Scott Pearson

Consult: Pearson, A. F. Scott, *Thomas Cartwright and Elizabethan Puritanism, 1535–1603* (Cambridge, Eng. 1925), and *Church and State: Political Aspects of Sixteenth Century Puritanism* (Cambridge, Eng. 1928).

CARVALHO E MELLO, SEBASTIANO JOSÉ DE. *See* Pombal, Marquez de.

CARY, JOHN (date of birth unknown—died *c.* 1720), British economist. Cary was a prominent Bristol merchant whose *Essay on the State of England in Relation to Its Trade, Its Poor and Its Taxes* (Bristol 1695; reissued in 1717 and 1745 under other titles, and in French, 1755, and Italian, 1764) is an excellent summary of contemporary mercantilist opinion. It illustrates in particular the stress placed on employment as a criterion of national prosperity. He held it to be the duty of the state to inquire which trades were advantageous and which disadvantageous to the country, in order that the former might be actively encouraged and the latter discouraged. This obligation was, in fact, placed on the Committee for Trade and Plantations established in 1696. Cary advocated the repeal of customs duties on exported manufactured goods and imported raw materials. He graded raw materials according to the amount of labor required to convert them into finished manufactures and held that those which would give the greatest employment would add most to the national wealth when reexported as finished products. He estimated the value of the colonies according to the amount of employment in the mother country promoted by trade with them. Holding the conviction that "industrious people are the wealth of a nation" he favored the provision of work for the willing and the use of force on the unwilling. On this principle he agitated for a local act of Parliament to enable Bristol to administer its nineteen parishes as a single area through an elected corporation of the poor. The employment of the able bodied poor was to be organized in a workhouse, where children also were to be trained to be self-supporting. After a few years Cary recognized that the scheme was a financial failure, but it was the model for several local experiments in the eighteenth century. Cary also wrote in favor of protection on manufactured goods, of bullion import and of the establishment of a national bank with provincial branches "on the credit of Parliament" to issue interest bearing notes to depositors and to make loans. In the British Museum (Add. Ms. 5540) there is a volume of his correspondence, part of which is with John Locke, who describes the *Essay* as "the best discourse I ever read on that subject."

J. F. Rees

Consult: Macleod, H. D., *A Dictionary of Political Economy* (London 1863) p. 391–93.

CASA DE CONTRATACIÓN was before the nineteenth century the chief administrative agency for the regulation of commerce between Spain and her overseas possessions and the earliest institution created specifically for the governance of the American empire. Founded by royal decree of January 20, 1503, it was in June established at Seville, the mercantile capital of Castile, to whose sovereign the Indies were held to belong. In the beginning the Casa was without doubt planned to be the trading house of the crown, corresponding with royal "factories" in the New World. But this soon proved to be impracticable, and it became a government bureau licensing and supervising all ships and merchants, passengers and goods, passing to and from the Indies, and seeing that the laws and ordinances relating to them were meticulously obeyed.

The Casa received and cared for all gold, silver and precious stones remitted to the crown

from American mines and collected the *avería*, or convoy tax, and customs and other duties. Transcripts were kept of official communications passing through the Casa to America and of correspondence from America about trade and finance, as well as accounts of receipts and expenditures of the colonial treasurers. The officers of the Casa might propose to the king any measure they deemed necessary for the organization and development of American trade. The institution therefore became a sort of ministry of commerce and one of the principal outposts of the royal exchequer.

The personnel of the Casa consisted at first of a treasurer, a comptroller (*contador*) and a factor or business manager, who were expected to meet for consultation and joint action morning and afternoon every day in the year except holidays. With increase in the volume and complexity of business, from time to time subordinate officials, secretaries and legal counselors were added, and the three original officers became executive heads of large departments. In 1514 the office of postmaster general was created, and Philip II added that of president of the Casa. From 1588 there was a purveyor general of armadas and fleets with a staff of his own, and at the close of Philip's reign a Tribunal de la Contaduría, or board of audit. In the seventeenth century appeared a commandant of the navy yard, a staff to superintend the purchase and testing of artillery and powder and to teach gunnery and another to administer the *avería* for the defense of the annual fleets.

A chief pilot was appointed as early as 1508 (the first being Amerigo Vespucci), and under his direction there gradually developed a hydrographic bureau and a school of navigation for the construction and validating of nautical charts and instruments and for teaching and examining pilots for the "India" traffic; a professorship of cosmography was established in 1552. One of the duties of the chief pilot and his associates was to maintain a careful and systematic record of the results of geographical discovery and exploration, and a standard map, *Padrón real*, was kept in the Casa to which all charts had legally to conform.

The Casa was also a court of law. Its officers very early attempted to exercise judicial authority over infractions of its rules and in disputes between merchants and mariners engaged in the American trade. Coming into conflict with the local judiciary of Seville its competence was in 1511 defined by the crown to cover all civil suits growing out of the trade and the crime of barratry as well. Its three officials were therefore referred to as *jueces oficiales*. Final shape was given to the Casa's jurisdiction by Charles V, who in 1539 granted it exclusive authority not only over infractions of its ordinances but over civil suits affecting the revenues of the crown and over all crimes committed on the voyage to and from America, with appeal in important cases to the Council of the Indies.

A *fiscal*, or prosecuting attorney, was added to the Casa's staff in 1546, and such was the increase of judicial business that in 1583 a separate chamber, or Sala de Justicia, was created consisting of two, and later of three, justices. Thereafter the Casa comprised two quite separate branches, administration and justice, the president serving as the link between them. The erection at Seville in 1543 of a Consulado, or guild of merchants trading with America, had meantime somewhat reduced the number of civil cases. The officers of this guild, a prior and two consuls elected annually by the merchants, took over the settlement of all civil suits between members, including proceedings in bankruptcy. Their methods, simpler and more expeditious than those of the ordinary law courts, relieved the Casa of a great mass of judicial work.

Another subordinate institution was the Juzgado de Indias at Cadiz. As all trade with the New World had to pass through the Casa its control was from the outset restricted to a single port for the whole of Spain. And in spite of the claims of other cities, of protests from the colonists and of efforts of the emperor, Charles V, to overrule the monopoly, for two centuries Seville retained this high privilege. Owing to the difficulties and dangers of the bar at San Lucar—Seville's entrance to the sea—and the shallow channel of the Guadalquivir up to Seville, ships from 1508 on were permitted to lade either at Cadiz or San Lucar under supervision of an inspector from the Casa. In 1535 the crown appointed a permanent resident, *juez oficial*, at Cadiz, and ships and fleets returning from America were frequently allowed to make Cadiz their port, provided cargoes and registers were transported intact to Seville. This institution was throughout the sixteenth and seventeenth centuries a source of perennial jealousy and dispute, since the advantages of Cadiz harbor attracted shipping more and more to it, until a new dynasty in 1717 transferred the Casa entire to the rival port and the Juzgado de Indias was assigned to Seville.

The Casa had charge also of trade with the Canary Islands and with the adjacent African coast. The Canaries were a regular port of call on the outward voyage to America, and early in the reign of Philip II an organization similar to that at Cadiz was set up in the three principal islands.

The Casa de Contratación exercised its greatest influence under the Hapsburgs before the eighteenth century. It was the nerve center of a rigid and elaborate system designed to monopolize all American trade for Spaniards and to secure to Spain all the bullion that came from the New World. The system, adopted by a relatively non-industrial country neither rich nor very populous, proved to be only an instrument of disaster. In spite of minute regulation and supervision, evasion, with or without the connivance of officials, was very prevalent. Great numbers of unlicensed persons slipped out to America, and not only did contraband trade flourish at Seville and Cadiz but foreigners engaged directly in trade with ports in the colonies.

In the eighteenth century, with the economic reforms gradually introduced by the Bourbon kings, the importance of the Casa slowly declined. The Andalusian monopoly was infringed by the creation of privileged trading companies capitalized and operating in the north of Spain, and under Charles III commerce was gradually thrown open between all important Spanish seaports and all parts of the American empire. When the old canalized system of trade was abandoned the Casa had lost its excuse for being, and in 1790 it was abolished.

CLARENCE H. HARING

See: COLONIES; COLONIAL ADMINISTRATION; COLONIAL COMMERCIAL POLICY; CHARTERED COMPANIES; ASIENTO; AUDIENCIA; COUNCIL OF INDIES.

Consult: Veitia Linaje, Joseph de, *Norte de la contratación de las Indias Occidentales* (Seville 1672), tr. by John Stevens (London 1720); Antuñez y Acevedo, Rafael, *Memorias históricas sobre la legislación, y govierno del comercio de los españoles con sus colonias en las Indias Occidentales* (Madrid 1797); Puente y Olea, Manuel de la, *Estudios españoles: Los trabajos geográficos de la casa de la contratación* (Seville 1900); Scelle, Georges, *La traite négrière aux Indes de Castille*, 2 vols. (Paris 1906); Piernas y Hurtado, J. M., *La casa de la contratación de las Indias* (Madrid 1907); Artiñano y de Galdácano, Gervasio de, *Historia del comercio con las Indias durante el dominio de los Austrias* (Barcelona 1917); Haring, C. H., *Trade and Navigation between Spain and the Indies in the Time of the Hapsburgs*, Harvard Economic Studies, vol. xix (Cambridge, Mass. 1918); Pulido Rubio, J., *El piloto mayor de la casa de contratación de Sevilla*, Publicaciones del Centro Oficial de Estudios Americanistas de Sevilla, Biblioteca Colonial Americana, vol. x (Seville 1923).

CASAUX, CHARLES, MARQUIS DE (1728–96), economist. Casaux was born on the island of Grenada in the West Indies and was a sugar cane planter there for many years; the latter part of his life was spent in England and France. He is known primarily for his theory of the automatic self-regulation of society, which he elaborates in his most important work, *Considérations sur quelques parties du mécanisme des sociétés*. The author maintains that "whatever is needed to compensate for the results of an injustice to the public will always be performed through the public." Provided that all obstacles to its operation be removed by the leaders of society and that knowledge of its existence be widely enough diffused, this regulative force will function without further outside intervention. Examining in the light of this theory the contemporary economic situation in England and France Casaux strongly advocates the destruction of monopoly and the introduction of free competition as a means of obtaining the just price. The interests of the three principal classes in the state, the landowner, the industrialist and the capitalist, require a maximum of production and freedom from restraint. A large section of the *Considérations* deals with the problem of the English sinking fund as a means of redeeming the public debt. Anticipating both Hamilton and Ricardo he attacks the sinking fund on the ground that redemption is no longer imperative since the charges of the debt have been rendered relatively insignificant by the vast increase of national income resulting within the last century from such factors as the doubling of wages and trebling of foreign trade. Because of the necessity of effecting a "just equilibrium between agriculture and national industry" taxes on the entire consumption are preferable to a discriminating single tax, whether imposed on land or luxuries. The principle of taxation is justified by the fact that the inevitable rise in prices which results is compensated by an automatic rise in wages. Casaux was also an advocate of internationalism; the conclusion of the Eden Treaty of Commerce in 1786 represented to him the triumph of his ideas of permanent peace based on reciprocity. After leaving England in 1788 Casaux visited France, where during the early years of the revolution he wrote numerous pamphlets—and occasionally advised Mirabeau—on contemporary economic, fiscal and constitutional problems.

STEPHEN BAUER

Important works: *Considérations sur quelques parties du*

mécanisme des sociétés, 3 vols. (London 1785–88), tr. by Parkyns MacMahon (London 1786); *Questions à examiner avant l'assemblée des États Généraux* (Paris 1788); *Simplicité de l'idée d'une constitution et quelques autres qui s'y rapportent* (Paris 1789); *Absurdité de l'impôt territorial et de plusieurs autres impôts, démontrée par l'exposition des effets ou réactions des différentes espèces de taxes sur tous les prix tant du travail que de ses produits, soit dans l'agriculture, soit dans l'industrie* (Paris 1789).

CASE LAW is law found in decided cases and created by judges in the process of solving particular disputes. Case law in some form and to some extent is found wherever there is law. A mere series of decisions of individual cases does not of course in itself constitute a system of law. But in any judicial system rules of law arise sooner or later out of such decisions of cases, as rules of action arise out of the solution of practical problems, whether or not such formulations are desired, intended or consciously recognized. These generalizations contained in, or built upon, past decisions, when taken as normative for future disputes, create a legal system of precedent. Precedent, however, is operative before it is recognized. Toward its operation drive all those phases of human make up which build habit in the individual and institutions in the group: laziness as to the reworking of a problem once solved; the time and energy saved by routine, especially under any pressure of business; the values of routine as a curb on arbitrariness and as a prop of weakness, inexperience and instability; the social values of predictability; the power of whatever exists to produce expectations and the power of expectations to become normative. The force of precedent in the law is heightened by an additional factor: that curious, almost universal sense of justice which urges that all men are properly to be treated alike in like circumstances. As the social system varies we meet infinite variations as to what men or treatments or circumstances are to be classed as "like"; but the pressure to accept the views of the time and place remains.

The practical universality of case law in some form does not make less significant the great differences in its detail and in its scope within different legal systems. Case law modified by statute is the essence of the Anglo-American judicial system. For the case law is the background against which statutes are viewed; it governs wherever no statute has entered. Indeed, statutes are in the main regarded as innovations on case law, to be limited in their application; and after their enactment case law provides both the wherewithal to fill gaps in their subject matter and the technique of interpreting what they cover—so much so that it is a legal commonplace that no man knows what a statute means until the courts have "construed" it. The effects of this process are to be traced in two directions. Statutes are, in our system, drawn typically in some haste and none too skilfully; inevitably their words cover more or less than what was intended. The judge with a specific variant before him has an opportunity to fit the statute to changing facts. On the other hand, where the older case law closes the judge's eyes to a statute's purpose it may destroy the main value of legislation: the ability to strike out with relative freedom on new and needed lines.

Legislation works by generalization in advance and with an eye to the future as far as human institutions will allow; case law works deliberately with an eye to the past, adjusting individual variants as they arise. Because of this individualization of decisions case law is grandly unsystematic, grows in isolated, uneven, often inconsistent ways and directions in different areas of the law and shows an ever recurring and ever increasing tendency to assume disordered unmanageable bulk. In all of this it contrasts somewhat with the single statute, but most sharply with the systematic codification of rules of law by statute. For the essence of a code is the attempt to arrange all the relevant law in clear cut authoritative form. An unofficial compilation of case law such as the Sachsenspiegel or the pending Restatement of the Law, if it wins unofficial authority, or a partial code such as the Uniform Sales Act more or less approaches the character of a codification in its effect on rigidity of the law.

The relation of code and prior case law has been much discussed, especially on the continent. Primitive codes often represent a political compromise involving reform of the prior case law. Indeed, since case law is uneven and often self-inconsistent all codes represent some reform. Yet a successful code must apparently be built directly or indirectly on case law, the repository of legal experience. Such was the basis of Justinian's code and the famous modern European codes; it has also been the basis of the partial codifications of the common law. Less discussed but equally important is the relation of code and post-code case law. Three features of the code are of particular impor-

tance in shaping this relationship. In the first place, the code has cleared up the pressing problems of its own day, settling them, typically, along the lines of immediately pending growth; for a time, therefore, it seems to offer a solution of all cases by mere "application." Secondly, a code almost always purports to be the sole authority for subjects which it covers; the acceptance of this claim prevents, at least for a time, the development of an officially recognized system of judicial precedent. In the third place, the fact that code rules are phrased in sharp outline lends decision under a code a delusive appearance of deductive certainty, all the greater when contrasted with the vagueness of outline of case law rules, which are often phrased nowhere at all but must be pieced together from a series of cases. The clearness of outline of the code rule, supplemented by the common feeling that the legislature has settled the issues of policy which arise, does distinctly narrow the range of post-code case law growth, at the same time that the absence of official recognition of precedent slows up the manifestation of its cumulative power. None the less, case law begins promptly; but its presence seems to become recognized only when non-legal institutions have come to differ so greatly from those presupposed by the code that the gap is obvious to the most blind. In Rome the great creative case law period occurred only when the early code was almost buried by the built up case law; in France in the last quarter of the nineteenth century scholars reacquired the instinct for legal invention which Portalis showed when he was preparing the Code Civil; in Germany war and inflation led to a modernizing of the code by case law in a space of a quarter of a century and in the teeth of the teaching of the theorists.

The actual effect of case law of course depends largely on particular conditions. In the absence of written records the territorial scope of any uniformity introduced by the piling up of cases must remain small, and change on the advent of new conditions may be made easier. If the accepted legal theory at any time is that of despotic discretion in the handling of disputes, the sphere of effective case law may be reduced to matters so vital to the underlying population or to the group on which the ruler's power rests that divergence from accepted custom would provoke revolution. But even in this extreme case the tendency persists for precedent to develop and widen, and growth of precedent finds new stimulus in the unofficial self-government of groups apart from the state. Perhaps most important is the variation in the effective nature of case law which depends on the official acceptance of precedents as "binding." Where they are not so accepted but are treated only as a guide, departures from past decisions are somewhat easier, with a resultant delay in the accumulation of precedent and greater difficulty in prediction. But pre-code precedent is typically regarded as binding as soon as judgments in individual disputes cease to be thought of as quasi-magical or inspired dispensations; precedent is indeed commonly regarded as so binding that the problem for the legal historian becomes one of explaining how growth occurs, despite the theory that the law shall be declared to be only that which it has always been: the order of things. Without taking into consideration this "order of things" attitude, one cannot understand the existence of retroactive decisions whereby a change in judge made rule will be applied as if the new rule had always been, even to transactions entered into before its making. It is the operation of this often unrecognized presupposition which has made judges so cautious in innovation; and which has so often led change to wear the lacy clothing of "distinction."

The erection of such half recognized assumptions into a theory of the legal process—the creation of a doctrine of precedents—is a natural occurrence at one stage in the development of case law and influences its later growth. Most such doctrines have been based on at least three propositions: one, not found everywhere, that the tribunal had to decide the dispute before it; the second, that the tribunal could authoritatively decide only the dispute before it; and third, that the decision must have occurred as an instance under some general rule wider than the single dispute. Those who expound such a doctrine frequently overlook, however, the obvious fact that "the" general rule settled in a dispute may be conceived narrowly or widely and may branch in any of many directions. As a result of such confusion there have arisen in Anglo-American law two divergent and inconsistent doctrines of precedent, both reflecting judicial practise and lawyer's arguments, both in constant application, the courts using the one or the other as need serves. Almost never are the two looked at together and expressly recognized as legitimate alternatives. The strict doctrine limits the authority of a case to the

exact issue presented, both procedurally and on the facts, and reads the rule laid down by the court as limited to the precise issue before it; in extreme form this strict view may even stress a feature of the prior case overlooked by the prior court and disregard the rule expressly laid down as therefore unnecessary to the decision. This form of the doctrine serves to limit and "distinguish" uncomfortable decisions. The loose doctrine is the tool for the widening of precedent. It regards as authoritatively settled by a prior case any proposition, however broad, upon which the prior court expressly put its decision, and may even use as authority the theory of a legal situation developed in the dicta or treat the case as solid authority for a broad proposition not before expressed at all but "clearly within the reason of the rule there laid down." No system of precedent could survive amid changing conditions in the absence of such a two-headed doctrine, which makes easy the limitation of the unfortunate language of the past and the extension of the fortunate. The judge's art lies in knowing when to do the one or the other; the lawyer's art lies largely in anticipating which will be done. Only the latitude given by this ambiguity of the common law doctrine of precedent makes possible the influence of the facts of particular cases upon the rules laid down.

The course of growth of case law depends in good part on this influence of the facts, checked by the etiquette of rationalization in terms of precedent, by the judges' training in prior law and by their feeling of responsibility for the precedents which their present decisions may make. Its growth depends also on the fact that questions arising for the serious consideration of appellate courts are usually doubtful questions, which means that a vast bulk of them are novel questions. Thus, while the courts are facing backward to find authority, it is ever from the emerging conflicts on the fringe of growth that the facts before them are drawn: and hence there must be growth in spite of precedent. The choice of cases, as between conflicting interests, and the order of their presentation to courts is, typically, random. The influence of the pressure of facts on the shaping of rules therefore works out with some long run impartiality. Calculated long range selection of the order in which issues are presented, such as has been done in the last decades by some better organized business interests, therefore threatens one of the least planned but most valuable features of our case law system. On the other hand, a long range shifting of needs as between two interest groups or the emergence of a new interest will even by random selection result in bulking the fact and emotional pressures repeatedly on a single side, and thereby result in appropriate change of law—late, to be sure, but fairly certain.

The judge dealing with an emergent need and deciding wisely on the facts will turn for justification to the first concept at hand. His use of that concept in his opinion, for the advantage to be derived from one of its aspects, is likely, however, to shackle his successors with all the other historical implications of the concept used, however ill adapted they may prove to the emergent situation. But through this very process of groping for remedy accumulating cases make a new problem clear, and before a problem is thus clarified legislation cannot successfully cope with it. During the period of experiment and discovery case law is a superb device for legal regulation. If a change involved is minor, case law can cope with it. But major changes, if their solutions are not to be distorted into disutility by legal concepts developed for other purposes, must come ultimately before the legislature. Both in the distant and in the recent past case law judges, aided by the bar, have worked out broad solutions starting in their skill, such as the rule against perpetuities, the action on simple contract, the letter of credit or the trust receipt. But such instances, numerous as they are over the centuries, are peak achievements of a social machinery geared to other ends.

K. N. LLEWELLYN

See: LAW; JUDICIAL PROCESS; COMMON LAW; CUSTOMARY LAW; CODIFICATION; LEGISLATION.

Consult: Gray. J. C., *The Nature and Sources of the Law* (2nd ed. New York 1921) chs. ix–x; Carter, J. C., *Law: its Origin, Growth and Function* (New York 1907); Cardozo, B. N., *The Nature of the Judicial Process* (New Haven 1921); Allen, C. K., *Law in the Making* (2nd ed. Oxford 1930) chs. iii–iv; Oliphant, Herman, "A Return to Stare Decisis" in *American Bar Association Journal*, vol. xiv (1928) 71–6, 107, 159–62; Pound, Roscoe, "The Theory of Judicial Decision, III, A Theory of Judicial Decision for Today" in *Harvard Law Review*, vol. xxxvi (1923) 940–59.

CASE METHOD. The case method, which has attained importance as an educational device through its widespread use in the teaching of law in the United States, was originated by

C. C. Langdell (*q.v.*) in 1871 as a revolt against the older methods of legal education (*q.v.*). Before Langdell, training in law in the United States had been secured partly by the apprentice system, partly in law schools in which the predominant method of instruction was the lecture; or the instructor used the printed lectures of others and quizzed on the texts. The essential features of the case method, on the other hand, were the use of actual "cases," i.e. court opinions, as the main content of the courses of study, and an emphasis on discussion in class.

The case system was based on certain fundamental premises as to the nature of legal science and practise. One was that lawyers in practise must work out what courts will do, and how to argue to them, largely from judicial opinions, and that the law student can best learn this job by doing it. A second premise was that the study of concrete factual situations and of the decisions on the issues raised provides the basis for a discussion class, gives substance and content to the rules concerned and makes for sounder and more interesting teaching. The third underlying premise of the method will not hold water, namely that the determination of legal principle (viewed simultaneously as a means of predicting how cases will come out and as a means of determining "the right" solution) is a "science," like a natural science, and capable of accurate inductive study; and that the basic materials for observation are the opinions of the judges. According to this conception the number of "principles" was relatively small; they were reflected in the cases, and unfolded themselves in the course of history to him who had an eye to discover them. An instructor who had grasped these principles could select in any field of law a series of cases, most commonly arranged by date, in which the principles were reflected, and could lead the student to extract these for himself. Interspersed, to stimulate thought and discussion, would be occasional cases where the judges had gone wrong. In the classroom the accurate statement, the working out and the cross play of principle could be accomplished by putting hypothetical cases. Whatever the validity of these premises, the advantages of the case system as a method of instruction are obvious. Instead of hearing or reading general rules ready made, from some unexamined source of authority, accepting them and then attempting to apply them, the student was to dig out his general rules for himself. In the process, he would develop an ability to think; he would learn to handle himself in legal argument; he would acquire, even, a degree of skepticism concerning some rules which some men had formulated.

A necessary corollary to the case method, as soon as the class grew large enough to press upon the library, was the casebook, i.e. the separate printing of a selected series of opinions for discussion. The cases in such a compilation are, to be sure, more or less edited; and the more they are cut in the editing, the farther the student is removed from real wrestling with the original sources. This does not, however, remove the advantage of inductive thinking, nor that of dealing with the concrete. Important for the widespread adoption of the case method was the magnificent series of pioneering casebooks produced by James Barr Ames (*q.v.*). But a relic of the older lecture or textbook system is still found in those "casebooks" which, instead of raising problems for discussion, merely string together illustrative cases, in which the language of each rule appears.

Though decried at first, especially as being too difficult, the case system had made its way into all American law schools of the better class by 1915. Now that the struggle over its adoption has died down, certain drawbacks to the system are receiving attention. These disadvantages are partly a result of the increasing size of law classes, which makes the actual dialectic tend to center on a few of the better men, while the class at large becomes an audience. To a greater extent, the difficulties lie in the method itself and in certain excrescences attendant on its general use.

Knowledge of the positive law is won under case discussion only at heavy cost in time. The field of law is vast; the student needs a speaking acquaintance with many matters which there is no time for case discussion to bring out. This calls not for the displacing of the case technique, but for the use of supplementary material. In part, informational footnotes to the casebook fill the need; in part, lectures; in part, outside reading, especially under the pressure of impending bar examinations. More troublesome is the fact that a good student can learn the case technique in a year or so and then ceases to have much use for an instructor. His needs have been met, to some extent, by the law reviews, on which the better students do independent research work as editors. And there is a distinct tendency, by the use of moot courts

or of essay problems, to make training in legal research and argument a part of the course of study.

More vital, however, are the results of the practise of summarizing the cases and decisions for the student. Here the presupposition of the existence of exact legal principle has had far reaching effects. The casebooks have been built up largely in an effort to make clear basic principles, the deductive use of which gives a sure key to prediction and a touchstone to the rightness or wrongness of decisions. Desiring to put the student in secure possession of these principles and to clarify for him fields of law in which no undergraduate can be a specialist, the instructor tends to state the law in orderly fashion, and the student to accept the recurring summaries without much thought. Such summarizing is not inherent in case method teaching; neither is that tendency toward sweeping generalization which marches hand in hand with the search for principle —an emphasis less on the facts of the case in hand than on the rule, and on rules ever wider. But in a number of casebooks this has proceeded to the point of striking the facts from many of the cases, to save space; whereas the one peculiar advantage of the case system lies in the concrete character of the material dealt with. On the other hand, one trend of casebook making at the present time, as at Yale and Columbia, tends to add to the statements of fact in the opinions a considerable body of other information about the layman's practises concerned therein, in order to facilitate both an understanding and an evaluation of the bearing of the case.

Another difficulty in the case system lies in the problem, even when the cases are severely edited, of presenting a sufficiently wide sampling of judicial behavior to lay a foundation for accurate prediction. Experiments to meet this need turn on the assumption that the vital aspect of the case system may prove to be an increased use of summaries of specific situations followed by statements of what the judges have done with them, with less stress laid upon the precise language of the original opinions.

The case system has proved itself an indispensable tool for teaching classes the technique of reading cases, and is unequaled as a means of bringing out the distinction between the actual decision and the passing dictum. It has proved its value also as a tool for teaching comparative analysis. The chief weaknesses of the method lie in its failure, if unsupplemented, to train the average student in the independent use of the library, or in synthesis which will be on a par with his analysis; and in its failure to deal adequately with that rapidly growing phase of our law, the statutes. Certain statutes, which either rest on case law, such as the uniform commercial acts, or have been very frequently construed, like the Bankruptcy Act, are dealt with effectively enough by the case method; but its net effect is underemphasis of legislative law. Finally, it will be observed that the emphasis of the case method is on teaching what the rules of law are, i.e. the formulae employed by courts in dealing with disputes, and how they may be known when seen. Where the cases are arranged historically it shows also something of what the law has been. It has no necessary concern with how the "rule of law" is to be used by the lawyer in his office (the translation of precepts into action), or with what the rule means to the people it purports to regulate, or with why the rule came to be what it is, or how to build an argument on any but a narrow point. Much case method teaching, therefore, never gets farther than the setting up of the "right" formulae. On the other hand, every one of the matters just mentioned lies close at hand in case method teaching, because of the constant presence of specific states of fact; and every one of them can be made part of the study by any instructor who is so inclined.

The effects of the method on the student's outlook depend wholly on the instructor's point of view. All that the method guarantees is higher skill than is attainable without it, whatever approach to legal matters may be inculcated. All present indications are, however, that the utility of the cases will be increasingly appreciated, and that the case method, in its essence, will stand more firmly than ever at the core of our legal education.

In recent years considerable attention has been attracted by applications of the case method to other fields. Sharply to be distinguished from the case system in law is the practise of social case work. A distinction must also be drawn between the case method in law and the case method as applied to sociology and economics, in that the latter has, up to the present, been largely a research technique rather than an educational device. On the other hand, the case method in medical study approximates that in law, with this distinction: in medicine, as in any social science in which inductive

teaching is attempted, the "cases" presented are observers' descriptions; whereas in law the cases were originally, and still are prevailingly, the courts' own record of their own doings, and thus possess greater authority and at the same time less objectivity.

K. N. LLEWELLYN

See: LEGAL EDUCATION; CASE LAW; SOCIAL CASE WORK; RESEARCH; CASUISTRY.

Consult: Redlich, Josef, "The Common Law and the Case Method in American University Law Schools," in Carnegie Foundation for the Advancement of Teaching, *Bulletin*, no. 8 (New York 1914); "Papers and Discussion concerning the Redlich Report" in *American Law School Review*, vol. iv (1915–22) 91–113; Reed, A. Z., "Training for the Public Profession of the Law," in Carnegie Foundation for the Advancement of Teaching, *Bulletin*, no. 15 (New York 1921) ch. xxxi; Llewellyn, K. N., *Cases and Materials on the Law of Sales* (Chicago 1930) p. ix–xxi; see also bibliography in Harvard Law School Association, *The Centennial History of the Harvard Law School, 1817–1917* (Boston 1918) p. 365–72. For supplementary material see bibliography for article on LEGAL EDUCATION.

CASE WORK. *See* SOCIAL CASE WORK.

CASSATION, COURT OF. *See* APPEALS, JUDICIAL; COURTS.

CASSELL, ERNEST JOSEPH (1852–1921), English financier and philanthropist. Cassell was born at Cologne, the son of a Jewish banker. After learning the elements of banking with firms in Cologne, Liverpool and Paris, he obtained a position with the London financial house of Bischoffsheim and Goldschmidt. He became manager at the age of twenty-two and ten years later was made partner in the firm. Although this association continued for many years Cassell carried out a considerable number of his more important enterprises independently. He was regarded as one of the most influential and trustworthy men in the city circle of high finance and as a speculative expert rather than a speculative gambler. He introduced something of the German banker's practise of cooperating with industry, as for example when he undertook the application of the Thomas-Gilchrist smelting process to Swedish mines tapped by the railroad which he had financed, thus creating a profitable mining industry and increased revenues for the railroad. Cassell specialized in the financing of government loans and public utilities. The Swedish Central Railways, the Mexican Central Railway, the Electric Traction Company (London), the Central London Railway, the Irrigation Investment Company (which built the Nile dams at Assuan and Assiut) were all financed by him. He floated loans for Mexico (1893), China (1895), Uruguay (1896), Morocco (1906) and Turkey (1909). He also played a considerable role in building up the Vickers munitions companies. Many of his ventures were made in consultation with the British Foreign Office and he was given many public honors. In private life his interest in sport, his patronage of the arts, luxurious hospitality, impressive philanthropy and conversion to the Roman Catholic church reflect the common history of numerous brilliant and successful English bankers of German-Jewish extraction. He was one of an interesting company of men who did much to develop English industry at home and English trade and influence abroad.

W. H. DAWSON

CASTE. A caste may be defined as an endogamous and hereditary subdivision of an ethnic unit occupying a position of superior or inferior rank or social esteem in comparison with other such subdivisions. It resembles the clan in being a social unit within a larger political or cultural whole, and in being marriage regulating and therefore hereditary from the point of view of the individual. It differs from the clan in being endogamous, whereas the clan is exogamous and therefore necessarily unilateral as to descent; also in that the castes in their very nature are ranked or rated, whereas clans are essentially equivalent within the society which they constitute. The caste and the clan may be roughly described as horizontal and vertical divisions respectively of a population. Castes, therefore, are a special form of social classes, which in tendency at least are present in every society. Castes differ from social classes, however, in that they have emerged into social consciousness to the point that custom and law attempt their rigid and permanent separation from one another. Social classes are the generic soil from which caste systems have at various times and places independently grown up.

These systems have had an outward or analogous similarity but have often been without historical connection and have thus had no true homologous relation of structure. The similarities between most of the various caste systems of the world are therefore conceptual or psychologically founded, not genetic. It follows that no single factor or stable set of factors is to be

looked for as the universal cause lying at the root of caste. Conquest, race differences, religion, economic developments, all have contributed, and in varying degrees, to the growth of the several caste systems. Nor are the phenomena of caste any more uniform. There are societies, like that of India, which are consciously and unresidually caste organized; in mediaeval Japan and Europe there were others in which caste organization was chiefly at the top or bottom; in modern Europe there are still other societies which are in principle casteless but have had injected into them a few de facto castes, such as Jews and gypsies, which remain more or less nonconformable to the general scheme of society.

It is in India that caste has had its completest development. Only there has it become an intricate system which has entwined all aspects of the civilization with which it was able to come into contact. Indian caste accordingly forms the most integrated as well as the most self-conscious system that has grown up anywhere: a pattern stamped on most parts of Indian civilization. In spite of this it seems to be less than three thousand years old. The *Vedas*, of 1000 B.C. and beyond, did not have it in a substantially developed form. By Buddha's time, around the fifth century B.C., it was already fairly prevalent; and the Greeks report it a few centuries later. Whether it is a further development of germs present in the little known native south Indian culture, or the result of clash of Aryan and Dravidian, is not known. According to Hindu theory, four castes were instituted at the beginning of things and are eternal: Brahman, Kshatriya, Vaishya and Shudra, or priests, nobles, cultivators and serfs. This dogma appears never to have been anything more than a scheme representing things as the Brahmans liked to systematize them. The same holds of the native theory that the multiplicity of castes originated from unlawful marriages between the four standard castes; this is merely a piece of ingenious logic. Actually the census of India records over eight hundred castes and subcastes, or nearly five thousand, counting minute or wholly localized ones. These include not only occupational groups but tribes, races, sects, in fact all populational bodies possessing any distinctive traits and group consciousness. The Parsees, fire worshipping Persian refugees, are treated as a caste; so are the Todas and many another primitive hill tribe; so are fishermen, scavengers, jewelers; so, in some districts, are Christian converts. Even self-sufficient groups whose racial or cultural origin is foreign and who are not intrinsically interested in constituting a caste are forced into the mold by Hindu opinion. And castes are still forming by fission. In two adjacent areas the members of the same caste may be forced by economic circumstances to follow somewhat different trades. If one of these trades should rank a little more honorably, two subcastes arise, one of which begins to look down on the other as a poor relation. As their status in the community moves slightly upward, they become socially proud and discountenance remarriage of widows, which caste custom has heretofore tolerated. The less successful section adheres to its old law, there are recriminations, and two new castes have been established. Again, a part of a group migrating or drifting into a new environment may find its occupation more or less lucrative and highly rated than formerly, and before long a new caste has arisen. Every new cult carries with it the potentiality of a new caste, as does every new conquest made by a population rather than by an army.

It is clear that the history of Indian caste is extremely complex and its causes manifold. Any attempt to explain the system on the basis of a single factor may therefore be attractive to those who like simple formulae, but is foredoomed to partiality and unsoundness. The most persistent of these attempts is the racial explanation of the origin of caste. It is true that one of the Hindu words for caste, *varna*, means color; but we, too, often use "color" in the sense of "kind." It is also true that anthropometric records show on the whole lighter skins and narrower noses for high castes. But the social ranking of the castes and their physical indices do not by any means agree uniformly, even in the same area; in south India, for example, the members of high castes are broader-nosed than those of the low castes in the north. While race consciousness may have given the first impetus to Indian caste, it is at present, and has been for a long time past, a much less potent factor than economic status.

Religion has deeply influenced Hindu caste, especially the old and almost universal tenets of immortality of the individual soul, rebirth according to a scheme of moral causality (karma) and earning of merit by restraint and conquest of the passions. Numbers of the higher castes are "twice born" as human beings; in a previous existence they belonged to a low caste. More duty is incumbent upon them because they represent greater merit. Hence they are subject to

innumerable tabus affecting food, sexuality, cleanliness, conduct, from which the contaminated and contaminating lowly castes are exempt. A Brahman may eat only vegetable food prepared by another Brahman and must partake of it without being observed; the lowest castes eat anything, even beef and pork. Varying with her caste, a widow was burned, secluded, grudgingly permitted to remarry or wholly freed. A low caste man may not touch or even approach a Brahman; but he leads in general a far freer life. Worth, in caste as in personal conduct, is therefore spiritually earned and maintained by merit, in Hindu theory and partly in practise.

The Hindu does not feel caste a burden as the individualistic occidental might. To him it seems both natural and desirable, its deliberate breach unnatural, perverse and unforgivable. Whatever his caste, the Hindu is proud of it, as westerners are of their nationality. It gives him a sense of solidarity, and he does not seek to escape it. Of course, caste is as incompatible with full acceptance of the occidental economic system as it is interadapted with the native one. In the contact of the two idea-systems, caste will either be broken down or will keep India economically mediaeval or will hybridize into some new and unforeseeable cultural form.

How far the ancient Mediterranean world developed castes is a matter partly of definition, partly to be determined by further research. Egypt showed certain tendencies in the direction of caste; Mesopotamia seems to have been rather remarkably free from them. The Spartan division of the population into citizens, περίοικοι, helots and slaves, and the Roman into patricians, plebeians and slaves, merely approached a caste system: they were frankly based on wealth and land holding and, unlike Hindu castes, were of political importance. It is theoretically significant that the Roman system appears to have been founded on economic circumstances, the Spartan on conquest; and that most of Greece followed the latter only slightly or not at all.

During the Middle Ages there developed in Europe a quasi-caste system, with aristocratic rank and privileges, sumptuary laws, feudalism, and occupation guilds in control of much of industry. The classes, however, never crystallized into complete castes, and the final religious sanction was never obtained. In fact the spirit and tendency of the Catholic church were set in the opposite direction. Japan is often cited as a land of caste; this was true to perhaps the same degree as of mediaeval Europe. Sharp distinctions of hereditary rank, and elaborate formal expression of these, there certainly were; but occupational elaboration and integration with religion remained vague. Chinese society is essentially casteless. Officials, farmers, artisans, merchants, are theoretically ranked in that order, but actually a wealthy merchant outranks anyone but high officials. The absence of both warriors and priests from the scheme is notable. Descendants to the third generation of jailors, actors and prostitutes were ineligible to take examinations for office; but this provision had fairly recent parallels in Europe.

Among primitive people the idea of kinship is for the most part too potent socially to allow much room for caste-like growths. Even where royalty was elaborately divine, as in Polynesian Tonga, every king and noble had acknowledged kinsmen in all strata of society. Substantially the same situation existed in native Mexico and Peru, where the local commune of actual or reputed blood relatives remained the basis of society beneath the politico-military superstructure. Africa, especially in the east, shows some approaches to caste, presumably under indirect influences from higher civilizations; smiths are often a sort of needed but tolerated out-caste comparable to the Jews in mediaeval Europe; and in some districts pastoral Hamitic invaders like the Wa-huma have made themselves a noble caste among the native farming population. Somewhat reminiscent of caste is the division of the Arabian population into Bedouin and town dwellers, and of the native American Southwest into farming Pueblos and roving Navajo and Apache; these, however, are cases of culturally and politically independent units segregating along caste-like lines, not of subdivisions within one such unit.

A. L. KROEBER

See: SOCIETY; SOCIAL ORGANIZATION; STATUS; CLASS; CUSTOM; TRADITION; CONQUEST; RACE PREJUDICE; MOBILITY, SOCIAL.

Consult: Hopkins, E. W., *The Mutual Relations of the Four Castes according to the Manavadharmaçāstram* (Leipsic 1881); Fick, R., *Die sociale Gliederung im nordöstlichen Indien zu Buddhas Zeit* (Kiel 1897); Bhattacharya, J. N., *Hindu Castes and Sects* (Calcutta 1896); Ibbetson, D., *Panjab Castes* (Lahore 1916); Nesfield, J. C., *Brief View of the Caste System of the North-West Provinces and Oudh* (Allahabad 1885); Bouglé, C., *Essais sur le régime des castes* (Paris 1908); Risley, H. H., "Caste in Relation to Marriage" in his *The Tribes and Castes of Bengal* (Ethnographic Glossary), 2 vols. (Calcutta 1892) vol. i, p. i–xciii, and

The People of India (2nd ed. Calcutta 1915); Sénart, E., *Les castes dans l'Inde* (2nd ed. Paris 1927), tr. by E. D. Ross (London 1930); Russell, R. V., "Introductory Essay on Caste" in his *The Tribes and Castes of the Central Provinces of India*, 4 vols. (London 1916) vol. i, p. 3–197; Narasu, P. L., *A Study of Caste* (Madras 1922); Ghurye, G. S., "The Ethnic Theory of Caste" in *Man in India*, vol. iv (1924) 209–71; Datta, B., "Das indische Kastensystem" in *Anthropos*, vol. xxii (1927) 142–59; Chattopadhyay, K., "The Origin of Caste" in *Visva-Bharati Quarterly*, vol. ii (1924–25) 347–58, gives a summary of the theories that have been advanced.

CASTELAR Y RIPOLL, EMILIO (1832–99), Spanish statesman, journalist and historian. Castelar obtained his doctor's degree in 1853 in the faculty of philosophy at the University of Madrid. The following year he distinguished himself by a brilliant oratorical defense of the liberties of the individual. This led to his appointment to the staff of *El tribuno*, and he served on various journals until 1863, when he founded his own organ, *La democracia*. His work as a journalist was as effective as his masterly eloquence in educating the Spanish people in the principles of constitutional government. In 1856 he was appointed to the chair of history in the University of Madrid, where his lectures drew large audiences. The educated bourgeoisie were enthusiastic about this man who, in a period of decadent politics, discussed the burning political questions of the day eloquently and beautifully, elevating them to the plane of general principles and interests. His antimonarchist activities resulted in 1865 in the suppression of his paper and the loss of his chair. The following year he fled to Paris to escape execution for complicity in republican plots. He returned to Spain during the revolution of 1868 and became leader of the individualist republican group, whose program he had presented in the columns of his paper and in his *Fórmula del progreso* (Madrid 1867). Rather than split the republican ranks he cooperated for a time with Pi y Margall and his socialist and federalist republicans. But after the republic was established by the National Assembly in 1873 the constant disorder and the overthrow of two presidents in a few months influenced Castelar, as the third president, to break with the federalists and to use a reorganized army to restore order. This action, coupled with conservative tendencies which had been strengthened by the exercise of power, caused him to lose the support of the more radical republicans but permitted him, after the restoration, to be the respected and respectful adversary of the crown. He retired from active political life in 1893, still believing in a republic as the ideal form of government but opposing its introduction by violence. Castelar and Pi y Margall are the most representative figures in the history of the republican party in Spain.

Castelar was endowed with a powerful imagination but rebelled against any severe mental discipline. He divided his activities as a writer between history and literature but left no work worthy of his ability in either field. His historical writings are, more strictly, brilliant literary works. He showed a very marked tendency to judge the personalities and events of the past according to his own ideals fashioned from the individualistic and democratic principles of the French Revolution.

JOSÉ ANTONIO RUBIO

Important works: *El ocaso de la libertad* (Madrid 1877); *Discursos parlamentarios y políticos en la restauración* (Madrid 1885).

Consult: Cañameque, Francisco, *Los oradores del '69* (Madrid 1887); Perez Galdós, Benito, "Política española" in his *Obras inéditas*, vols. i–viii (Madrid 1923–26) vols. iii–iv.

CASTELLIO, SÉBASTIEN (1515–63), Swiss Protestant theologian and freethinker. Castellio, who early evidenced a passion for knowledge, worked as a tutor in a noble family in order to pursue his studies at Collège de la Trinité, Lyons. At twenty-five he met Calvin in Strasbourg and on his recommendation became in 1541 principal of the Collège de Genève, a center of Greek learning and study of the Scriptures. His first work, the *Dialogi sacri* (Lyons 1540), was a series of vivid scenes out of the Bible, a manual for schoolboys which went through many editions and was translated into many languages. Castellio was profoundly interested in classical antiquity and thought of Christ as a moral teacher. His evangelical humanism made of him an antagonist of Calvinist orthodoxy and an advocate of tolerance. In 1544 he came into open collision with Calvin when he interpreted the *Song of Solomon* as an ancient love poem rather than as a revelation of the true relation between Christ and the church and demanded its exclusion from Holy Scripture. Likewise he denied that Christ's descent into hell was a punishment and disagreed with Calvin's theory of predestination. He removed to Basel, where after some years of poverty he became professor of Greek literature at the uni-

versity. His *Biblia sacra latina* (Basel 1551), an annotated translation, was his largest work, but his most famous was the *De haereticis an sint persequendi . . . doctorum virorum sententiae* (Magdeburg 1554), which was immediately translated into French. Here Castellio set forth his reasons for opposing the persecution of Servetus, arguing that the burning of heretics was in the spirit neither of Christ nor of reform. The preface, bearing the pseudonym "Martinus Bellius," is one of the mother documents on freedom of conscience. In *Contra libellum Calvini* (n.p., *c.* 1554) he answered the reformer's reply. In an unpublished work, *De arte dubitandi et confidenti et sciendi et ignorandi*, Castellio as a precursor of Descartes made a plea for the use of intelligence even in matters of revelation.

W. KÖHLER

Consult: Buisson, F., *Sébastien Castellion, sa vie et son oeuvre*, 2 vols. (Paris 1892); Jones, R. M., *Spiritual Reformers in the 16th and 17th Centuries* (London 1914).

CASTILLA, RAMÓN (1797–1867), Peruvian politician and soldier. Castilla served in various important military and political offices and became known as a man of strong character and energetic action. In 1844 he led a successful revolution against the dictator Vivanco, was elected president of Peru the following year and for twenty years thereafter exercised a preponderant influence in the country. During his first administration (1845–51) public instruction was improved, the army reduced and reorganized, the navy enlarged, the first telegraph lines were installed (1847), a railroad was constructed (1851), a budget system introduced, the public debt consolidated and in part refunded (1848), the exploitation of guano reorganized and that of nitrate begun, immigration and colonization were subsidized and, in administration, law was observed and men were employed irrespective of party affiliation. In 1854 Castilla took over and led to success the liberal revolution which had broken out against his successor Echenique and again took office as president in 1855. This revolution was accompanied by two important social reforms—the abolition of the personal tribute paid by the Indians since colonial times and the compensated emancipation of Negro slaves. During his second administration (1855–62) anarchy, party strife and attempts at assassination caused Castilla to rule with an iron hand. As a liberal he forced the novel and radical constitution of 1856 and as a conservative he brought about the adoption of the constitution of 1860 which was moderately conservative and modeled after that of the United States. It recognized the Roman Catholic religion as the state religion, restored ample power to the president, but retained the right of association. This constitution remained the fundamental law of the land until 1920.

W. W. PIERSON, JR.

Consult: Dávalos y Lissón, Pedro, *La primera centuria* (Lima 1926) ch. iv, p. 5–142; Stuart, G. H., *The Governmental System of Peru* (Washington 1925) p. 13–18; Wiesse, Carlos, *Historia del Peru—La república* (2nd ed. Lima 1926) p. 50–71.

CASTLEREAGH, ROBERT STEWART, VISCOUNT, SECOND MARQUIS OF LONDONDERRY (1769–1822), British statesman. Castlereagh, who was born in Ulster, Ireland, was elected to the Irish House of Commons in 1790 and became chief secretary for Ireland in 1798. He suppressed the Irish rebellion of that year and was instrumental in bringing about the parliamentary union of Ireland with England. In 1800 he entered the British House of Commons. Castlereagh's chief contribution to history was made during his tenure of the British Foreign Office during the years 1812 to 1822. The last European coalition which finally brought about Napoleon's downfall was largely his work, and no other man had a greater influence on the reconstruction of Europe and on the scheme of a European alliance. In reconstruction his main object was to produce a "just equilibrium" in Europe. For this purpose he wished France reduced to her old frontiers and Russia kept east of the Vistula. He succeeded in his first object and indeed had to repress the desire of the allies for a vindictive peace in 1815. In his second object he failed, but by building up Prussia and bringing her to the Rhine and by encouraging Austrian influence in Italy he made a central Europe strong enough to preserve the balance against the two other powers. The European Alliance, too, was mainly his creation. This idea, born in the Third Coalition, was in its origin a guaranty of Europe against France by the four Great Powers, which promised mutual aid to one another. At Vienna Castlereagh even considered extending this guaranty to all Europe, including the Turkish dominions. Subsequently, however, he preferred the system of diplomacy by conference to settle all questions disturbing the peace of Europe.

In contrast to Alexander, whose own ex-

pedient, the "Holy Alliance," was purely moral, and to Metternich, who wished to use the alliance to repress the revolutions which broke out in Italy in 1820 and 1821, Castlereagh had always denied the right of the European Alliance to intervene in the internal affairs of other countries. He protested, at first secretly and then openly, against this misuse of power at the conferences of Troppau (1820) and Laibach (1821). After the outbreak of the Greek revolution he agreed to attend another conference where he hoped to settle by round table diplomacy the threatening Russo-Turkish and Franco-Spanish disputes as well as the problem of the Spanish colonies. His suicide in a fit of insanity resulting from overstrain immediately before the Congress of Verona (1822) caused the failure of these plans. The idea of diplomacy by conference was never understood by public opinion in Castlereagh's day and was associated with the repressive use which Alexander and Metternich made of it. It was, however, the only attempt to form a permanent diplomatic conference of the Great Powers previous to 1919.

CHARLES K. WEBSTER

Consult: Webster, C. K., *The Foreign Policy of Castlereagh, 1812–1815* (London 1931), and *The Foreign Policy of Castlereagh*, 1815–1822 (London 1925); *The Cambridge History of British Foreign Policy, 1783–1919*, 3 vols. (Cambridge, Eng. 1922–23) vol. i, ch. iv, vol. ii, ch. 1; Phillips, W. A., *The Confederation of Europe* (2nd ed. London 1920); Salisbury, Marquess of, *Essays; Biographical* (London 1905) p. 1–69.

CASTRO, CIPRIANO (1861–1924), dictator president of Venezuela from 1899 to 1908. He spent his early years in the cattle industry and for a brief time served in the national congress. He took possession of the government in 1899 by an armed revolt, and because of his shrewdness and daring became known as the "Lion of the Andes." He was vain and uneducated, and in his domination of the courts, congress and state governments somewhat corrupt and wholly despotic. Yet his regime was not without benefit to Venezuela. He developed its resources, promoted internal improvements such as roads, parks, public buildings and a telegraph system, had legal codes promulgated and encouraged education. But he became notorious because of his relations with foreign countries. He dreamed of founding a great nation composed of Venezuela, Colombia and Ecuador, of reviving the old unity of the days of Bolivar. To realize this ambition he encouraged the liberal party of Colombia in its revolt which resulted in straining relations with that country from 1901 to 1905. Of much greater international notoriety, however, were his difficulties with European powers arising from the repudiation of Venezuela's public debt and the unwillingness to recognize the claims of foreigners for injuries to their persons and property. As a result England, Germany and Italy blockaded Venezuelan ports from December, 1902, to February, 1903. It was this situation which led to the enunciation of the Drago Doctrine and the Roosevelt corollary to the Monroe Doctrine. Castro's defiance contributed greatly to his reputation in Spanish America as a defender of the weak. In the years following the settlement of the Venezuelan affair by The Hague Tribunal he embroiled himself with Belgium, Holland, France and the United States. But when Castro was compelled in 1908 to go to Europe for medical treatment, Juan Vicente Gomez took advantage of his absence to consolidate his own power. The "Lion of the Andes" was never able to return to his native land.

J. FRED RIPPY

Consult: *Viaje del general Cipriano Castro*, compiled by R. Tello Mendoza (Caracas 1905); *Documentos del general Cipriano Castro* (Caracas 1903); Hernández, José Manuel, *Ante la historia* (Philadelphia 1904); Bowen, Herbert W., *Recollections Diplomatic and Undiplomatic* (New York 1926) chs. xxiii and xxiv; "Venezuelan Arbitrations of 1903" in United States Senate, 58th Cong., 2nd Sess., *Senate Documents*, no. 316; "Correspondence relating to Wrongs Done to American Citizens by the Government of Venezuela" in United States Senate, 60th Cong., 1st Sess., *Senate Documents*, no. 413; "Venezuela" in Great Britain, Foreign Office, *British and Foreign State Papers*, vol. xcv (1901–02) and vol. xcvi (1902–03); Rippy, J. Fred, *Latin America in World Politics* (New York 1928).

CASTRO, JUAN DE (dates of birth and death unknown), Spanish economist of the late seventeenth century. Castro expounded notably rigid and consistent mercantilist doctrines in his *Memoriales para el entero conocimiento de la causa, que destruye, y acaba la monarquía de España* (Madrid 1669?). Likening treasure to the "blood of Spain," he repeatedly identified it with wealth and exhorted his compatriots to correct the unfavorable balance of trade, which was carrying Spain's gold and silver to foreign lands, impoverishing the former and enriching the latter. Where mercantilists of other countries sought the accumulation of specie through a highly favorable balance of trade, Castro's desideratum was the retention of the

Mexican and Peruvian treasure of Spain by balancing the trade with England, France, Holland and the Italian city-states. His program consisted of supplying the home market and the colonies with Spanish manufactures, excluding foreigners from trade with the Hispanic colonies, carrying Spanish goods in Spanish ships, building a strong navy and maintaining a large army, restricting the importation of manufactures and the exportation of raw materials and increasing the population. Castro's *Memoriales* and miscellaneous pamphlets on the American slave trade abound in numerical data, which, for lack of better information, are occasionally useful to critical scholars.

EARL J. HAMILTON

Consult: Colmeiro, Manuel, *Biblioteca de economistas españoles* (new ed. Madrid 1880) p. 71; Sempere y Guarinos, Juan, *Biblioteca española económico-política*, 4 vols. (Madrid 1801–21) vol. iii, p. 291–312.

CASUAL LABOR is that which is hired for short periods, more or less indiscriminately. It is to be differentiated from labor, skilled or unskilled, which is selectively chosen with a degree of certainty to fill the needs of seasonal industries. Examples of such seasonal labor are the skilled workers in the building industry, who may work irregularly on short jobs and possibly for a number of different employers during the year, as well as a large proportion of the semi-skilled operatives in the garment industries. Around these seasonal industries, however, may develop large reserves of casual, semi-skilled or unskilled labor hired at the peak and discharged in the slack season with no assurance of reemployment. The proportional distribution of these seasonal and casual workers is largely a matter of the economic organization of the industry and of the workers. All migratory labor on construction camps and in the harvesting of crops is in reality casual labor but it presents such a vast number of special problems that the term "casual labor" is usually narrowed to include only non-migratory types. This type is best illustrated by the wharf and dock labor of loading and unloading ships.

The existence of large classes of casual labor had its origin in the rise of capitalistic production for the market by large numbers of individual producers. It assumed serious proportions when the railroad and the steamship made the market world wide; by the aid of mass production and the subsequent rapid technological development thus made feasible a situation was created in which each concern experienced vicissitudes of business fortune independently of concerns in other industries and even in large measure independently of other concerns in the same industry. It is to this complex market situation that we must turn in seeking the fundamental causes of the system of casual labor.

Each firm, being subject to its own independent fluctuations in demand, seeks to keep subject to engagement sufficient labor to enable it to handle its peak loads. The time of incidence of these peak loads is imperfectly predictable. Their recurrence may or may not be regular and may or may not coincide with recurrence in other enterprises, even in the same line of business. In such a situation reserves or pools, especially of the unskilled or semi-skilled labor, tend to accumulate. These reserves can be completely employed only in the rare event that the peak loads of all the firms occur simultaneously. The result is a permanent group of underemployed laborers, no one of whom is out of work continuously but all of whom are employed only a part of the time.

While practically all industries have these fringes of casuals their presence is a serious problem only in those industries where, due to exigencies of weather and season, to whimsical style preferences of consumers or to other uncertainties arising out of the complexities of modern production and distribution, the individual producer's demand for labor is subject to especially wide and unpredictable fluctuations. In this category fall the marine and longshore industry; many lines of agricultural industry, especially where there has been little diversification of crops; the canning industry; logging and lumbering and the building trades. Certain other industries, notably the needle trades, seem to be coming into this class.

These casuals, it should be noted, are not to be confused with those who are unemployable or whose work is superfluous. They are employable and are intermittently needed. They make up a labor reserve the members of which are called upon often enough to prevent them from emigrating, but not often enough, as a rule, to enable them to make a decent living. The demoralizing effects of a life of casual labor are obvious. Earnings are irregular, uncertain and generally inadequate to provide a decent livelihood for a family, in fact often insufficient to provide a living for the single laborer. Equally sinister from a social point of view are the character and results of the mode of life imposed

on the casual laborer. Irregular work and earnings breed shiftlessness and physical deterioration, and these tend inexorably to reduce the casual to an unemployable, who in turn becomes a charge upon the state. The casuals of our large cities may, so far as earnings permit, establish settled homes of a sort. For the migratory farm laborer and the lumberjack normal family life and a definite relation to the community are impossible. The system of transplanting families, as in the canning and berry picking industries in the United States and in migratory harvesting or sheep shearing elsewhere, raises its own problems of child welfare and of family disorganization.

Such conditions breed discontent, which for the most part, however, has been inarticulate and unorganized. The very nature of the evil makes any organization of opinion or of the workers most difficult. They have no stake in any particular industry and the conservative trade union methods of constitutional, parliamentary procedure could scarcely be expected to appeal to them. With the exception of the longshoremen and the building trades laborers most of these groups, both in the United States and abroad, are unorganized. In Great Britain the great dock strike of 1889 under the direction of leaders representing "new unionism" was a step forward in this direction. The garment industries, prior to their unionization in both Great Britain and the United States, had a far greater fringe of casual workers. The Australian Workers' Union has been singularly successful in organizing labor in agriculture and sheep shearing. But where the casual groups wander from industry to industry even militant industrial unionism cannot succeed, and for many casual groups almost the only outlet for discontent has been through the "one big union" type of organization, either under that name in Canada or under the banner of the I. W. W. in the United States. The I. W. W. finds in the unskilled casual laborer a ready subscriber to its radicalism and its attack upon the conventional union. The results in the way of permanent organization by such groups have been negligible. The I. W. W., however, more than any other organization has succeeded in so dramatizing the casual laborer as to galvanize more powerful trade union and public agencies into remedial action.

Current developments in some industries are tending toward the partial elimination of casual labor. Increasing mechanization of the processes on which casual labor has been employed reduces the number of casuals employed. The notable achievements of some employers in the regularization of their business operations and the introduction of crop diversification by farming groups have had a like effect. Larger experiments for individual industries have been carried on, notably in the garment industries and in the waterfront occupations. In the garment industries centralized employment agencies under the direction of the union, or often under joint management operated in connection with an unemployment insurance scheme, have done much to reduce the number of casuals and to prevent the influx of new recruits who would swell the ranks of the casuals, and have in some cases even reduced the degree of seasonality. In Great Britain joint endeavors on the waterfronts of Liverpool and London have resulted in reducing the proportion of casual dock workers from 80 to 20 percent. A more limited scheme in the United States was begun on the Seattle waterfront in 1920 and has shown some promising results. The essential features of these schemes have been the establishment of a centralized pool of reserve labor and centralized employment exchanges for the entire industry, with registration, classification and an agreed scheme of priority of employment. There would still remain the necessity of a service as between industries of a given locality or for an industry of nation wide scope, such as agriculture.

PAUL F. BRISSENDEN

See: LABOR; MIGRATORY LABOR; LABOR TURNOVER; UNEMPLOYMENT; EMPLOYMENT EXCHANGES; TRADE UNIONS; VAGRANCY.

Consult: Beveridge, W. H., *Unemployment* (3rd ed. London 1912) ch. v; Brissenden, P. F., "Under-Employment" in Conference on Unemployment, *Business Cycles and Unemployment* (New York 1923) ch. v; Atkins, W. E., and Lasswell, H. D., *Labor Attitudes and Problems* (New York 1924) ch. v; Feldman, Herman, *The Regularization of Employment* (New York 1925) chs. xiii and xiv; Speek, P. A., "The Psychology of Floating Workers" in American Academy of Political and Social Science, *Annals*, vol. lxix (1917) 72–78; Parker, C. H., *The Casual Laborer* (New York 1920) ch. ii; Anderson, Nels, *The Hobo: the Sociology of the Homeless Man* (Chicago 1923) chs. viii, xi–xiii, xvi; Lescohier, D. D., *The Labor Market* (New York 1919) p. 251–306; Lascelles, E. C. P., and Bullock, S. S., *Dock Labour and Decasualisation* (London 1924); Joint Executive Committee of Longshoremen and Truckers and Waterfront Employers, "Decasualizing the 'Beach' at Seattle" in the *Survey*, vol. xlix (1922) 96–97; Howd, C. R., *Industrial Relations in the West Coast Lumber Industry*, United States, Bureau of Labor Statistics, Bulletin no. 349 (Washington 1924) ch. vi; United States, Commission on Industrial Rela-

tions, "Industrial Relations: Final Report and Testimony . . . " in United States Senate, 64th Cong., 1st Sess., *Senate Documents*, vol. i, no. 415; Conference on Unemployment, *Seasonal Operation in the Construction Industries* (New York 1924).

CASUALTY INSURANCE. Casualty insurance, the youngest of the three major branches of insurance, comprises a great variety of coverages and is concerned with a wide range of hazards. It includes coverages for the risks not assumed by life or fire and marine insurance. The causes underlying losses covered by this form of insurance are not only greatly varied but are constantly influenced by changing economic conditions, developments in industry, new inventions, changing laws and many other factors. This situation, together with the newness of casualty insurance and its rapid growth, tends to complicate the business and render it somewhat unsettled as compared with the older classes of insurance.

Casualty insurance may be defined as that form of insurance which provides indemnity (1) for losses arising out of the legal liability of the insured for damage to the person or property of others and (2) for certain losses arising out of loss or damage to the person or property of the insured. It is to be observed that suretyship, which is often confused with this branch of insurance due to the fact that a large number of casualty insurance companies write fidelity and surety bonds, is not, properly speaking, a form of casualty insurance.

Casualty insurance is of comparatively recent development; it was virtually unknown before the second half of the nineteenth century. While certain casualty lines appeared first on the continent, casualty insurance as a whole is better developed and gives promise of more rapid growth in the United States. The accompanying table taken from *Casualty Insurance Principles* by G. F. Michelbacher and associates (p. 12–13) enumerates the forms of casualty coverage and gives for each of them the date when it was first written in the United States. The table illustrates the variety of casualty lines and the youthfulness of casualty insurance as compared with the other major branches of insurance.

Liability insurance was at first confined to coverage of the liability of employers for injuries to their workers. This form of protection, known as employers' liability insurance, originated in England following the enactment of the Employers' Liability Act of 1880. Similar legislation

LIABILITY INSURANCE

Accountants	1923
Airplane	1919
Automobile (personal injury)	1898
Automobile property	1901
Contingent	1900
Contractors, public	1886
Contractual	1900
Druggists	1910
Elevator	1891
Employers	1886
General property damage	1920
Manufacturers, public	1892
Owners, landlords and tenants	1894
Physicians, surgeons, hospitals, dentists	1890–1900
Product	1910
Residence and farm	1900
Sports	1915
Teams	1896
Theater	1918

BURGLARY, THEFT AND ROBBERY INSURANCE

Bank burglary	1892
Bank robbery	1919
Holdup	1898
Interior robbery	1914
Mercantile open stock	1885
Mercantile safe	1892
Messenger robbery	1898
Payroll robbery	1914
Residence	1885
Safety deposit box	1914
Theft	1899

ACCIDENT AND HEALTH INSURANCE

Accident (personal, covering general accidents)	1864
Automobile accident	1922
Deferred payment accident	1925
Group accident	1890
Health	1847
Industrial accident	1891
Railroad instalment accident and sickness	1872
Railway ticket (covering railway accidents)	1850

MISCELLANEOUS

Airplane property damage	1919
Automobile collision	1899
Credit	1898
Electrical and machinery	1920
Electric current interruption	1927
Engine breakage	1919
Flywheel	1901
Forgery	1918
Livestock	1828
Merchants' protective	1927
Plate glass	1867
Steam boiler	1867
Steam turbine	1900–1913
Sprinkler leakage	1890
Title	1876
Use and occupancy	1906
Workmen's collective	1896
Workmen's compensation	1910
Water damage	1904

enacted in the United States was promptly followed by a demand for employers' liability insurance in this country.

Public liability insurance was originally written in conjunction with employers' liability, and the additional coverage was probably embodied in endorsements attached to employers' liability insurance policies. The first public liability coverage provided insurance for manufacturers and other employers of labor against their liability for personal injury or death caused to members of the public by reason of the employers' various operations. But additional forms were soon developed. By 1900 public liability insurance was available not only to employers but also to physicians, surgeons, dentists, owners and operators of elevators, owners and tenants of buildings and contractors or others liable for injuries resulting from their operations, including the use of teams. Of the forms of public liability insurance other than automobile, which comprise the so-called miscellaneous public liability lines, the most important is owners', landlords' and tenants' public liability. The coverages provided under manufacturers' and contractors' public liability rank next. So far as the volume of business is concerned the malpractise liability lines, applying to physicians, surgeons, hospitals, dentists and druggists, have remained comparatively unimportant. With the introduction of motor vehicles and tremendous increase in their use the volume of automobile public liability insurance has grown very rapidly. Between the years 1923 and 1929 this business increased 130 percent in the United States.

The earliest distinctive form of property damage liability insurance covered liability for damage to property caused by the operation of automobiles, and during the first two decades of the twentieth century there was comparatively slight demand for other forms of property damage liability insurance. Moreover, the early development of this business, as applied to risks of a general nature, was also restricted by statutory limitations. These limitations were, however, gradually removed, permitting the extension of property damage liability insurance into new fields. Thus in New York it was not until 1922 that the law was amended definitely to permit insurance carriers to write this form of insurance.

Burglary, theft and robbery insurance had its origin in England. In the year 1787 the first recorded attempt was made to establish a company to provide insurance against risks in this field. This attempt as well as other plans for organizing companies during the century which followed was apparently unsuccessful. These coverages were introduced successfully by a company of Glasgow, Scotland, and it was not until 1889 that any appreciable amount of this business was written. The earliest forms of burglary insurance written in the United States were the residence and mercantile open stock forms which appeared in 1885. Bank burglary and mercantile safe coverage were offered in 1892 by the Fidelity and Casualty Company of New York, which for a number of years was practically the only company transacting this business. By 1900, however, several other companies had become actively interested in writing this business. This class of insurance, once introduced, was gradually extended to cover related hazards such as theft, larceny and robbery. Moral hazard is one of the most important factors which enter into the writing of all burglary lines, especially residence burglary, theft and larceny insurance, where this element is regarded by some carriers as constituting as high as 90 percent of the underwriting considerations involved. Moral hazard is also present in mercantile open stock burglary insurance because of the opportunities for fraudulent or fraudulently inflated claims.

Health and personal accident insurance were among the earliest casualty lines written. This business has been handled largely by life insurance companies, but the casualty companies are assuming a prominent position in the field.

Of those casualty lines which are available to employers to indemnify them for damages caused by accidents to their physical plants, steam boiler insurance is undoubtedly the oldest. This is the branch of casualty insurance which deals with the hazards of power producing mechanisms. About 1854 an association was organized in England for the prevention by frequent inspection of steam boiler explosions. While this association did not engage in the business of insurance it was absorbed a few years later by a company organized for the purpose of insuring these risks. In 1866 there was formed in Hartford, Connecticut, the first American company which undertook to meet the need for insurance protection against the risk of the destruction of life and property by the explosion of steam boilers. As an important accompaniment of the insurance protection to be provided an inspection service was guaranteed. In 1867 this pioneer company began writing policies and in-

specting boilers, thus launching a new form of insurance coverage in this country. Other companies soon entered the field and adopted the methods of accident prevention inaugurated by the original company. With the development of sources of motive energy other than steam the methods of boiler insurance have been extended to the underwriting of a variety of machinery hazards. The policies issued indemnify for direct property damage and by endorsement covers may also be granted for indirect losses such as the impossibility of operating the plant at full capacity, inability to fill orders on time or deterioration of materials. Perhaps the greatest service rendered by insurance companies in this field is the establishment of standards of safety and their enforcement by frequent and skilful inspection. Insurance carriers spend three or four times as much for the prevention of boiler explosions as for the payment of losses.

Plate glass insurance originated at practically the same time as power plant insurance. In this line the insurance policy is virtually a contract for the prompt replacement of broken glass, and the rates charged are therefore bound to fluctuate with the changes in the price of glass. A comparatively recent line of plate glass insurance which has shown rapid development is the coverage for automobile glass.

From the point of view of premium volume the automobile casualty lines—public and property damage liability and collision insurance—are the most important; workmen's compensation insurance ranks second and accident and health insurance third.

While insurance is primarily a device for the accumulation of premiums from all those who are exposed to a hazard and for the distribution of the funds so collected to those who suffer as a result of that hazard, in the field of casualty insurance there is a marked tendency toward the development of accident prevention as an integral part of insurance. One of the earliest applications of the principles of accident prevention was in connection with boiler insurance, but this preventive work has been progressively developed in connection with other casualty lines. At present casualty companies have undertaken through cooperative action important projects designed to reduce accidents and thus effect a saving of life and limb. For some casualty lines the cost of prevention work appears as an important factor in rate making.

In rate making the charge is developed in two parts, the so-called pure premium, representing loss cost, and the expense loading to provide the necessary expenses of the transaction. For the purpose of establishing the rates which appear in the manuals risks are divided into broad groups or classifications on the basis of similarity of hazard, the same manual rate being assigned to all risks within each group. This procedure would be entirely satisfactory if all risks within the group were exactly similar. As this, however, is not the case, systems of merit rating have been devised for application to the individual risk, to measure the extent to which the particular risk varies from the average of its class and to reflect this variation in the rate for the risk.

In the early stages of the development of the business of casualty insurance it was necessary to rely chiefly upon judgment for the establishment of rates applicable to the various forms of coverage. With the growth of the business, however, experience accumulated and became available for use as a basis in rate making. Since the experience of no one company is in general broad enough for accurate rate making, the pooling of the experience of all carriers is necessary for the making of equitable rates. The casualty insurance carriers early recognized this need and formed organizations to give attention to the problems in each field as soon as the volume of business had reached any appreciable size.

Through these cooperative efforts of the companies it has been possible to introduce and apply with increasing effectiveness the principles of actuarial science in the making of rates for casualty insurance. Due to the volume and the characteristics of workmen's compensation insurance it has been possible to introduce greater refinement and accuracy in the rate making for this line than for the other forms of casualty insurance. If all forms of insurance are considered, workmen's compensation may be said to rank next to life as regards the extent of the application of the principles of actuarial science.

Like other insurance carriers casualty companies are subject to a certain measure of regulation by the state. In the United States the insurance departments of the several states are at liberty to examine the books of the companies and to require the submission of reports in order to determine that the companies are solvent and responsible, investing their funds as required by law, maintaining necessary reserves and otherwise complying with the laws of the

states in the conduct of their business. The great tasks of casualty regulation are to assist the companies in bringing about greater standardization in the business generally, to promote the sound development of the companies and otherwise to protect the interest of the public. Casualty regulation is also distinguished from the regulation of other forms of insurance by the greater freedom allowed to the companies in their investment policies and the greater caution required in the establishment and maintenance of proper reserves.

JAMES A. BEHA

See: INSURANCE; COMPENSATION AND LIABILITY INSURANCE; AUTOMOBILE INSURANCE; AVIATION, section iii; HEALTH INSURANCE; CREDIT INSURANCE.

Consult: Michelbacher, G. F., and associates, *Casualty Insurance Principles* (New York 1930); Kulp, C. A., *Casualty Insurance* (New York 1928); Cornelius, Martin P., *Third Party Insurance* (Chicago 1920); Mowbray, Albert H., *Insurance, Its Theory and Practice in the United States* (New York 1930) chs. viii, ix, xi, xii, xiii and xv; Michelbacher, G. F., and Carr, L. H., "Burglary, Theft and Robbery Insurance" in Casualty Actuarial Society, *Proceedings*, vol. xi (1924–25) pt. i, p. 33–98; Michelbacher, G. F., *Miscellaneous Public Liability and Property Damage Liability Insurance in the United States* (New York 1926). For the development of casualty insurance in foreign countries, see articles on the separate casualty lines in *Versicherungs-Lexikon*, ed. by A. Manes (3rd ed. Berlin 1930).

CASUISTRY. The word casuistry is commonly used in two senses. In the first place it may mean simply the development of moral principles through their application to special cases. In the second place it may mean applied morality which has for its purpose the justification of questionable activities and which proceeds by discovering subtle and hypocritical exceptions to general rules of conduct. That there is usually no distinction drawn between these two uses of the word is a consequence of the common belief that morality is incapable of rational treatment, being either a matter of individual taste or a subject upon which some authority, either God or conscience, has given us the last word, and upon which further discussion is therefore useless and dangerous.

In its primary sense, as the particularization of moral rules, casuistry is the natural culmination of ethics. Although treating of the application of ethical judgment to individual cases, it deals also with general or universal propositions, and such judgments can be distinguished from those of general ethics only by a comparative narrowness of scope. Thus the proposition that lying is bad would be regarded as ethical, and the proposition that lying to save a friend's life is good would be regarded as part of casuistry. Casuistry, then, stands in the same relation to ethics or moral philosophy as astronomy does to physics. In the absence of an adequate general doctrine of ethics it must naturally find itself more akin to pre-Ptolemaic astrology than to modern astronomy. To this internal dependence upon a discipline which has scarcely emerged from the pre-scientific stage, one may attribute a good deal of the disho or into which the word casuistry has today falle .

Casuistry has usually flourished at times when a generally accepted system of ethics has demanded development along new lines because of changing economic, political or intellectual conditions. In the West casuistry has operated particularly upon the transplanted stoic morality during the early Roman Empire, upon the ethical code of the Pentateuch in the Talmudic and post-Talmudic explication of the exiled Jews and upon the received Christian morality during the period when the agricultural organization of European society was breaking down. In the *Summae casuum conscientiae* (Casebooks of conscience), written from the thirteenth to the seventeenth centuries and meant especially for use in the confessional, the process of particularization in ethical doctrine was carried to an extreme point. Since Kant, however, there has been a strong tendency, outside of the Catholic church, to restrict academic inquiries in morality to a more general and abstract plane.

Close analogues of these casuistical processes are to be found in the development of Roman law, which from the fifth century B.C. to the sixth century A.D. was considered to be essentially an interpretation of the Twelve Tables—and as well in the judicial development of American constitutional law. Such decisions as those ruling that the "due process" clause of the constitution forbids the legislative limitation of working hours for bakers to ten per day but does not forbid the limitations of the miner's working day to eight hours suggest that there is nothing peculiarly mediaeval, religious or scholastic in the difficulties and concomitant dangers of casuistry.

Today a growing appreciation of the dependence of ethical values upon factual conditions and a general disregard for the element of value which cannot be stated in terms of existence have relegated modern casuistry to an unavowed

place in the literature of the social sciences. Except for the fact that ethical discussion is nominally disavowed, psychologists who tell us how we ought to bring up our children, economists who tell us how we ought to adjust the currents of distribution, political scientists who describe our duties to the state and jurists who tell us how people and, in particular, how judges ought to act, are all continuing a discipline which is coeval with man's command over rational method and interest in conduct.

The methodology of casuistry has commended itself to modern law teachers and sociologists as in other centuries to the Jesuits and Talmudists, because of the ease with which concrete problems are assimilated and vitalized in the student's experience. The difficulties of casuistry on this plane are, in a measure, the difficulties of all scientific method. On the one hand, those who have looked upon the decision of particular cases as a merely mechanical application of general principles have run into (or illicitly evaded) the logical difficulty that particular conclusions cannot be derived from purely general premises—a difficulty which shows itself in a question that is always relevant and usually critical and never answerable on the sole basis of general rules, namely: "Which of several admitted principles is, in the light of all circumstances, most applicable to this case?" On the other hand, those who have regarded the decision of special cases as a problem independent of general principles—and students of the case method have regularly professed a nominalistic disregard of abstractions—have run into the more serious difficulty that no unified science and no inference is possible on the sole basis of individual cases. Any two cases, in ethics as in law, can be distinguished, and a refusal to enter the realm of abstractions in an open and critical spirit for the valuation of different "elements" of "principles" has led either to the differentiation of cases on trivial grounds or to the subsumption of cases demanding different treatment under a single rubric. It is on these points that the most important criticisms have been directed against casuistical method, whether employed by Greek sophists or by students of the common law, by Jesuits or by the religious teachers of the Protestant, Jewish or Mohammedan sects.

FELIX S. COHEN

See: SCIENTIFIC METHOD; ETHICS; MORALS; CASE METHOD; JUDICIAL PROCESS.

Consult: Rashdall, Hastings, *The Theory of Good and Evil*, 2 vols. (2nd ed. Oxford 1924); Dewey, John, and Tufts, J. H., *Ethics* (New York 1908); Moore, G. E., *Principia ethica* (Cambridge, Mass. 1903); Thamin, Raymond, *Un problème moral dans l'antiquité* (Paris 1884); Slater, Thomas, *A Manual of Moral Theology for English-Speaking Countries*, 2 vols. (5th ed. Chicago 1925); Taylor, Jeremy, *Ductor Dubitantium; or, The Rule of Conscience*, 2 vols. (4th ed. London 1696); Whewell, William, *Lectures on the History of Moral Philosophy in England* (London 1852); Rodkinson, M. L., *The History of the Talmud* (New York 1903); Cardozo, B. J., *The Nature of the Judicial Process* (New Haven 1921); Costigan, G. P., *Cases and other Authorities on Legal Ethics*, American Casebook series (St. Paul 1917).

CASUS BELLI is a term used to designate any event which is alleged by one nation as a justification of war against another. The casus belli is thus the avowed occasion of war. Historians usually class it with the "immediate" causes of a war.

It would be impossible to enumerate the various acts or omissions which have been considered at different times in the history of nations as casus belli. They range from the invasion of territory to the failure to fire an appropriate salute in honor of the visit of a reigning prince. The mutilation of the ear of an English sea captain named Jenkins precipitated the war of 1739 between England and Spain. At first called Jenkins' Ear War, it later became part of the War of the Austrian Succession. A dispute over manure led to a bloody war between Peru and Chile in the nineteenth century. A quarrel over a pig is said to have at one time threatened war between the United States and Great Britain.

Since the days of Vattel international jurists who have discussed the circumstances under which wars are to be considered "just" have recognized as casus belli any acts or omissions which seriously attacked the "honor" or "vital interests" of a nation. Any fixing of justifiable casus belli has been rendered impossible, however, by the basic tenets which have prevailed in international law and relations since the Peace of Westphalia. The sovereignty, independence and equality of all members of the family of nations were then firmly established and recognized. It followed from these dogmas that each nation was the sole judge of what constituted a justifiable casus belli.

In such circumstances of international anarchy a casus belli has tended to be only a pretext for declaring war already determined upon for other reasons. Even Vattel, who was very

insistent that wars must be "just," recognized this very realistically although with considerable distaste. "The judicious Polybius," he remarks, "gives the name of *causes* to the motives on which war is undertaken,—and of *pretexts* to the justificatory reasons alleged in defence of it. Thus he informs us that the cause of the war which Greece undertook against the Persians was the experience she had had of their weakness, and that the pretext alleged by Philip, or by Alexander after him, was the desire of avenging the injuries which the Greeks had so often suffered, and of providing for their future safety." The learned author hastens to add: "Let us, however, entertain a better opinion of nations and their rulers. There are just causes of war, real justificatory reasons; and why should there not be sovereigns who sincerely consider them as their warrant, when they have besides reasonable motives for taking up arms? We shall therefore give the name of *pretexts* to those reasons alleged as justificatory, but which are so only in appearance, or which are even absolutely destitute of all foundation. The name of pretexts may likewise be applied to reasons which are, in themselves, true and well founded, but, not being of sufficient importance for undertaking a war, are made use of only to cover ambitious views, or some other vicious motive. Such was the complaint of the Czar Peter I that sufficient honours had not been paid him on his passage through Riga." But then Vattell concludes philosophically: "Pretexts are at least a homage which unjust men pay to justice" (p. 304).

To the instances of Vattel the modern reader will be able to add many others. Either the casus belli alleged is obviously pretended or has remained the subject of great dispute. There is often little connection between the "real reason" and the "pretext." The War of 1812 between Great Britain and the United States was presumably fought over the issues of free seas and impressment, but it had a great deal more to do with the land hunger of the western country. In the Mexican War the United States was able to add vast domains to its territory by considering Mexico's stand on the very debatable question of boundary lines as a casus belli. Each of the opposing views of the United States and Spain in 1898, first as to the responsibility for the blowing up of the *Maine* and then as to Spain's sincerity in promising the pacification of Cuba, has its earnest supporters, and the extent to which Serbia was responsible for the death of Archduke Ferdinand of Austria will probably always remain an unsettled question. The revelations of Fay, Barnes, Schmitt, Kautsky, Goos, Ponsonby and other post-war writers on "war guilt" cast grave doubts on the validity of more than one public declaration of casus belli in connection with the World War.

Yet the public declaration of a casus belli may be said to have been particularly important in launching the wars of modern times. In the days of dynastic rivalries wars could be carried on for any whimsical reasons at all. Since the people could not protest there was no compelling necessity of convincing them of the "justice" of a war. Moreover, since war was confined to mercenary or professional armies it could be waged without popular participation. But modern war, involving whole peoples, cannot be fought without the general acceptance of a suitable casus belli. Thus casus belli becomes of the utmost importance in the realm of modern political psychology. But the very fact that a country's objective now tends to be the assimilation to national policy of the ambitions of a very few industrial and political leaders, who desire the control of oil, coal, iron, markets, concessions or spheres of influence, makes it impossible to acknowledge actual motives. The more definitely these are on the economic plane, the more imperative it is that the casus belli be upon a high moral plane. "National honor" is more quick to stir loyalty and gain adherence than "national interest"; and since the real causes of modern war are also bound up with cultural, moral and political passions it becomes necessary only to remain silent about those elements in the international complex which are not disinterested.

The belligerent ultimatum of the aggrieved nation states the casus belli best calculated to elicit support; the demand of satisfaction or war puts the leaders of the challenged nation in the position of refusing when there is no guilt or not daring to admit guilt when it exists, since the prospect is condemnation at home and loss of prestige abroad. The result is a reply of righteous indignation and a parading of offended national dignity. The successive steps in the process thus set in motion have by this time carried the respective nations so far that they must now make good their war stand before a watching world. Propaganda secures the popular acceptance of the enunciated casus belli; to doubt is treason, to fail to respond is disloyalty, and either means social disgrace. The stimuli fall safely within the area of the set mental pattern

of national consciousness and the result is enthusiastic support for war on both sides and the release of tremendous energy for the fray. The casus belli has served its purpose.

The idea inherent in the phrase casus belli has thus proved a great hindrance to the maintenance of international peace. International jurists, powerless to pass effectively upon the disputes of nations, have tended to abandon as futile all discussions as to when wars are "just." The disappearance of the habit of finding casus belli must wait upon the development of machinery for the rendering of international justice. All casus belli alleged will have to be real reasons and not pretexts when even questions of national honor are included as proper subjects for the arbitration of international tribunals. The League of Nations and the whole movement for the outlawry of war indicate the new trend. In time the very phrase casus belli may become obsolete with *casus battel* and *casus duel* and others which have marked the futility of attempting to settle human controversies by force.

H. MILTON COLVIN

See: WAR; WARFARE; AGGRESSION, INTERNATIONAL; BELLIGERENCY; IMPERIALISM; ARBITRATION, INTERNATIONAL; OUTLAWRY OF WAR.

Consult: Grotius, Hugo, *De jure belli et pacis* . . . with an abridged translation by William Whewell, 4 vols. (Cambridge, Eng. 1853) vol. ii, bk. ii, ch. xxii, English citation vol. iv, bk. ii, ch. xxii; Vattel, E. de, *Le droit des gens*, 2 vols. (new ed. Paris 1830), English translation edited by Joseph Chitty with E. D. Ingraham (Philadelphia 1854) bk. iii, ch. iii; Stratton, G. M., *Social Psychology of International Conduct* (New York 1929); Trotter, William, *Instincts of the Herd in Peace and War* (2nd ed. London 1919); Pillsbury, W. B., *The Psychology of Nationality and Internationalism* (New York 1919); Fay, S. B., *The Origins of the World War*, 2 vols. (New York 1928) vol. i, ch. i; Ponsonby, Arthur, *Falsehood in War-Time* (London 1928); Ferrara, Orestes, *La guerra europea, causas y pretextos* (3rd ed. Madrid 1916), tr. by Mildred Stapley (New York 1918).

CATHERINE II (1729–96), Russian empress. She was the daughter of Prince Anhalt-Zerbst of Stettin, a general in the Prussian service, and in 1745 married Peter, a nephew of the Russian empress, Elizabeth. Left to her own devices by her weak and incompetent husband, Catherine devoted herself to serious reading. From Voltaire and Tacitus she learned to "see things in dark color" and to understand human nature, particularly its frailties; and she mastered the art of cajolery. Her strength and resources gradually unfolded as she systematically plotted to make herself ruler of Russia. This she accomplished in 1762 when shortly after her husband's accession as Peter III she issued a pronunciamento deposing him; from then until her death she occupied the throne.

A genuine enlightened despot, Catherine sincerely believed, until experience altered her views, that mankind could be regenerated through philosophical legislation. For inspiration she looked to her advanced contemporaries; she corresponded with Voltaire, sought advice of Diderot, who came to St. Petersburg in 1773, and of d'Alembert, who refused to come, found her *souffre-douleur* in Grimm and appointed Laharpe tutor of her grandson Alexander. In 1765 she inaugurated an experiment in education with a plan adapted from Locke through which she hoped to produce "a new human race." The next great task which she set herself was the construction of a code of laws, the ancient code having been abolished in 1649. To carry out this work she summoned representatives from all classes except the clergy and serfs and presented them with an "Instruction" compiled from the writings of Montesquieu and Beccaria and concluding with the daring deprecation, "God forbid that after the completion of this legislation any other people should be more flourishing." Catherine was astonished to discover that Russia was totally unprepared for this reformation. She was both astonished and disgusted to meet with opposition from the nobility and gentry who, far from acquiescing in the limitation of their rights over the peasants, were intent on confirming and increasing them. This first period of Catherine's activity, the idealistic phase, ended in 1768 when she abruptly adjourned the commission and turned her attention to war with Turkey, in which she was to find easier success. When, after the conclusion of this war and the suppression of the revolt of Pugachov in 1774, Catherine returned to the task of providing a code, she was in a more realistic frame of mind. Relying on facts and the precedents of Blackstone's *Commentaries* rather than on the abstractions of the *encyclopédistes*, she herself prepared materials for important statutes. By the statute of 1775 she introduced a new administrative and judicial order. By the charter of the nobility, which appeared ten years later, she confirmed the privileges of this class and allowed it to participate in local self-government; the charter of burgesses was less effective, while the charter of peasants never arrived at publication. The rise of a new generation, dissatisfied with

Catherine's moderate reforms and making demands which aroused her increasing antagonism, ushered her into the third and final stage of her career. Her efforts to influence the radicals by publishing a magazine and by writing comedies in which she derided new ideas were without the slightest effect. The events of the French Revolution and particularly the execution of Louis XVI heightened her reactionary spirit, and she resorted to violent measures against the representatives of new opinions. The influential publisher Novikov, a freemason and satirist, was imprisoned in Schlüsselburg; Alexander Radishchev was exiled to Siberia for daring to remind Catherine of her youthful dreams and for suggesting that a Jacquerie or even the fate of the English king Charles I might be the end of her present indifference to the demands of reformers.

Whatever Catherine's offenses against liberalism, it was in her reign that self-government and an independent judiciary had their modest beginnings and that the notion of individual dignity began to replace the old Muscovite idea of universal subjection to the person of the monarch. If it was the nobility who reaped most of the immediate advantages of her innovations, at least they extolled the period as their golden age. Catherine's foreign policy, aimed at the expansion of Russia, was eminently successful and had momentous consequences. Through the three partitions of Poland, the first two restoring to Russia the Russian provinces of Poland and the third cutting into the Lithuanian population, she greatly augmented her territory; and her two Turkish wars (1768–74; 1787–92), by which Russia obtained free issue to the Black Sea, inaugurated the Slav policy of her successors.

PAUL MILIUKOV

Consult: Bilbassov, V. A., *Istoriya Ekaterini II*, vols. i–ii and xii (St. Petersburg 1889, reprinted Berlin 1900), German translation of vols. i–ii as *Geschichte Katharina II*, 3 vols. (Berlin 1891–93), and of vol. xii as *Katharina II . . . im Urtheile der Weltliteratur* (Berlin 1897), with complete bibliography; Brückner, Alexander, *Katharina die Zweite* (Berlin 1883); Larivière, Charles de, *Catherine la grande d'après sa correspondance* (Paris 1895).

CATHOLIC EMANCIPATION describes generally the disruption of the penal legislation against Roman Catholics in Great Britain and Ireland. This legislation, which was begun under Queen Elizabeth, was perfected in the reigns of King William III and Queen Anne. Inspired as much by political fears as by religious hatred, the code left scarcely any loophole through which Catholics could regain their civic rights. Large confiscations of Catholic property were followed by laws designed to break up the estates of Catholics by dividing them among all the children. A Catholic's eldest child could, however, by embracing Protestantism immediately obtain the fee to the entire property subject only to his father's life estate. Catholics were prohibited from acquiring new lands and even from holding mortgages. Practise of their religion was a legal offense. They could have neither chapels nor Catholic schools, and in Ireland it was made criminal even to send children to be educated abroad.

In England Catholicism was already almost extinct when the penal code was systematically organized. Scarcely 70,000 Catholics remained in a population of nearly eight millions, in the mid-eighteenth century. They survived almost exclusively in and around the mansions of a considerable number of landed families, who kept their private chapels and employed priests as tutors for their sons. Their number diminished steadily through individual secessions; whereas in Ireland, which remained overwhelmingly Catholic, the dispossessed and poverty ridden peasantry increased.

The effort to achieve Catholic emancipation consequently took very different forms. In England the Catholics, many of whom held high social rank, were too few to be formidable. The injustice of their persecution was widely recognized and by the middle of the eighteenth century many of the penal laws had become obsolete. These Catholics lived entirely in their own secluded world, but the new generation was anxious to prove its loyalty to the house of Hanover. Yet not until 1778 did they even dare to present an address of loyalty to George III. This was followed at once by the first English Catholic Relief Act, which enabled Catholics to inherit or acquire land and abolished the penalties against "bishops, priests and Jesuits" and against Catholic schoolmasters. But even these concessions aroused the latent Protestant opposition, and in 1780 Lord George Gordon led a mob to London which gained control of the city for a week, wrecking many Catholic houses and chapels and attacking public men reputed to have Catholic sympathies.

These disgraceful riots produced a reaction. The English Catholic gentry, with Charles

Butler as their secretary, gained courage and organized support among politicians. In order to allay distrust in England the English Catholics suggested various compromises in their papal allegiance, which their bishops opposed. In 1791 William Pitt carried the second English Catholic Relief Act, which permitted church building and Catholic schools and permitted Catholics to teach and to engage in the professions. This act required an oath of allegiance, which was not, however, enforced. No further relief was granted in England until 1829.

In Ireland scarcely any important Catholic landowners had survived the rigorous enforcement of the penal code. Informers constantly obtained rewards for denouncing religious worship or other infringements of the elaborate penal laws. Catholics were even officially described as "bondsmen," and as late as 1759 the lord chancellor explained that "the Law does not suppose any such person to exist as an Irish Roman Catholic except for repression and punishment." Only in trade could they find any independent employment. Many famous families had emigrated to Catholic countries, and with their help a direct trade developed which produced a new Catholic merchant class. The landowners of the Protestant Ascendancy frequently needed their financial support and attempted repeatedly but unsuccessfully to enact legislation enabling Catholics to lend money on mortgages. But the British policy in Ireland was to keep the Catholics in a servile state.

Even to receive from George III an acknowledgment of their loyal address in 1760 was more than the Irish Catholics expected, and they shrewdly concentrated upon winning recognition of their legal existence. In 1771 a minor concession was granted to them. In 1774 they gained the right to profess loyalty before a magistrate, and four years later the Irish parliament passed its first Catholic Relief Bill, which still forbade Catholics to own land but granted them long leases. In 1782, after Grattan won legislative independence for the Irish parliament, another act repealed the most extreme decrees of the penal code but still left mixed marriages with Catholics illegal. Until 1782 concessions had been made more or less concurrently in both countries; but after legislative independence Catholic emancipation became the chief issue in Ireland; while in England the penal laws, affecting only a small and influential minority, were already obsolete.

In Ireland the Catholic merchants had assumed the leadership, while the Catholic landowners, dreading reprisals, discouraged all agitation. But the American war and the French Revolution brought new hopes to the Catholics and resulted in a more conciliatory attitude on the part of the government. John Keogh, a Dublin merchant, urged a more courageous policy. When he carried the Irish Catholic Committee, the conservative element, headed by Lord Kenmare, seceded. Keogh then summoned a national assembly of Catholic delegates ostensibly to present an address to the king. The Irish parliament grew alarmed and by the Relief Act of 1792 made important concessions, though still excluding Catholics from the franchise. Keogh then boldly headed a deputation to the king in London, and the Irish parliament was compelled to admit Catholics to the franchise and to abolish almost the entire penal code.

The need for troops and his new alliances with Catholic states in Europe had convinced Pitt that Ireland should be conciliated. Edmund Burke, whose campaign against revolutionary France had given him immense influence, feared revolution if emancipation were withheld. The English radicals were denouncing all forms of oppression, and the Prince of Wales by his secret marriage to Mrs. Fitzherbert had made many Catholic friends. Nevertheless, the concession policy in Ireland was reversed, and a regime of drastic coercion provoked the rebellion of 1798. Pitt then persuaded the Irish Catholics to support him in abolishing the Irish parliament, promising emancipation after the Union. But when Pitt attempted to fulfil his bargain George III interposed and he resigned.

In England the small Catholic remnant was still denied the franchise. The Napoleonic wars prevented further progress, but by 1813 opinion had grown so much in their favor that Grattan almost carried his Emancipation Bill at Westminster. The Irish Catholics had been powerless since the Act of Union, and the influential English Catholic Committee agreed to various concessions which Grattan insisted were indispensable to the acceptance of any Catholic bill in a Protestant country. Their attitude deeply estranged the Irish Catholics, who opposed all compromise.

A new generation of Irish Catholics had found a leader in Daniel O'Connell. He had revived the agitation with great force but preferred to see it collapse rather than compromise. In 1823 O'Connell began again by founding the Catholic

Association, which was financed by penny a month collections and which won the support of the Catholic peasantry. In 1825 an Emancipation Bill passed the House of Commons but was rejected by the Lords. The Catholic Association was suppressed, but O'Connell with unfailing resourcefulness and extraordinary gifts of popular leadership reorganized it at once.

The Catholic Association soon enrolled the entire Catholic population. A rapid succession of prime ministers—Liverpool, Canning, Goderich and the Duke of Wellington—tried vainly to resist the agitation, which assumed a somewhat nationalistic and social character. It was fast growing uncontrollable. In 1828 O'Connell, standing as Catholic candidate in a by-election in Clare, pledged to refuse to take the anti-Catholic oath. His overwhelming victory compelled Wellington and Peel, who had fought him relentlessly, to surrender; they obliged George IV to carry the Emancipation Act of 1829, which abolished the oath and threw open most positions of privilege to Catholics. But the accompanying rise in the property qualification for voting deprived most of the Irish Catholic peasantry of their franchise.

The sequel was politically a bitter disappointment. Catholic landlords entered Parliament from both countries but were still without power to change the administration. Scarcely any important positions were granted to Catholics until after O'Connell's death in 1847. His strongly democratic politics had estranged most English Catholics, and the mutual distrust is only now disappearing. But political emancipation gave more freedom for the subsequent revival of the Catholic church, and the old prejudice has largely died out. It is less strong in England now than in the United States, and there would be no such opposition to a Catholic becoming prime minister of England as Smith's candidacy for the American presidency aroused. A somewhat different prejudice is arising, however, against the Catholic church as the chief body which opposes such tendencies of the age as divorce, birth control and undenominational education.

The Catholic question in America never assumed the proportions that it did in England and Ireland. Nevertheless, in almost all of the colonies Catholics were subjected to discrimination and penal legislation. The notable exceptions were Rhode Island and Pennsylvania, which maintained a consistently tolerant attitude, and Maryland, which was from its inception and until its conversion into a royal province in 1691 a refuge for colonial and English Catholics. But even in Maryland whenever the Protestants gained control, as they did for a brief period during the Commonwealth, the Catholics were outlawed. Most of the Catholics in the New World naturally settled in Pennsylvania and Maryland.

After the accession of William III severe penal laws similar to those in force in England and Ireland were enacted in the colonies. In Maryland the laws were unusually severe but were not generally enforced. In New York priests were banished and Catholics deprived of the franchise and right to hold office. In Virginia they were not permitted to testify in the law courts. Similar penal codes were enforced in Massachusetts and the other New England colonies.

In the latter half of the eighteenth century public attention centered on political rather than religious questions. A more tolerant spirit prevailed and the position of the Catholics improved. The first Continental Congress made a plea for religious tolerance, and Pennsylvania, Delaware, Maryland, Virginia and Connecticut responded by abolishing the restrictions on Catholics. In many states, however, their rights were limited by constitutional provision or legislation. Rhode Island removed all limitations in 1783. New York followed in 1806, Massachusetts in 1821, New Jersey in 1844 and New Hampshire in 1877.

DENIS GWYNN

See: INTOLERANCE; CIVIL LIBERTIES; SUFFRAGE; EDUCATION, SECTARIAN; RELIGIOUS FREEDOM; CATHOLIC PARTIES; RELIGIOUS INSTITUTIONS; IRISH QUESTION.

Consult: Meyer, A. O., *England und die katholische Kirche unter Elisabeth und den Stuarts* (Rome 1911), tr. by J. R. McKee (London 1916); Hughes, P., *The Catholic Question, 1888–1929* (London 1929); Gwynn, D. R., *The Struggle for Catholic Emancipation, 1750–1829* (London 1928), and *A Hundred Years of Catholic Emancipation, 1829–1929* (London 1929); Ward, B. N., *Dawn of the Catholic Revival in England*, 2 vols. (London 1909), *The Eve of Catholic Emancipation*, 3 vols. (London 1911–12), and *The Sequel to Catholic Emancipation*, 2 vols. (London 1915); Thureau-Dangin, P. M., *La renaissance catholique en Angleterre au XIX^e siècle*, 3 vols. (Paris 1899–1906), tr. by W. Wilberforce, 2 vols. (rev. ed. London 1914); Shea, J. D. G., *History of the Catholic Church in the United States*, 4 vols. (Akron 1886–92); O'Gorman, T., *A History of the Roman Catholic Church in the United States* (New York 1895) chs. xv–xviii.

CATHOLIC PARTIES. According to the teachings of the Catholic church the earthly life is but a preparation for the eternal life hereafter.

It is man's duty to prepare himself to become one with God. The state, the most comprehensive and consequently most effective human institution, must be made to further this end; it must be put in the service of the moral order based on divine laws.

According to the Catholic theory of the state (the Christian natural law, as created by Thomas Aquinas under Aristotelian influence) God is the source of all the state's authority. How and by whom this authority should be exercised is the subject of human law to be determined by the people or their representatives. In this the people are indirectly guided by divine will. A government, once it is created, exists by virtue of God's will and consequently the faithful Catholic should not resist it. A change in government, perchance as a result of revolution, is also a manifestation of divine will, and the Catholic is in duty bound to be faithful to the new regime.

The state, furthermore, has for its purpose the encouragement of the individual in the development of his physical and spiritual powers for the common good. In the narrower sense its main purpose is the realization of natural morality. Since man is born into the world a free and independent being, the state must respect the rights of human personality. It must respect also the rights of private property and above all the rights of the family, the most important of which is the educational guidance of children. The church is independent of state authority. It is the state's task to support the church in the exercise of its duties. It should be emphasized that these principles do not deal with the form of the state. The church allows wide freedom in the details of politics, provided they are subordinated to the ultimate moral purpose.

The French Revolution, having attacked the privileges of the clergy, proceeded, under the influence of the Enlightenment, to attack the existing organization of the Catholic church. The Civil Constitution of the Clergy of 1792 was an attempt to separate the church from papal authority and by making the clergy elective to give the church a democratic basis. The pope and the priests resisted successfully and out of their spiritual conflict and political struggle emerged the conservative traditional conception of the state. The theory was first clearly formulated by Bonald in his *Théorie du pouvoir politique et religieux dans la société civile* (1797), recast in brilliant language by de Maistre in his *Du pape* (1819) and later developed and refined to fit political reality. According to this concept Catholicism, deprived of state support, seeks closer union with the papacy. From this the epithet ultramontanist was correctly applied to the Catholic political movement, which is decidedly hostile to the Enlightenment and all its principles. Politically its chief tenet was opposition to the new developments in France. After the revolution of 1830 many alert Catholics realized the limitation of such a program, and adherents were found for a new group led by Lamennais, Lacordaire and Montalembert which stood for close union with the pope and urged upon the French state the view that France seek its salvation in the church. At the same time it was ready to compromise with democratic developments, and it repudiated the monarchy and the émigrés on the condition that the church be granted freedom from and in the state, especially freedom of teaching. This position was condemned by the pope in 1832. After 1848 the party, encouraged by bourgeois elements as a makeweight against the feared socialism, gained new strength.

Under Napoleon III the Catholic group supported the empire, encouraging imperial aggression wherever it might be made to serve the propagation of the faith. Montalembert was instrumental in winning the concession that education be left almost wholly to the church and the religious orders. The close alliance of the church with political reaction led ultimately, under the Third Republic, to the elimination of the church as a political factor. In 1892 Pope Leo XIII's encyclical *Inter innumeras sollicitudines* made a distinction between the government, which it stamped as irreligious, and the republic, which it ordered Catholics to accept. This policy brought to the front Conservateurs, Ralliés, Catholic republicans. A small group, the Sillon, founded in 1899 by Marc Sangnier, which attempted to effect a rapprochement with the state on a democratic basis, was condemned by the pope, but the Sangnier group received some impetus on a new basis in 1926 after the pope had condemned the nationalistic attitude of the Action Française, a Catholic-royalist party under the leadership of Léon Daudet and Charles Maurras.

In Germany the Catholic political movement began with secularization as a struggle for the freedom of the church from enlightened absolutism, irrespective of whether the government was Catholic or Protestant. Between 1820 and 1848

there were in all the South German diets deputies who in close alliance with the curial movement within Catholicism worked for the free functioning of the church in the state and fostered church influence in public schools. The political ideology is traditionalistic throughout. This is also fundamentally true of Goerres, who was originally a follower of the French Revolution but who later drifted into romanticism which, as a literary movement, showed considerable Catholic leanings. In reality only the Catholics west of the Rhine, such as the Reichensperger brothers, were liberals. In Prussia the fight between the Catholic church and the state was linked up with the demand of the state that the church accept mixed marriage. In 1848 the Catholic protagonists made use of the revolutionary movement to secure complete liberation of the church from the state. For this purpose a Catholic group was formed temporarily in the parliament of Frankfort. In Prussia a Catholic group was formed in 1852, assuming the name Zentrum in 1859 from the location of its seats in the center of the chamber. The representatives of political Catholicism before 1871 stood for the unification of the German speaking peoples, including those of Catholic Austria, into one state.

After the formation of the German Empire a Center party was organized which immediately gained a considerable number of seats in the Reichstag. Its demand for special constitutional provisions for the protection of the liberties of the church and for German intervention on behalf of the papal state in its struggle against the forces of Italian unification aroused Bismarck's hostility. By cleverly utilizing anti-Catholic liberal sentiment he led a systematic fight against the party and the church—a fight which Deputy Virchow christened *Kulturkampf*. Bismarck hoped to crush the church through the authority of the state; but outraged by his acts of violence the faithful turned more and more to the Center party as its only defense. Although government measures forced the latter into unconditional opposition, its leaders remained conscious of the fact that an improvement in the political position of the church could be effected only by cooperation with the government. This was the goal of Windthorst and was attained by him when Bismarck withdrew from the National-Liberal party in 1879, effecting financial reforms through the votes of the Center, which now put forward its constitutional demands. These were opposed to the extension of federal authority in the separate German states and were particularly concerned with safeguarding popular representation, the only means of pressure on the government. With this turn Bismarck began the liquidation of the *Kulturkampf*. On the whole, the Center cooperated, but it often joined the Left opposition and only after Bismarck's dismissal did it become really friendly to the government. It did not, however, surrender the possibilities of opposition, as in this way it could attain more of its special aims. The party held the balance of power between Right and Left, justifying its shifts to the voters by referring to the interests of the Catholic church.

The support of the party does not come from a socially homogeneous group but from agricultural as well as industrial workers, employers and, since the introduction of woman's suffrage, about 75 percent of the women of the country. To hold together these divergent economic and social interests the party has always followed a middle course, with a growing democratic trend. During and since the war the party has opposed annexation and favored immediate peace and internal political reforms. The peace resolution of 1917 was chiefly the work of Erzberger, the leader of the party's Left wing. Following the revolution the party declared itself immediately for the republican form of government. It assumed temporarily the name Christliche Volkspartei, but soon returned to its old name. In the National Assembly it formed the so-called Weimar coalition with the Social Democrats and the Democrats and thus succeeded in securing constitutional safeguards for the rights of religious institutions, although it has not as yet succeeded in doing away with the federal school act. Owing to a similar coalition the party enjoys a strong position in Prussia, where it effected the conclusion of a papal concordat. Wirth, the leader of the party, inaugurated the policy which led to the arrangement with war enemies and to the reparations settlement. This policy was consistently upheld by the party. After the war the Bavarian deputies seceded to form the Bayerische Volkspartei, which leans slightly more to the Right than does the parent group and derives support exclusively from the peasant class. Under the influence of the higher clergy the Center party itself has recently leaned more to the Right, although it has clung to its old strategy of working alliances with either side. In the general elections of recent years the party lost somewhat in parliamentary representation, but it regained a number of seats in 1930.

The Austrian Christian (Catholic) Socialist party was formed under Karl Lueger's leadership in the eighties in opposition to the predominant liberalism. This party, of middle class character, reflected the current bourgeois anti-semitism. By the end of the century it had absorbed the older loosely organized Catholic conservative group, which brought with it large masses of agrarian voters (especially the more prosperous peasants) and small traders. Strongly anti-Social Democratic, it set up its own agricultural cooperatives and opposition labor organizations. In domestic policy the party stood for the organization of a southern Slav state within the Austrian Empire to offset the influence of Hungary and to secure German supremacy. Though in reality highly conservative, the Christian Socialist party formed a coalition with the Social Democrats after the war and voted for the radical democratic constitution. In 1923 it became the strongest single party and combined with the Greater Germany party against the Social Democrats. In recent years the Christian Socialist party, led by the priest Ignaz Seipel, has tended to join with the Heimwehr Fascisti, largely as a step toward restoring the Hapsburg empire. The Labor wing, led by Kunchak and never more than a minor element in the party, has been reluctant to follow this move.

Although the elements for the creation of a Catholic party were present in Italy, the struggle of the Risorgimento against the pope which tended to create a separate Catholic political group was itself the circumstance which prevented the formation of a Catholic political party. Since the popes did not recognize the Italian monarchy, whose unification campaign had caused the abolition of their temporal power, Catholics were prohibited by the papal bull *Non expedit* from participating in national elections. They were, however, allowed to vote in local governing bodies, which they did with increasing success. In 1900 a large number of municipalities came under Catholic influence. In the parliamentary elections of 1904 Catholics as such participated for the first time with papal acquiescence, and in 1905 Pope Pius X repealed the bull which forbade political activity. In 1909 the Catholics, as the People's party, adopted an attitude friendly to the national constitution and above all opposed to radicalism. The priest Romolo Murri, who led the radical democratic Catholics, did not join the party and took his seat on the Left, as a consequence of which he was excommunicated. Thereafter, the Unione Cattolica Popolare Italiana, enjoying papal support, was the only Catholic party. During the war its policies were very moderate and it favored Italian neutrality.

After the war the group gained additional strength because of the conciliatory attitude of Pope Benedict XV toward the Italian state as well as because of the introduction of woman's suffrage. Under the energetic leadership of the priest Luigi Sturzo the party, since 1919 called the Partito Popolare Italiano in an effort to disguise the religious basis of its motivation, took a democratic trend, favoring conciliation in international relations, social reform, agricultural reform, administrative decentralization and especially freedom of ecclesiastical education. The Popular party and the Christian (Catholic) trade unions helped to suppress the public service strikes of January, 1920. During the syndicalist uprisings the party took its lead from its middle class elements, and its small farmer supporters cooperated with the Fascisti. One member of the party sat in Mussolini's first cabinet. From 1919 until 1921 it was the third strongest party in Italy, but like all other parties in that country it finally succumbed to the Fascist dictatorship. Its more conservative elements joined the Fascisti and Sturzo went into exile under orders from the Vatican.

LUDWIG BERGSTRÄSSER

See: RELIGIOUS INSTITUTIONS; RELIGIOUS FREEDOM; CATHOLIC EMANCIPATION; STATE; PAPACY; EDUCATION, SECTARIAN; PARTIES, POLITICAL; ANTICLERICALISM; SOCIAL CHRISTIANITY; CHRISTIAN SOCIALISM; SOCIALIST PARTIES; FASCISM.

Consult: FOR CATHOLIC POLITICAL THEORY: Cathrein, Victor, *Moralphilosophie*, 2 vols. (5th ed. Freiburg 1911); Leo XIII, Pope, *Diuturnum illud* (Rome 1881), *Immortale Dei* (Rome 1885), and *Rerum novarum* (Rome 1891), English translation of the latter two contained in *The Great Encyclical Letters of Pope Leo XIII*, ed. by J. J. Wynne (3rd ed. New York 1903) p. 107–34 and 208–48; Schrörs, Heinrich, *Katholische Staats-auffassung* (Freiburg 1919).

FOR THE HISTORY OF CATHOLIC PARTIES IN PARTICULAR COUNTRIES: FRANCE: Bourgeois, Émile, *History of Modern France 1815–1913*, 2 vols. (Cambridge, Eng. 1919); Buell, R. L., *Contemporary French Politics* (New York 1920); Collins, R. W., *Catholicism and the Second French Republic*, Columbia University, Studies in History, Economics and Public Law, vol. cxii, no. 1 (New York 1923); Jacques, L., *Les partis politiques sous la troisième république* (Paris 1913); Moon, P. T., *The Labor Problem and Social Catholic Movement in France* (New York 1921); Platz, Hermann, *Geistige Kämpfe im modernen Frankreich* (Munich 1922); *La jeune-république*, published weekly in Paris since 1926. GERMANY: Ba-

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CATO, MARCUS PORCIUS (234–149 B.C.), called "the Elder" or "the Censor," one of the great figures of the early stage of Roman imperialism. To the later Romans, especially to Livy, he was the model citizen, the exemplar of the older Roman virtues of severity, simplicity and patriotism. A brilliant and successful soldier, a good lawyer, Cato confined his political activities to bitter opposition to the popular and dominant family of Scipios, all of whom he pursued with a personal and relentless animosity. His famous purge of the senate in 184 B.C. from which he derived his by-name was, it may be, motivated at least as much by political considerations as by a horror of vices to which he was not as much averse as later legends indicated. That such a man would set his face against Greek fashions in thought or conduct or Greek practises in religion was almost inevitable. He would probably have done so even had the Scipionic circle, which he hated, been less markedly philhellenic. But he was honestly shocked when the Greek Carneades offered to defend both sides of a question on successive days and he was filled with a real horror at the Bacchanalian rites with their mingling of sexes and intrusion of new divinities. Yet his fear of foreigners, his ruthlessness to possible enemies of Rome, even his contempt of women, were not wholly derived from the stark conservatism of the Sabine ploughboy. He shared without knowing it the state ideal of Plato and Aristotle, a small community of equals dominating a large but still limited area in which groups and subgroups were maintained in due subordination. His permanent importance lies in the attraction which this ideal, despite its obvious futility, still exercises over many minds.

Of his works his book on farming, *De agri cultura* (ed. by H. Keil, Leipsic 1895; tr. and ed. by F. Harrison in *Roman Farm Management*, New York 1913, p. 19–50), has survived in a revised form. It is an excellent manual written by a real farmer and is invaluable for the economic history of the ancient world. His other works, *Origines*, the first prose history in Latin, and his orations, survive only in quotations.

MAX RADIN

Consult: Heitland, W. E., *Agricola* (Cambridge, Eng. 1921) p. 164–73; Grenier, A., *La génie romain dans la religion, la pensée et l'art* (Paris 1925), tr. by M. R. Dobie, History of Civilization series (London 1926) p. 144–53.

CATTANEO, CARLO (1801–69), Italian patriot and social philosopher. Cattaneo was a favorite student of G. D. Romagnosi and he early attained a position of importance in Italian intellectual life. When the Revolution of 1848 broke out in Italy he became the leading spirit of the Milanese insurrection against Austria, the events of which he later vividly recorded in his *Insurrection de Milan en 1848* (Paris 1848). After the recapture of Milan by the Austrians Cattaneo emigrated to Lugano, in Switzerland, where he taught philosophy from 1852 until 1865. Cattaneo never abandoned his original allegiance to the federalistic principle of unification and refused to take any active part in the Italian monarchy, although he was summoned to Naples by Garibaldi in 1860 and was later repeatedly elected to parliament. To him federalism worked out on the model furnished by the United States, and Switzerland was more than a political makeshift suitable to the Italian situation; it was an ideal solution wherever the necessity for unity coexisted with powerful centrifugal forces. As early as 1848 he predicted the United States of Europe.

A publicist of great learning, literary talent and versatility, Cattaneo occupied himself with a wide variety of subjects—agriculture, administration, finance, education, literature—and made important contributions to many branches

of social theory. Most of his writings appeared as articles in reviews, *Annali universali di statistica* and *Il Politecnico*; the latter he founded and wrote for from 1839 to 1844 and from 1860 to 1863. It was through *Il Politecnico* that he hoped to accomplish the intellectual regeneration of the Italian people, to lead them away from romanticism and to prepare their minds for the scientific treatment of social problems. Cattaneo's wide range of interests appears in full light in his historical studies, such as *Notizie naturali e civili sulla Lombardia* (Milan 1844) and *La città considerata come principio ideale delle istorie italiane*, which he approached in a truly modern spirit, taking full account of geographical, anthropological and economic factors. As economist Cattaneo followed the liberal tradition; he decried the economic nationalism of Friedrich List and made a vigorous plea on logical grounds for the abolition of the civil decrees against the Jews. As he showed in *Ricerche economiche sulle interdizioni . . . agli Israeliti* (Milan 1836), these decrees, in excluding the Jews from the ownership of landed property, had encouraged them to become capitalists and usurers. In sociology, the problems of which he was one of the first to appreciate, Cattaneo's contributions were of the first order. He anticipated positivism in criminology, demonstrating the fallacy of the abstract conception of justice which considered only the crime and not the man, and pointing out that criminologists must seek instruction from anthropology; he stressed the linguistic and historical significance of dialects; finally, he did much to advance the study of social psychology which, as he attempted to show in a series of articles on what he called the psychology of associated minds, contains the secret of all civil history.

ALESSANDRO LEVI

Works: *Opere edite ed inedite*, ed. by A. Bertani, 7 vols. (Florence 1881–92); *Scritti politici ed epistolario*, ed. by G. Rosa and J. W. Mario, 3 vols. (Florence 1892–1901); *Le più belle pagine*, ed. by Gaetano Salvemini (Milan 1922).

Consult: Mario, A., and J. W., *Carlo Cattaneo, cenni e reminiscenze* (2nd ed. Rome 1884); Saffiotti, F., *Carlo Cattaneo* (Rome 1922); Levi, A., *Il positivismo politico di Carlo Cattaneo*, Biblioteca di Cultura Moderna, no. 159 (Bari 1928), containing bibliography; Savorgnan, F., "Carlo Cattaneo e la sociologia" in *Rivista italiana di sociologia*, vol. viii (1904) 666–83; Giovannini, A., *Carlo Cattaneo economista* (Bologna 1905); Loria, A., "Carlo Cattaneo economista" in *La riforma sociale*, vol. xi (1901) 680–92; Momigliano, Felice, *Carlo Cattaneo e gli stati uniti d'Europa* (Milan 1919), and "Il classicismo letterario e il positivismo filosofico di Carlo Cattaneo" in his *Vita dello spirito ed eroi dello spirito* (Florence 1921) ch. iv; Zuccante, M. R., "Carlo Cattaneo e la nazione armata" in *Rivista d'Italia*, vol. xxiv, pt. i (1921) 262–86.

CATTLE INDUSTRY. *See* LIVESTOCK INDUSTRY.

CATTLE LOANS are of three main types, known as feeder loans, stocker loans and dairy loans. Feeder loans first attained importance when large herds were developed upon open ranges west of the Mississippi and marketed at the large meat packing centers. A profit could be made, particularly in the corn belt, by purchasing range cattle at the stockyards, putting them on good pasture or in feed lots for several months and reselling them at a premium as prime or finished cattle. Experienced lenders consider feeder loans a very desirable type of investment owing to the short maturities, the readily marketable character of the animals pledged and the rapidly increasing margin of safety provided by the gain in weight and quality.

Stocker loans, enabling cattlemen to buy more breeding stock or to defer the marketing of young stock, are needed for periods of six months to three years, but the notes are usually drawn for six to nine months and renewed. Experienced lenders view these loans when made on range cattle as less desirable than feeder loans, primarily because of the greater risk of price changes and losses from weather and disease. Stocker loans are safer when made to finance small herds in the intensive farming areas.

Dairy loans, to obtain dairy animals, are usually repaid in instalments from the sale of milk or milk products over a long period and therefore depend for liquidation largely upon the character of the borrower. This type of loan is particularly suitable to local lenders who know the capacity and integrity of the borrowers.

Local banks in, and north of, the tier of states extending from Ohio to Missouri have been able to provide funds for nearly all of their local cattle loans, but in other cattle raising states west and southwest the demand for loans greatly exceeds the supply of local funds. Legal limits on the size of loan to any one borrower restrict some banks with ample funds in making the larger loans. In consequence, there is a prevailing need for outside funds.

Local banks have sold a limited amount of cattle loans direct to their correspondent banks. Livestock commission companies, desirous of enlarging their own commission business, and cattle loan companies, designed to operate as middlemen between local banks or cattlemen and commercial banks largely to the eastward, have handled the bulk of such outside loans. Recently a number of agricultural credit corporations have been organized to obtain federal intermediate credit bank funds by rediscounting.

The Federal Reserve Banks and Federal Intermediate Credit Banks make no cattle loans directly but do provide very satisfactory rediscount facilities for such paper when properly drawn and satisfactorily secured. The Federal Reserve Banks may rediscount maturities not exceeding nine months for member banks; and the Federal Intermediate Credit Banks may rediscount maturities of not less than six months nor more than three years for banks, cattle loan companies, agricultural credit corporations and cooperative associations. The Federal Intermediate Credit Banks were designed, in part, to provide a large and dependable source of capital to finance cattle loans. Their holdings of such loans have increased steadily since their organization and at the end of 1929 exceeded $24,000,000. The cattle loans held by the Federal Intermediate Credit Banks are but a small part of the total of such loans outstanding in the United States, but these banks are of considerable assistance in the regions most urgently in need of outside funds. Of the total cattle loans made by the Federal Intermediate Credit Banks during the years 1928 and 1929, approximately 55 percent were in the states of Texas and California, and approximately 85 percent in the states of Texas, California, Arizona, Nebraska, South Dakota and New Mexico.

The interest rate paid on cattle loans has, with relatively few exceptions, ranged in recent years from 7 to 9 percent. The lower rates apply to feeder loans and large stocker loans, both of which are most often sold to outsiders. The higher rates apply to the small stocker and dairy loans, which are most often held locally. The bulk of the cattle loans are being made at the rate of 7.5 or 8 percent.

There has been a high percentage of failures in the organizations handling cattle loans in every period of rapidly declining cattle prices or credit stringency. This is due largely to competition for a large volume of loans in an antecedent period of easy money and rising cattle prices when rates of interest and margins of security asked of borrowers were reduced and when some loans were taken without any margin or inspection of security and borrowers were often urged to use more funds, especially for stocker purposes.

There has been no significant development of cooperative loans upon cattle in the United States. European cooperative credit loans such as those of the famed Raiffeisen societies are made largely to facilitate purchases of a few dairy animals, but this kind of financing is adequately provided for in the United States by the local banks. On the other hand, cooperative associations appear to be poorly adapted to financing the large and isolated herds of the American range country.

An economic program for cattle financing must include careful selection or supervision of the parties managing livestock, prudent lending in periods of rising prices, proper utilization of Federal Reserve Banks and Federal Intermediate Credit Banks and foresight as to changes in the cattle industry and the relation of such changes to changing credit conditions.

J. Franklin Ebersole

See: Livestock Industry; Dairy Industry; Meat Packing and Slaughtering; Agricultural Credit; Farm Loan System, Federal; Credit Cooperation.

Consult: Ebersole, J. F., "Cattle Loan Banks" in *Journal of Political Economy*, vol. xxii (1914) 577–80; Newman, Victor A., *An Analysis of the Business Methods of Cattle Loan Banks and Companies* (Kansas City 1922); Olsen, Nils A., and others, "Farm Credit, Farm Insurance and Farm Taxation" in United States, Department of Agriculture, *Agriculture Yearbook* 1924, p. 185–284; Larmer, F. M., *Financing the Livestock Industry* (New York 1926); Bray, C. I., "Financing the Western Cattleman" in Colorado Agricultural Experiment Station, *Bulletin*, no. 338 (1928) 1–87.

CAUCUS. This term is derived from American political jargon. Coined perhaps from an American Indian root meaning "to consult" (Algonkin *kaw-kaw-wus*) the word first appeared as the name of a cabal dominant in Boston politics during the last half century of the colonial period. While in its early usage it was widely bandied about and applied in a derogatory sense the term has come to cover various sorts of organized effort for party regularity. In the United States a caucus is a meeting by members of a party or faction for the purpose of choosing party leaders, formulating policy or naming candidates for public office. It is a meeting of a small group within a larger group: of voters in

local districts, of representatives in municipal, county and state legislatures or in Congress, or of a corresponding group in a non-political organization. "Caucus" in Great Britain refers to the standing organization of a political party. It came into general use in 1878 when misapplied by Lord Beaconsfield to the Liberal Association of Birmingham, but is now applied to controlling organizations of all parties. In Australia the term denotes especially groups of Labour members in federal and state parliaments, working in conjunction with trade councils to control the government; hence it has become an opposition name for the Labour party itself. Elsewhere, in New Zealand and France for example, it applies more generally to meetings of any legislative group.

As early as Washington's administration men of kindred spirit met to plan concerted action in Congress. In state legislatures party groups supplanted colonial *juntos* and revolutionary committees of safety. Beginning about 1790 meetings of partisans from both houses of the state legislatures nominated candidates for governor and lieutenant governor, and on some occasions proposed nominees for president of the United States. Nominations for president and vice president, however, soon came to be controlled by party groups at the seat of the federal government. Both Federalists and Republicans by secret caucus action drew up their respective tickets for the election of 1800, but with the decline in the number of Federalists in Congress thereafter, their caucus was no longer used for nominations. The so-called congressional caucus of the Republicans determined the tickets of Jefferson, Madison and Monroe.

This assumption of power was open to popular objection on several grounds. It was an extension of congressional influence to selection of the executive, while the constitution expressly debarred members of Congress from serving as presidential electors. Moreover, the caucus system was unfavorable to a candidate who, like Jackson, was weak in official support. Although in the beginning parties sprang from caucuses of the legislatures, with the extension of suffrage and democratic doctrine and with swifter communication there was a growing demand for more popular control of party organization. When the last congressional nominating caucus met in 1824 more than two thirds of the Republicans refused to attend, and its action in naming Crawford for president was without binding effect throughout the country. Thereafter the delegate convention replaced the caucus in presidential nominations. Similarly methods of nominating state executives changed from purely legislative caucuses to mixed caucuses, complemented by outside delegates, then to "mongrel caucuses" or mixed conventions, in which legislators sat only in the absence of ad hoc delegates, and finally to conventions of delegates only. The adoption of the Seventeenth Amendment, which provided for the popular election of United States senators, removed the last extraneous function from the legislative caucus.

The maintenance of party regularity in the organization and business of the legislature became increasingly important, however, with the sharpening of party cleavage. Since 1824 this party control has occasionally been accomplished in Congress through joint caucus of Senate and House members, as in the case of the Republicans in July, 1866. But in general the caucuses of the two chambers act separately. Preliminary to a new Congress each party caucus in each chamber selects its chairman and secretary, chooses the party floor leader and agrees on candidates for president *pro tem* in the Senate and for speaker in the House, as well as for the other elective officers. Support of caucus nominees is a crucial test of party regularity. Since 1848 Senate committees, and since 1911 House committees, have regularly been selected in accordance with lists prepared by committees of the majority and minority caucuses. The work of these committees is subject to caucus supervision in principle and sometimes in detail. The majority caucus alone, however, determines the ratio of the strength of majority and minority parties on committees. In advance of congressional elections campaign committees, both senatorial and congressional, are created by the caucuses.

Of late party organizations in the individualistic Senate have refrained from binding decisions on legislative policy, employing the conference rather than the caucus form of meeting. House Republicans, after more than a decade of conference, restored the caucus in 1925. Those who enter are expected to be bound by the decisions of the majority, unless they express dissent and "bolt the caucus." House Democrats are bound by a two-thirds vote of their caucus, except with regard to constitutional construction, prior pledges to constituents or contrary instructions from a nominating authority.

Caucuses are voluntary associations unrecognized by rules save for permission to use the hall of the House for caucus meetings of its members. Their influence is therefore a variable factor in legislation. In a sharp clash of party principles or under the pressure of aggressive leaders, as during the period of Civil War and reconstruction, under Speaker Reed, and in the presidencies of Jefferson and of Wilson, party forces are welded for united action. But in times of personal responsibility and free union, when there is little attempt to marshal a permanent majority behind a party program, caucus discipline is rarely invoked.

PAUL DEWITT HASBROUCK

See: POLITICS; PARTIES, POLITICAL; CONVENTIONS, POLITICAL; ELECTIONS; CAMPAIGN, POLITICAL; MACHINE, POLITICAL; CLUBS, POLITICAL; COMMITTEES, LEGISLATIVE.

Consult: Ostrogorsky, M. A., *La démocratie et l'organisation des partis politiques*, 2 vols. (new ed. Paris 1903), tr. by F. Clarke (New York 1902) vol. i, p. 161–325, 329–523, vol. ii, p. 3–34, and "Rise and Fall of Nominating Caucus, Legislative and Congressional" in *American Historical Review*, vol. v (1899–1900) 253–83; Hasbrouck, P. DeW., *Party Government in the House of Representatives* (New York 1927) especially ch. i; Luce, Robert, *Legislative Procedure* (Boston 1922) p. 506–15; Harlow, R., *The History of Legislative Methods before 1825* (New Haven 1917) chs. ii–iv; Lowell, A. L., *The Government of England*, 2 vols. (new ed. New York 1912) vol. i, chs. xxvii–xxx.

CAUER, MINNA (1841–1922), German feminist. She was at first interested in historical research, devoting particular attention to the part played by women in social development, and was drawn into the ranks of the feminist movement almost against her will. As president of the Frauenwohl, founded in 1888 to revive the then quiescent German feminist movement, she ushered in a new and vigorous epoch in its history. Minna Cauer did not confine her interests to the narrower aspects of feminism. She used her influence to draw women of independent means into all phases of social reform. While the civil code was being revised during the nineties she carried on a vigorous campaign for the civil rights of women. In 1889 she assisted in founding the first trade union of women employed in mercantile enterprises. Her firm belief in the importance of the vote led her in the beginning of the twentieth century to concentrate her energies on woman suffrage. She was important in the founding of the Weltbund für Frauenstimmrecht in 1904. As editor of *Die Frauenbewegung* from 1895 to 1919 her writings set forth in a progressive spirit not only the problems of women but questions of social and political import. She was also the author of *Die Frau im 19. Jahrhundert* (Berlin 1898).

When the revolution of 1918 realized the ideals of social democracy (including the enfranchisement of women) for which she had fought, Minna Cauer, while welcoming the new era, found it impossible to participate in it politically. Her health had been seriously impaired by the persecutions which she had suffered as a supporter of the principles of international amity during the World War. It was to this cause and to that of education in the new era (through the Bund Entschiedener Schulreformer) that she devoted her remaining years.

ELSE LÜDERS

Consult: Cauer, Minna, *Leben und Werk*, ed. by Else Lüders (Gotha 1925); Puckett, H. W., *Germany's Women Go Forward* (New York 1930).

CAUWES, PAUL LOUIS (1843–1917), French jurisconsult and economist. Associate in the law faculty of Nancy (1867–73) and paleographer for archives (1868), he was appointed in 1873 to the faculty of Paris, where he taught Roman law and the history of law. In 1895 he was appointed to the chair of political economy, which he occupied until his retirement in 1913. He became dean of the faculty in 1910. In 1900, in conjunction with Mahaim and Jay, he founded the Association International pour la Protection Légale des Travailleurs, of which he was president until 1906. He was likewise founder and president of the Société d'Économie Nationale.

As jurist, historian and economist Cauwes drew his inspiration from the German historical school and the economic nationalism of List. At a time when economic liberalism in France was unchallenged except by the socialists, he asserted for the state the role of a factor in economic and social progress. He regarded the nation as an economic entity worthy of protection and preservation, and social well-being as the goal of the art of economics, which he conceived of as a necessary complement of scientific observation and theory. Thus he represents the reaction against individualism and liberal cosmopolitanism. Like List, Cauwes regarded protection as a safeguard of industry, a stimulus to production and a means for insuring the harmonious development of the economic state. He exerted a marked influence on French university economists, of whom very

few are today pure liberals, and he contributed largely to the progress of protectionism in France.

WILLIAM OUALID

Important works: *Précis du cours d'économie politique professé à la faculté de droit de Paris*, 2 vols. (Paris 1879; 3rd ed. 4 vols., 1893); "Bauernbefreiung in Frankreich" in *Handwörterbuch der Staatswissenschaften*, 7 vols. (2nd ed. Jena 1898–1901) vol. ii, p. 380–88.

CAVEAT EMPTOR, or let the buyer be on his guard, is a word of warning, a custom of trade and a rule of law. As the words go the purchaser must take his chance upon the title, identity, quantity and quality of the ware; he accepts the chattel for better or for worse. As practise has it the seller may be held responsible for title, he must make good a warranty and he is liable for fraud.

As maxim, custom and rule caveat emptor is a product of the Middle Ages. In days when a Christian economy had no rightful place for trade the affairs of the market place were beyond the law. One who engaged in trafficking did so at his own risk. After a time the casual character of exchange made the buyer's reliance upon his own acumen a matter of common sense. The articles were familiar; they were in plain sight; there was opportunity for inspection. If the traders were neighbors the merits and defects of horses, plows and seed corn were matters of common knowledge; if they were strangers the game of chance was to be won by the smarter. In friendly higgling the buyer needed no protection; in deals with the foreigner a safeguard would have robbed exchange of its incentive. Caveat emptor developed the mercantile virtues; it made buyers and sellers sharp, cautious and resourceful; it was "a good old doctrine for the encouragement of trade." Considerably later, when the profit motive came to be used to explain business activity, a rising laissez faire gave to the ancient precept a new sanction and a renewed support.

As trade became regular and business respectable the conditions which called caveat emptor into being disappeared. Wares were produced for the market; goods were passed along established routes by authorized dealers to regular customers. Articles were ordered from afar and contracts for their delivery were made in advance of their manufacture. Commodities of bulk were disposed of by sample; goods were used to produce other goods in a succession of productive operations that could not be halted; a maze of negotiable paper marched along with the process of buying and selling. The multiplication of wares, the interlocking of industries, the impersonality of business relations and the long list of attributes which goods may possess all combined against the rule of thumb test of quality. A hurried commercial world could not wait until each individual had felt and smelled and probed; the goodness of the commodity was to be left to experts who could use scientific tests. A judgment could not wait for a meticulous determination of the exact verbal exchange between the parties in each particular sale; the trade had to have its rough measure of quality and its general understandings. A number of things had to be taken for granted or business could not have gone on.

The old custom of caveat emptor had to be bent to the newer ways of business. The bargain became the contract. The stranger with whom the buyer regularly dealt became a gentleman; his word was more and more to be trusted. It was not enough to win customers—they had to be held; it became good business for the seller to give a minimum warranty for his wares. The buyer might place future orders elsewhere; his option enabled him to demand that defects in purchases be made good. A longer period for inspection, a greater readiness to allow the return of goods and a disposition to adjust claims out of court came into vogue. The adage "the customer is always right" won a limited acceptance; a breath of life was breathed into the wall motto "satisfaction or your money back." The art of sharp dealing lost some of its repute and the cruder risks of a trade which had not yet found its channel disappeared.

In its turn the law made a belated adjustment to the necessities of a going business system. A court decides specific disputes between litigants; it is only as case follows case that it makes policies. The first change in caveat emptor was not in the principle but in its application. The buyer's right of recovery, once limited to fraud, was greatly enlarged by two devices invented by lawyers and eventually accepted by judges. One device was the rule of warranty. When the parties dealt at arm's length the seller could be held only for an express guaranty given at the time of sale; when goods were ordered in advance of manufacture an "implied warranty" was assumed as part of the bargain. The vagueness of the term made its use easy. The line between talk and promise could not be drawn with pre-

cision; as justice demanded—or judges willed—representations, labels and even advertisements came to have a standing in court. Once accepted as "evidence of warranty" it was easy to find an implied warranty within their words. The other device was negligence. The seller might be silent about obvious shortcomings; but from early times he was bound to reveal hidden defects of which he had knowledge. But the seller's mind was not always an open book; it was necessary to presume on his part a certain detailed acquaintance with his property; and so to the words "he knew" it was easy to append "or ought to have known." This catholic formula enabled the courts gradually to impose upon sellers higher standards of knowledge, care and accuracy in statement. Thus, without violence to the fundamental principle of caveat emptor, the contrivance of subordinate rules little by little enlarged the legal rights of the buyer. Yet a law differently applied is really not the same law. So courts came to "restate" the principal rule "to take account of the exceptions." Legislation was evoked to remove outworn rules of law as well as to make secure the up to date holdings of the courts. In time a uniform sales act which contained a detailed code for the protection of the buyer was drafted and has been adopted by many state legislatures.

The response of law to business necessity has been slow and irregular. In England the older rule was relaxed much earlier than in the United States, where legal usage has proved to be much less adamant to change. In the United States the common law means one thing in one jurisdiction and a different thing in another; ancient and modern notions blend variously in the statutes of the several states; and even the uniform act, where it has been adopted, has not obliterated local habits of interpretation. Moreover, the buyer's need to rely upon himself depends upon the market and the commodity. A setting of plymouth rock eggs is legally bound to bring forth plymouth rock chickens; but the dealer in works of art is obligated only to the best of his expert belief. Cotton is sold by sample; but the publisher of an encyclopaedia is not constrained to maintain the quality of the prospectus. A manufacturer may mix wrappers on two of his soaps without serious consequence; but a chemical house which allows a label of cough syrup to find its way on to a bottle of iodine may be mulcted in heavy damages. The buyer of stale bread in waxed paper may get his money back or claim a fresh loaf; the purchaser of imperfect raw materials or defective machinery is entitled to redress for injury to plant and equipment. The courts may still be plagued with the case of the farmer who sows what it says on the package and reaps something else. A simple rule of law, with its clear cut exceptions, has encountered many commodities from many markets put to many uses—and has become an elaborate, changing and none too certain code.

An ideal picture of the buyer's rights presents both a statement of tendencies and a standard by which existing practise is to be judged. The current confusion, which is passing, is at bottom a clash of ideas. An older theory makes the exact understanding between individual traders the standard of justice; a newer theory sets up as a test the minimum of goodness which a commodity must possess to be marketable. In courts of law, amid the confusion of rule and exception, procedure and precedent, the issue is uncertainly joined. But the trend is definitely away from the words which the parties said to each other and toward the understandings within the trades. The law is coming to regard warranty against obvious defects as implicit within the contract of sale, to look upon its expense as a necessary cost of production and to place liability upon that one of a succession of sellers who is financially responsible and easily reached. The law, in the holdings of the courts, is moving uncertainly toward a simple and definite code of obligations.

But his own vigilance and access to the law are not the buyer's only safeguards. Both within business and by the state defenses against his own carelessness have been contrived. The pharmacists have set up standards of identity and of purity to which medicines must conform; trade associations have their tests of quality to which their members are committed; and the use of distinctive labels by manufacturers gives some assurance about the contents of packages and cans. The local authorities test milk before its sale; the states place their ban upon pest ridden commodities; the federal government draws a line between wholesome and unwholesome foods. The Federal Trade Commission, in a drive at unfair competition, tries to suppress the grosser forms of misrepresentation. The Bureau of Standards at Washington makes rigid tests of rival wares; their records might some day be opened to a public of purchasers. A rule of caveat emptor is made merciful, a right of resort to law is enlarged, an admission to the public market is denied inferior and injurious goods—

and a scheme of institutions for the buyer's protection begins to reveal its irregular outline.

In the flux of industrial change caveat emptor has not been lost. The ancient precept is still to be discovered behind the broadened rules of fraud, warranty and negligence, behind standards, inspection and trade practise. The protection accorded the buyer is still a narrow one. At best only a minimum of quality is assured, and that in matters that do not invite difference of opinion. Business is business and law is law, but neither insures quality to the book, long life to the garment, style to the furniture or durability to the automobile. In many industries improvement is directed rather to points of the product that can be talked up than to features in need of mending. At best the seller's words have a limited currency in court; salesmen are not limited to a simple recital of bare fact and salesmanship has not ceased to be a creative art. As yet the ordinary man cannot be certain that the article he was induced to purchase satisfies a need he really feels. The best warranty has a time limit; the reasonable man has the habit of allowing a valid claim to lapse through carelessness. The chicanery of petty trade is gone; the buyer may accept standard wares in the belief that he is getting his money's worth. But in plain speech and at law a refined caveat emptor still means that purchase is a game of chance.

WALTON H. HAMILTON

See: BUSINESS; LAISSEZ FAIRE; SALES; FRAUD; NEGLIGENCE; FOOD AND DRUG REGULATION; ADULTERATION; STANDARDIZATION; CONSUMER PROTECTION; TRADE ASSOCIATIONS; SALESMANSHIP; ADVERTISING; TRADEMARK.

Consult: Mill, John Stuart, *Principles of Political Economy*, 2 vols. (7th ed. London 1871) bk. v, ch. xi, sect. viii; Chase, Stuart, and Schlink, F. J., *Your Money's Worth* (New York 1927); Llewellyn, Karl N., *Cases and Materials on the Law of Sales* (Chicago 1930) ch. iii.

CAVOUR, CAMILLO BENSO DI, CONTE (1810–61), Italian statesman. The younger son of a Piedmontese noble family, he became by study, travel and achievement a leading exponent of liberal nationalism. From Rousseau, Adam Smith, Bentham, Alfieri and other eighteenth century writers he acquired a dislike for absolutism and clericalism and an enthusiasm for personal and national freedom. From the example of the 1830 revolution in France he derived the conviction that constitutional monarchy is compatible with liberty. From sympathetic travel in England and association with industrial capitalists and the classical economists he developed a fondness for English political institutions and economic policies. All these elements he fused in an ardent Italian patriotism.

As a wealthy private citizen Cavour did much between 1835 and 1848 to further scientific farming in Piedmont and to introduce the industrial revolution into northern Italy. In addition to managing large agricultural estates he became a captain of the new industry; he engaged in banking at Geneva and Turin, operated chemical factories, organized the Lago Maggiore steamboat company and built the first Italian railway. In 1847 he founded at Turin the famous newspaper *Il risorgimento*, which preached the national rehabilitation and unification of Italy. In 1848 he was largely instrumental in inducing King Charles Albert to establish middle class constitutional government in Piedmont.

As minister of agriculture, industry and commerce in the cabinet of King Victor Emmanuel of Piedmont after 1850, and as minister of finance and prime minister after 1851, Cavour labored to develop the economic resources of his country after English models. Classical political economy he held to be "the science of love of country." A convinced free trader, he secured the repeal of navigation acts and high tariffs and instituted a reformed system of direct taxes on incomes and inheritances.

As foreign minister after 1855 he showed consummate diplomatic skill not only in obtaining foreign aid for his program of Italian unification under Piedmontese leadership but also in overcoming domestic opposition and in harmonizing the conflicting currents of radical republicanism and reactionary clericalism with the liberal royalism which he championed. He had Piedmont, in union with France and England, go to war with Russia in 1855, and utilized the ensuing Congress of Paris (1856) to air Italian grievances against Austria. He arranged an alliance with France in 1858 and used it to wage the war of 1859 with Austria which resulted in the annexation of Lombardy and the duchies to Piedmont. He abetted Garibaldi in his spectacular conquest of the kingdom of the Two Sicilies in 1860 and cleverly intrigued so that that doughty republican surrendered his conquest to the king of Piedmont. Cavour had the satisfaction of proclaiming in 1861 the transformation of Piedmont into the constitutional kingdom of Italy; and although he died shortly afterwards he had clearly pointed the way by which Venetia and Rome would soon be incorporated in united

Italy. He did his best during his public career to convince Pope Pius IX that by surrendering Rome to Italy the papacy would gain in spiritual world esteem far more than it would lose in temporal Italian power; and Cavour's dictum of "a free church in a free state" provided the basis of the Law of Papal Guarantees in 1871 and of the Lateran Treaty of 1929.

CARLTON J. H. HAYES

Works: *Discorsi parlamentari del conte Camillo di Cavour*, ed. by Guiseppe Massari, 11 vols. (Turin 1863–72); *Opere politico-economiche*, 3 vols. (Naples 1860); *Lettere edite ed inedite di Camillo Cavour*, ed. by Luigi Chiala, 6 vols. (Turin 1883–87); *Gli scritti del conte di Cavour*, ed. by Domenico Zanichelli, 2 vols. (Bologna 1892); *Scritti politici*, ed. by Giovanni Gentile (Rome 1925).

Consult: Thayer, W. R., *The Life and Times of Cavour*, 2 vols. (Boston 1911); Matter, Paul, *Cavour et l'unité italienne*, 3 vols. (Paris 1922–27); Martinengo-Cesaresco, E. L. H., *Cavour* (London 1898); Bianchi, N., *Storia documentata della diplomazia europea in Italia*, 8 vols. (Turin 1865–72) vols. vii-viii; Camozzini, F., *Cavour economista* (Turin 1926).

CELIBACY is the unmarried state. A lone negative describes an uncertain institution; a departure from customary usage has no set form. A child is not a celibate, and yet no fixed count of years is a prerequisite. An aged person, recently bereaved, can never know the condition; the word is dubiously applied to the widowed living with their families. A deliberate acceptance is not a distinguishing mark; celibacy may be achieved by free will, by accident or by compulsion; it is a voluntary order and a residual estate. It betokens continence, but does not of necessity imply it; the ascetic, the irregularly attached and the prostitute may in common lack the marriage bond. Its way may be solitary or communal; it is alike a private plan of life and an established discipline. As conditions are unlike, cultures differ, forms of marriage vary and its arrangements change, celibacy presents a like variety. A countless number of celibates, scattered through centuries and across continents, make up a heterogeneous group.

In society at large celibacy is an evasive institution. Among savages its fortuitous existence has little formal recognition. The sex urge is accepted as natural and a sanctioned union as the destiny of every child. If it is not attained the fault lies with the usages of marriage within the tribe. A custom which forbids a woman to precede her older sister into wedlock may cause both to go unmarried; a right which gives to elders the first claim to women may cause the young bucks to wait for mates long overdue. Tribal usage may make a place for surplus women either by sanctioning concubinage or by introducing polygamy, which, although never general, may be allowed to those who can bear it. At times infanticide may be a precaution against an excess of females. A group of the unattached may be set apart for religious observance. Almost universally the marriage bond is merged with other relationships; even where the matriarchate prevails in form wives may be personal property; often laborers for the fields come by way of marriage. Almost everywhere an imperfect definition of marital arrangements, an ease in the putting away of mates and a certain tolerance of irregularity confuse the line between the celibate and the marital estates.

Among hand cultured peoples celibacy claims an incidental toll of the operation of the marital institution. In China, where ancestor worship demands progeny, it is a curse whose cause is poverty. In India, where a human life must unfold, it is the ascetic state preceding marriage and the hermit life after its joys have been taken—or else an incidence of a caste system. In the Moslem world, where devotion does not deny the flesh, it is the visitation of Allah upon the demented and the deformed, the unfortunate and the unfit. As a voluntary condition it exists only in an occasional holy order. In the world of tool and craft, among the Incas and Athenians, in the Egyptian city and Chinese village, celibates are human bits outside the marriage system or persons consecrated to holy work. They are almost beyond the social pale or else they walk with gods.

It is communion with the gods which first gives to celibacy a distinct form. Priestly abstinence from marriage rests upon contagious magic. Like calls forth like; an offering of virginity appeases the gods of fertility. Among many peoples, the Aztecs for example, a sacrifice of maidens insures an abundant harvest; among others—the Romans are a case—a cult of vestal virgins gives a magical efficacy to a sacred rite. In like manner, where the office does not belong to a caste, here and there an order of unmarried priests appears. Its ranks may be made up of volunteers or conscripts; the initiates may be denied formal marriage, dedicated to perpetual celibacy or suffer a loss of vital organs. Strict continence may be enjoined or ceremonial indulgence allowed; many temples have their hordes of sacred prostitutes; cults of male har-

lots are not unknown. In time an appropriate manner of life is built up about the office. In priestly form celibacy is not for the sake of the celibates; it is a means of holding the good will of the gods.

As the priestly office distinguishes the celibate estate, self-denial gives it a value of its own. Ascetic celibacy has its root in an antithesis between the badness of material things and the goodness of the human spirit; the soul's salvation comes by way of an escape from the wicked world. In India, Egypt and the Hellenic countries its invitation to voluntary surrender drew holy men from the towns into lonely places; but it was amid the disintegration of the Roman Empire that it came to development. The world was going to ruin, only the City of God could endure; a stay on earth was a penitential out of which eternal life was to be won; its price was a renunciation of "the world, the flesh, and the devil." Woman was the source of evil desire, the ultimate in temptation, the symbol of all that was to be shunned. Even her eyes were dangerous; for "in the case of almost all who have fallen death hath entered by the windows." "Let him who is able endure it." Accordingly, hardy souls forsook urban distractions and family cares, work and cleanliness, lucre and women, and went into the wilderness. There each holy man, with resolute spirit set against imaginative mind and carnal body, lived out his allotted days.

In time the antisocial stuff of ascetic celibacy was converted into a social institution. In the East a monastery remained a common dwelling place; in the West even "the life alone" could not escape the touch of organization. A movement toward community came from within; where all were striving for perfection surely there might be mutual encouragement and brotherly counsel. Association quickly brought a demand for discipline. The brethren began to vie with one another in the saying of prayers, the mortification of the flesh, the heaping of charges of iniquity upon their own heads; in the rivalry they became vainglorious over their superlative meanness and humility; the life of denial had to be reduced to rule. Nor could the rulers of a rising papacy overlook a tremendous asset in the zeal of holy men. The ascetics came to be priests; the abbot, to fill an office in a vast hierarchy; the Rule of Saint Benedict, to comprise a code for a great order after which others were patterned; and the far flung monastic establishment with its tremendous resources, to constitute the most vital institution within a militant church. The novice no longer faced a clear cut issue of marriage or celibacy. He merely accepted celibacy as a condition of membership in a corporate body; in a disorganized society it was the price of a living, security and a chance at prestige and power. A new meaning was given to the austere vows of "poverty, obedience and chastity" by the amenities of monastic life. The monk remained a pauper, but the congregation had property; he had to obey, but his was a constitutional government; he was sworn to continence, but there was compensation in access to many good things. He had renounced a pagan world; he was given a place in an organized Christian society.

A product of monasticism was ecclesiastical celibacy. An unmarried clergy had long been an aspiration of the church. The spread of the monastic ideal prepared the way; the conversion of a vow, which awaits volunteers, into a rule, which may be enforced upon the unwilling, provided the instrument; the event was achieved by churchmen who had been monks. The arguments had long been at hand: the ministers of God should be free from the weaknesses of men; they who offered up the body of Christ in sacrifice should themselves be holy; priests should be fathers only to their people. The impulse was found in the vision of a spiritual dominion over all mankind—to which a priesthood bound by human ties offered a serious hazard. Marriage made the clergy like other men, loaded upon them domestic cares, divided their allegiance, led them to divert church property to family ends, made benefices hereditary and threatened to add to a feudal system another caste. The church had need of the ablest men to be had; their loyalty and devotion must be unquestioned and undivided; their aloofness from mankind must give might and power to the priestly office. A fourth century rule, laxly administered, forbade marriage in orders; in the eleventh century a universal rule of clerical celibacy began to be strictly enforced. The result was a triumph alike for the ascetic and the theocratic ideals.

An enforced celibacy invited a protracted clash between a natural appetite and ecclesiastical authority. It involved the sacrifice of an insistent want to the necessities of an institution; it denied the right of fatherhood in a landed society in which family was the first of values. The commands were given by men who either lacked sex experience or possessed knowledge

sinfully acquired; the effects of celibacy upon the individual and its incidence upon the community were overlooked; the interest of the church was put above even ascetic values. For a long time lapses from continence were of common occurrence; priests lived in unions which were marriages in all save name; a substitute was found in clerical concubinage; casual and irregular attachments were numerous. At length the Reformation divided the church, broke down the rigid line between priests and laity and opened marriage to a Protestant clergy. In the Catholic church today a voluntary priesthood makes celibacy a matter of choice and a voluntary withdrawal provides an escape; a mediaeval regularity has had to await a modern world for its practical victory. In the universities, once an outlying province of the church, professorships were long ago opened to the married; a vestige of clerical celibacy lingers in a reservation of fellowships to persons whose single estate insures an uncompromising devotion to study.

An institution as dominant as religious celibacy could not be self-contained; it exercised a profound influence upon Christian marriage. The setting of body over against spirit made a riddle of the union of the sexes; without births there could be no souls to be saved, yet man was "conceived in iniquity and born in sin." In the early church, logic made its peace with human nature; marriage fell short of the Christian ideal but was to be tolerated as a proof against fornication. In time it became a sacrament, "a symbol of the union of Christ and his church," and was brought under ecclesiastical control. To the church, the great agency of order in a turbulent age, the individual values of love were of no account, the social values of matrimony of great significance. Accordingly, marriage was reduced to its simplest terms; it was to be a single union for life between one man and one woman. The members of the holy estate were to discipline desire, practise continence as circumstance demanded and use sex communion only for procreation. As far as unlike could respond to like, marriage was to conform to the ascetic ideal.

So long as agriculture and the crafts prevailed secular celibacy was largely adventitious. The church had placed its blessing upon marriage and God had commanded mankind to "be fruitful and multiply." The state needed soldiers and taxpayers; economic theory and statecraft found a national asset in a large population. The industrial system was built about the family; estates, holdings and trades were hereditary. Sons and daughters were an asset; "as arrows are in the hand of a mighty man, so are the children of youth." The bachelor was frowned upon as one who had failed in his duty; the spinster was looked upon as an unfortunate being who had missed her last chance. She was homeless, yet her place was in the home; so she became a superior menial, an outer member of the family circle of father, brother or married sister. The unattached were largely the overlooked, persons who shrank from responsibility, the discards, victims of unfortunate flames, lonely souls true to lovers who had died. A good life, with proper independence and companionship, was hard to contrive; the unmarried were semi-isolated individuals living on the fringe of a familial society.

The industrial age has given to secular celibacy its opportunity. It has created a mobile individual, half free of the restraints of church, class and community. In the fluid life of today family name has a declining value; in a world of job and pay envelope children are a liability. A long period of training, slow advancement, an arrested ability "to support a wife," delay wedlock; the early separation of a youth from his family forces him to fend for himself; a deferred marriage, which imposes its cost, must take its chance against competing comforts and vanities. An excess in number, man's habit of mating with his junior and the growing popularity of bachelorhood impose celibacy upon an increasing complement of women. Yet the individual, unlike her sister of another age, may weigh the joys and discomforts of marriage against a position, an income and a life of her own without a husband's leave. Circumstance may swell the ranks, but spinsterhood is becoming more and more a voluntary choice. The secular celibacy of an industrial age is individual and social. The celibate lives in society; within its limits of tolerance he must find out his own way of life.

The modern estate of secular celibacy confronts its members with a delicate problem in adjustment. They are formally committed to continence, yet they are bound by no vows and live under no order. Each must for himself face the issue of the effects of abstinence, once considered good but now questioned, upon health, mind and personality. The repression of desire has an incidence in dream life and monadic practise, the human cost of which is not surely known. In the cloister the imagination was directed into institutional channels; the cult of the Virgin flourished among monks; the vow and the

veil made of nuns brides of Christ. Today the suggestive talkie and the magazine of confession are a sap to unsatisfied sex appetite. It remains to be seen whether a passion denied its proper outlet can be sublimated in the varied round of contemporary activities. An escape from continence entails a clash of values. The technique of birth control divorces love life from procreation; as a result the sex union ceases to be affected with a public interest. The city, not so curious about private life, relaxes the discipline which the neighborhood exercises over its members. An unsanctioned union, known as the companionate, takes from celibacy its greatest deprivation. For the individuals, all things considered, departure may be "the better part"; but it has offsetting costs in conduct which runs counter to an established code and in a failure to avow an intimate relationship.

At present secular celibacy is far from established. It rests upon a cultural fault line between modern circumstance and mediaeval idea; it is peculiarly dependent upon the future of matrimony. The urge toward mating has been too strong to be pent up completely within so elementary a formula as Christian marriage; the state has in divorce provided an escape from irksome unions. At present the very conditions which are keeping men and women out of wedlock are making for a revision of marital arrangements. The declining value of ancestral name, the economic independence of women, the divorce of industry from the family, the disentangling of sex life from reproduction—all these are disturbing the balance between social and individual values in Christian marriage. Since men and women differ in their urges and their preferences a comfortable celibacy which can bring marriage to terms will continue to claim its votaries. But as an ancient institution responds to modern necessity it will still attract many unwilling to take the sterner chances. The spreading domain of celibacy is not to lose its character; it is to remain a voluntary order for the elect, a condition of waiting for the hopeful and a residual estate for the unfortunate.

WALTON H. HAMILTON

See: MARRIAGE; SOCIAL ORGANIZATION; SACRIFICE; RELIGIOUS INSTITUTIONS; PRIESTHOOD; MONASTICISM; ASCETICISM; CHASTITY; SEX ETHICS; CONCUBINAGE; DIVORCE.

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CELTIC LAW. *See* LAW.

CEMENT is a term used in a rather broad sense colloquially and technically, but it is restricted in engineering to the hydraulic cements which possess the property of hardening under water. All of these, however made, are composed chiefly either of lime silicates or lime aluminates or of both. The principal among these is Portland cement, an artificial product invented about 1818 in France and now made in large quantities in many countries.

Of all the hydraulic cements now known only one, puzzolan cement, was ever used during ancient or mediaeval times. Ancient masonry constructions in all countries were made either of brick or rough stone, set commonly in lime mortar, or were, as the great cathedrals, constructed of cut stone held in place merely by its weight and the perfection of the cut surfaces. Only in ancient Rome was the use of puzzolan cements established; these were made by mixing slaked lime with volcanic ash or *pozzuolana*. The industry still exists on the flanks of Vesuvius.

Many Roman bridges, aqueducts and roads and some great Roman buildings employed puzzolan cement. But over western Europe lack of known local raw materials prevented its use, and during the Middle Ages hydraulic cements were practically unknown and unused. Toward the end of the seventeenth century the epoch of fortress construction led to interest in more resistant mortars than ordinary lime, and products were discovered which gave results closely resembling the Roman *pozzuolana*. About 1800, when canal and highway construction was coming into prominence, French and English engineers and chemists were actively searching for deposits of naturally impure limestones, which when burned and ground would yield good hydraulic products. In the United States

similar search, stimulated in every instance by the immediate necessities of some local canal construction, led to the discovery and development between 1818 and 1840 of natural cement districts such as the Rosendale and Buffalo fields in New York, the Lehigh region in Pennsylvania, the Cumberland and James River districts of Maryland and Virginia. Their development led to the growth of the natural cement industry, which for many years supplied cement primarily for public works, bridges, railways and fortifications. It continued to expand until it attained its maximum output of almost ten million barrels in 1899. By this time the natural cement had come into sharp competition with the newer growing Portland cement industry, and in the following year the production of Portland cement for the first time exceeded that of natural cement. Thereafter the natural cement industry, failing to take advantage of modern technology, gradually declined and became unimportant in the United States and in every other leading industrial country except France.

A few decades after natural cement came into use in Europe, Portland cement was invented almost simultaneously by Vicat in France in 1818 and by Aspdin in England in 1824. This industry did not start in the United States until 1785. Portland cement manufacture consists in making a synthetic chemical product from rather simple raw materials—limestone and clay—by the free use of heat and mechanical grinding. The greater strength and uniformity of Portland cement gave it technical advantages over the older naturals and its industrial life coincides with the great eras of railway expansion, of port and dock improvements, of concrete steel building construction and of modern highways. In 1930 its three leading uses in the United States in order of importance were: for concrete for roads and streets; for structural concrete for commercial, industrial, public and private buildings; and for various farm purposes. It furnishes the massif of all our modern construction and is intimately allied to all recent progress in transportation systems, housing developments and manufacturing plants.

During the last century cement has been associated definitely with, and has indeed in some periods conditioned, the development of the varying stages of industrial and social progress. Neither the growth of large cities nor the spread of modern transportation systems would have been easily possible without the use of a strong construction material cheaply made and easily transported and laid. Together with steel and glass, cement has made possible the creation of a new and distinctive type of architecture.

The spread of industrial civilization into less developed countries has been accompanied, and in fact in most cases preceded, by the use of cement. This process has generally involved the construction of port works, of rail or highway lines, of mine or mill buildings and eventually of city office or dwelling construction. In all these stages cement has been of fundamental importance. The first cement so used in the less industrialized countries has been generally imported from one of the older areas; for the manufacture of cement, even in a relatively small unit, requires large capital, steady operation and abundant fuel supply. So also the inception of the cement industry in such countries is directly a function of the introduction of foreign capital and construction works. When a country has promised industrial development, cement manufacture has been taken up locally, often by those responsible for the original port, railway or dam constructions, provided of course that suitable raw materials, including fuels, are easily available. In a number of instances cement companies in the leading cement producing nations of the world have established plants of their own in industrially backward countries.

The Portland cement industry has been characterized by very rapid development. The rate of this growth in the United States is indicated in the following table:

PORTLAND CEMENT OUTPUT IN THE UNITED STATES, 1880–1927

YEAR	QUANTITY (BARRELS)
1880	42,000
1890	335,500
1900	8,482,020
1910	76,549,951
1920	100,023,245
1927	173,206,513

Source: United States, Bureau of Mines, *Mineral Resources of the United States*, pt. ii, *Non Metals*, for 1924, p. 358–59, for 1927, p. 273.

The world's production of cement, chiefly Portland cement, reached in 1930 the total of some sixty-five million tons annually. Of this the United States makes about thirty million tons, a little less than half the world total. Germany follows with some seven millions, France comes next with over five, and the United Kingdom is fourth with just under five

millions. There are no close competitors to these four nations; Japan, Italy and Belgium are the nearest, with about two and one half million tons each. Some thirty-five other countries combined make up the remaining ten million tons. This summary brings out strikingly the close relationship between the general industrial status of a country and the development of its cement industry.

The problem of international trade in cement is concerned with other factors than output, since it is based primarily on price competition. Export shipment of cement normally involves cheap fuel, cheap labor and cheap transport to a much greater degree than in the case of products of greater specific value. Of these three items the term fuel commonly means coal; other fuels are in local use but do not affect the export markets to any appreciable extent. The labor in cement mills is chiefly unskilled and in most countries is not unionized; the term "cheap labor" may imply low wages per hour or a low wage cost per ton. Cheap transport implies in most cases water transport and the importation of some bulk staple in constant demand needed by the cement exporting country. Finally, the creation of a steady export trade in cement implies surplus production, due to present or earlier supplies of cheap capital in combination with the factors noted above.

In view of these conditions it can easily be understood that despite its vast production the United States normally exports little cement, a mere unimportant fraction of its total output at most, and that Great Britain and Germany export steadily on a larger scale, varying chiefly with their own current trade conditions. France, in spite of a large output, exports little. Belgium, with a far smaller output than any of those so far named, exports constantly and in large amounts. In this last case all the export requirements are met: excess capacity, cheap capital, cheap fuel, modern equipment, low wages and cheap transport. The export tonnage is directed of course toward whatever country or region offers the best current market; any serious disparity in wage or prosperity level suffices to create a temporary and perhaps permanent flow.

The organization of the cement industry in any country depends on two unrelated sets of factors, one technical and the other legal. In the first group we have the simple facts that cement raw materials are widely distributed naturally, that their deposits have of themselves no great money value, that the product is sold at a low price per ton (averaging only about ten dollars as against twenty for pig iron) so that transport charges weigh heavily. All these factors tend to prevent the formation of great cement centers such as are common in the iron trade. It is normally cheaper to make cement near its best markets; and it is commonly easy to find good raw materials near them. Thus in place of a few great mills owned by a few great companies, as in the steel industry of most countries, we find the cement industry commonly represented by a very large number of relatively small mills and scattered widely over the national territories. The thirty million tons output of the United States, for example, is made by over one hundred sixty mills owned by at least eighty separate corporations. Similar conditions as to the number of mills and comparatively small average size of the individual operation exist in other countries; the maximum of dispersion and division is to be found in France.

The number of controlling corporations is of course a different matter, since it is influenced largely by the varying legal policies of different countries. But regardless of laws the incentives to intensive integration in the cement industry are relatively small, since an industry with widely scattered units offers little economic saving if placed under single control. Aside from the underwriting and speculative profits of a flotation there are few strong reasons for buying mills which must always remain geographically far apart.

In countries such as Germany and Belgium, where cooperative sales agencies or cartels are legal, they are the means usually adopted to secure price control by otherwise separate manufacturing units. The cartels seem in each case to have had fair control over export prices and tonnages for most of the post-war period. This has been due less to the strength of the cartel idea itself than to the fact that both Germany and Belgium have been shipping into prosperous markets. With a product whose raw materials are so common as those for making cement it is obvious that even a brief period of successful marketing induces the building of new mills to share in the profits of the cartel. In any period of declining prices abroad the export cartel fails to function and the stronger companies withdraw to act independently.

In Germany practically all the cement manufacturers of any importance belong to three large cement associations, among whom the country is divided. These associations attend to matters

concerning limiting sales, apportioning government orders and supplying raw materials. Over the associations is the Deutscher Zement Bund, which in conjunction with the national commissary for cement fixes prices in each of the three association territories, issues export permits and settles questions arising between the associations. There are also four German cement associations which carry on technical research, test members' output to insure conformity to scientific standards, disseminate information to members and forward the general interests of the trade.

In Great Britain and Canada, where cartels are illegal or extralegal but monopoly through direct ownership is legal, the cement industry in each instance has fallen almost entirely into the hands of one large corporation. The corporations which control the bulk of the national cement output in each of these countries have succeeded in holding interior prices at relatively high levels. This has necessitated in each case buying out threatened competition, a process which cannot be continued indefinitely, but which has so far assured the commercial and stock market success of the combinations involved. In Great Britain over 75 percent of the Portland cement output is controlled by the Associated Portland Cement Manufacturers, Ltd. This organization and the British Portland Cement Manufacturers, Ltd., which it dominates, are amalgamations of a large number of previously independent companies. This combine was begun before the World War. Another organization, the Cement Makers' Federation, including in its membership the manufacturers of about 90 percent of cement made in the United Kingdom, deals with labor questions, fixes minimum prices of cement to be sold by its members within the British Isles and regulates retail prices through a rebate system. Another interesting feature of the British industry is that a number of cement plants are owned in whole or in part by coal companies. This is due to the tremendous quantities of fuel which are needed for cement production.

In the United States, where neither price agreements nor monopolies are held legal, the actual status of the cement industry is less clear. Local cooperative sales agencies or organizations were common enough during the growth of the natural cement industry, but with the later period of public interest in trusts such methods became inadvisable as well as illegal. The development of the American Portland cement industry has taken place, therefore, during a period of uncertainty with regard to the feasibility of price control by agreement or direct ownership. At the outset this was relatively unimportant, for from the inception of the industry up to the panic of 1907 there had been little necessity for overcompetition between American Portland cement companies. During these thirty years it had indeed been chiefly a question of building mills fast enough to supply a steadily growing demand at good prices. But the overpromotion of mills during the years 1905–07 led to overcompetition when they all came into operation on a badly depressed post-panic market. From 1907 to about 1915 price wars and bankruptcies were fairly common in the cement industry, interrupted spasmodically by local and illegal attempts at price control. One attempt in 1906–08 of somewhat broader outlook than the average was carried on under shelter of a group of patents. It failed chiefly because the attempt to control prices was mixed with a more individual attempt to make money out of the patents. At its height the association controlling the patents represented 70 percent of the United States Portland cement industry.

In 1908 the industry was dominated by nine separate groups of companies. Some combined plants in one region; others controlled them in several market areas. Groupings of these sorts have continued, although there have been some changes. Since the World War most of the larger companies have acquired plants in more than one section of the country in order to increase the areas over which they could profitably market their products. In 1930 the four largest companies together had about one third of the entire national capacity; the United States Steel Corporation alone controlled a sixth to a fifth of the national production. The steel corporation has produced cement as a by-product from slag since the beginning of the century, and its own cement producing subsidiary has grown up to second or third rank. In 1930 it acquired what was previously the largest cement company in the country, thereby somewhat increasing its market area. In this step it may have felt or visualized the competition between cement and steel.

Trade associations have also played an outstanding part in the organization of the United States Portland cement industry. The Portland Cement Association, whose membership produces over 90 percent of the Portland cement output of the country, has had as its main functions since its inception in 1903 the increase of

the sales and the improvement of the quality of cement. The Cement Manufacturers' Protective Association, organized in 1916, has carried on many of the activities of an open price or open competition trade association. It has gathered from its members and disseminated among them information concerning "specific job contracts" for future deliveries of cement to avoid spurious orders and the breaking of contracts, information as to "specific job contract" prices, credits, freight rates on cement, production, stocks of cement and clinker on hand, and shipments. It is uncertain to what extent these associations have influenced production and prices. In 1924, however, the United States Supreme Court held [268 *U. S.* 588] that the activities of the latter did not constitute unlawful restraints upon commerce. Various cement associations in conjunction with engineering societies and the federal government have been responsible for the establishment of standards in the industry.

Since 1915 production has ranged from 52 to 85 percent of the total productive capacity of the Portland cement mills of the country. During these years there has been little competition in price or quality, a "standard" Portland having been supplied in quantities never in excess of the current market requirements. This is possible, of course, only if the producers exercise proper self-restraint, since there are no legal methods of enforcing cooperation along these lines in the United States. During the past few years, however, there has been the beginning of manufacture of cements of better than "standard" grade at somewhat higher than standard prices.

The Portland cement industry is on the whole highly mechanized. In the United States it uses more than half again as much horse power per wage earner as the combined iron and steel industries. As a result the great majority of its 36,322 wage earners in this country are unskilled. All but a few of them are males. Most of them work in an atmosphere filled with cement dust. While this does not produce any of the sensationally fatal results found in most of the other dusty trades, it affects the upper respiratory system and furnishes an extremely unpleasant working environment. The digestive systems of cement workers are also affected adversely, and an unusually high percentage of the workers are troubled by deafness and skin diseases. The rate of two-day and longer absences among cement workers is much greater than in most other industries.

The hours of American cement workers average about sixty-one per week. The two-shift system of eleven or twelve hours seven days a week (seventy-seven or eighty-four hours a week) exists in about half the Portland cement plants of the country in such departments as the raw and clinker grinding and coal mill departments, where technological considerations require continuous operation. A considerable number of plants, however, have since the World War changed in these departments, where the heat is generally extremely great, to a three-shift system of eight hours, seven days a week (fifty-six hours per week). But plants still exist in which the night shift works ninety-four and one half hours a week in these departments. Nevertheless, the hours of most of the workers in the quarry and packing and some intermediary departments, comprising almost two thirds of the cement workers, are not as excessive as in the continuous operation departments. The plight of American cement workers has been accentuated by the almost entire lack of trade union organization among them.

EDWIN C. ECKEL

See: ENGINEERING; CONSTRUCTION INDUSTRY; IRON AND STEEL INDUSTRY; ROADS; WATERWAYS, INLAND; URBANIZATION; ARCHITECTURE; MONOPOLY; CARTEL; TRADE ASSOCIATIONS; CONTINUOUS INDUSTRY.

Consult: Eckel, E. C., *Cements, Limes and Plasters* (3rd ed. New York 1928); "International Trade in Cement" in United States, Department of Commerce, Bureau of Foreign and Domestic Commerce, *Trade Information Bulletin*, nos. 205, 213 and 220 (1924); Aschpurwis, Paul, *Die Konzentrationsbewegung in der deutschen Zementindustrie* (Aschaffenburg a.M. 1928); Eckel, E. C., *The Portland Cement Industry from a Financial Standpoint* (New York 1909); "Manufacturing" in *Industries of America*, ed. by Malcolm Kier, 2 vols. (New York 1928–29) vol. i, p. 495–519; Willis, H. P., and Byers, J. R. B., *Portland Cement Prices* (New York 1924); Fetter, F. A., "Economics and Portland Cement" in *American Economic Review*, vol. xiv (1924) 649–57; Seager, H. R., and Gulick, C. A., *Trust and Corporation Problems* (New York 1929) p. 326–31, 453–65; "Health of Workers in a Portland Cement Plant" in United States, Public Health Service, *Bulletin*, no. 176 (1928).

CENSORSHIP is the policy of restricting the public expression of ideas, opinions, conceptions and impulses which have or are believed to have the capacity to undermine the governing authority or the social and moral order which that authority considers itself bound to protect. Censorship is sometimes confused with tabu, but the distinction between the two concepts is clear, although their relations within the

social process are close. Censorship is a conscious policy; it may be enforced without the assent of the greater part of society. A tabu enters intimately into the scheme of feelings of those who entertain it. The tabu is particularly effective in self-control; when it is applied by group action to those who do not entertain it, such action is generally spontaneous and unreflective. Censorship may, however, set out from tabu as a premise of action. The horror of blasphemy is of the nature of a tabu; censorship may repress blasphemy as inimical to a smoothly operating social order. If the tabu against blasphemy disappeared censorship would no longer concern itself with its suppression.

Censorship may be exercised by the political or by the religious authorities, or even by private persons who take upon themselves a quasi-official position in respect of the enforcement of accepted censorship policies. The censorship of political expression has generally been a function of the political authorities; that of religious expression has been a function of the church; while moral censorship has involved not only the combined activities of state and church but also the active participation of private persons. But in this realm it is unsafe to draw hard and fast distinctions. There is a natural tendency in any form of censorship to identify its interests with those of other forms. The animus of the traditional minded Athenians against the teachings of Socrates may have been primarily religious, but moral and political motives were skilfully woven in. The censorship in czarist Russia was primarily aimed at the suppression of subversive political ideas, but the autocracy was solicitous about identifying its interests with those of the church and of sound morality; the "Little Father" was a symbol of orderly and loyal family life. In the western censorship of Bolshevik communications a systematic and on the whole successful effort has been made to identify the political subversiveness of Bolshevism with irreligion and immorality.

The most important applications of censorship have been to the spoken or written word; to action as represented in the theater, pantomime and dance; and to the plastic arts. Censorship of attire, as at public bathing beaches and on the stage, has assumed importance only in the last half century.

The scope and methods of censorship vary according to the social order it seeks to defend and the nature of the attack. When a religion is predominant and under fire, blasphemy and heterodoxy are prohibited. When the state is in the ascendant, treason is suppressed. When the industrial order is firmly established, "radicalism" may be a favorite object of censorship.

In classical antiquity censorship appears to have been applied only sporadically. Sparta placed a ban on the forms of poetry, music and dancing current in the fifth century B.C. on the ground that they induced licentiousness and effeminacy. Aeschylus, Euripides and Aristophanes suffered under a censorship because of their too free thought on religious matters. In republican Rome the theater was banned by the censor, except on the occasion of certain games, where a time honored tradition of license in speech and gesture gave a limited degree of freedom to dramatic art. No permanent theater was permitted in Rome before the time of Augustus. There is no clear evidence of a censorship of books either in Greece or Rome. The poet Ovid was indeed banished to the shores of the Black Sea by Augustus, and it has often been asserted that the grounds for his banishment lay in his licentious poems. But the poet himself points out (*Tristia*) that other poets were circulating with impunity even more licentious verses. In the first century A.D. the Roman political writer had to be on his guard against the hostile attention of the tyrant, and according to Tacitus free expression of opinion on matters of current history virtually disappeared.

The earliest and most sweeping censorship of the Christian church is probably that contained in the Apostolic Constitutions, which purport to have been written by St. Clement of Rome at the dictation of the Apostles. These constitutions forbid Christians to read any books of the Gentiles, "since the Scriptures should suffice for the believer." This general prohibition of St. Clement (*circa* 95 A.D.) was followed by a long series of prohibitions issued by the early church fathers. In 325 edicts were issued by the Emperor Constantine and prohibitions by the Council of Nicaea against the writings of Arius and Porphyry. The emperor prescribed the death penalty for anyone who might conceal copies of the forbidden works. In 399 the Council of Alexandria, presided over by Bishop Theophilus, issued a decree forbidding the owning or reading of the books of Origen. The Egyptian monks protested and the bishops were obliged to call in the prefects to enforce the edicts. In 446 Pope Leo I ordered

the destruction of a long series of writings described as out of accord with the teachings of the synods of Nicaea and, therefore, antagonistic to the Christian religion, and added further, "whoever owns or reads these books is to suffer extreme punishment." In 499 Pope Gelasius issued what was later referred to as the first papal index. It presents a catalogue of books prohibited, but the prohibitions regard not private or general but public or official reading.

Writers during the Middle Ages submitted their manuscripts to their superiors as a matter of courtesy and as a precaution against later censure. When the rise of printing and the growth of culture increased the numbers of authors, ecclesiastical authority demanded formal censorship. In 1501 Pope Alexander VI issued a bull against unlicensed printing and thus introduced the principle of censorship in this sphere. This policy, directed exclusively against books, was intended to protect the church against heresy and was accepted by all countries under the jurisdiction of the church of Rome. The Scottish Estates in 1551 prohibited all printing of every description unless previewed by authorized persons. In England the privilege of printing was confined to the Stationers' Company, which was chartered in 1556. The code of 1586 restricted printing in England to London, Oxford and Cambridge, limited the number of printers and ordered all books to be read, previous to publication, by the Archbishop of Canterbury or the Bishop of London. In 1690 Richard Pierce printed *Publick Occurances* in Boston for Benjamin Harris. The legislative authorities promptly forbade further printing without license.

Until religious drama began to be obsolete in England, the stage was controlled and censored by the church; since then the Master of Revels, the Privy Council, the Star Chamber and the lord chamberlain have been successively in charge of the censoring of plays. The lord chamberlain was active by 1628, and he received statutory authorization in 1727. It was Jeremy Collier who in 1698 by his *Short View of the Immorality and Profaneness of the English Stage* firmly established the censorship principle.

Censorship may take the form of an examination of material in advance of publication and its suppression if disapproved. This is known as preventive censorship, in contrast to punitive censorship, which inflicts penalties after the offense and seeks to destroy the offending material. The censorship of antiquity was punitive, while that of the mediaeval church and of early modern times was in general preventive.

In 1693 the government of England formally abandoned the preventive censorship of printing and began the punitive. No one was to be prohibited from publishing anything, but he must run the gauntlet of possible prosecution for slander, sedition, immorality and blasphemy. Blackstone states that "the liberty of the press . . . consists in laying no previous restraints upon publications and not in freedom from censure for criminal matter when published." The amount of substantive freedom obviously depended upon the current conception of criminal matter.

Preventive censorship has been kept alive in England for the control of the stage. In France it has played a considerable part in the handling of political material. All cable messages from Soviet Russia must be passed by the censor; preventive censorship has been freely applied to dispatches from Fascist Italy. Even where there is no officially acknowledged censorship on material sent abroad a foreign correspondent often finds it expedient to submit his dispatches to the foreign office for approval, lest he be denied access later to important sources of information. In America powerful religious and business organizations sometimes exercise what is virtually a preventive censorship over the press. In general, however, the volume of material coming to the printing presses has become too vast to be examined by any censorship in advance of publication. Any practicable censorship must be punitive, except in times of war, when the necessity of depriving the enemy of sources of information demands a huge expansion of censorship personnel.

While political censorship has played an important part throughout modern times, especially in periods of great political upheaval, the dominant concern of censorship has been the suppression of material and activities presumed to have a degrading effect upon public morals. This preoccupation of the censor with problems of sexual morals has as a rule appeared simultaneously with the rise of the middle class to political dominance. Autocratic and aristocratic governments have seldom applied censorship to such matters as licentious books, pictures or plays. Neither does it appear that the one existing example of a proletarian government, Soviet Russia, takes this issue very seriously. A plausible explanation lies in the fact that the middle

class position can be maintained through generations only by thrift, prudence and self-control—virtues that are believed to be seriously shaken by licentious communications. In England, France, the Netherlands and Germany the antagonism of the middle class to aristocratic licentiousness exhibited itself in diatribe and sermon long before the bourgeoisie attained a position of political dominance.

Censorship of morals in the late eighteenth and early nineteenth century lacked any definite statutory basis. In any specific case the police might intervene in the interest of public order. Obscene publication or exhibition was early a crime under American common law, and statutes dealing with the matter were enacted in Vermont in 1821, Connecticut in 1834, Massachusetts in 1835. In England the principle of censorship was definitely established in 1857 by Lord Campbell's Act, under which a magistrate or the chief of police might issue a search warrant upon presentation of an affidavit that obscene publications were being sold or held for sale in certain premises. In 1868 a decision by Lord Chief Justice Cockburn gave a clearer degree of definiteness to the crime of obscene libel. A Society for the Suppression of Vice had been organized in 1802, and for a time exhibited considerable activity in bringing pornographic literature to the attention of the police. A vastly more active society was organized in New York in 1873 under the leadership of Anthony Comstock. This society was chartered under a special act of the New York legislature; its agents were given rights of search, seizure and arrest. Within a few years similar societies were organized in other states; of these the New England Watch and Ward Society won the widest public attention.

Under an act of 1873 the Post Office may refuse to transmit through the mails matter which it pronounces obscene. The Tariff Act of 1842 prohibited the admission of obscene books through the custom house; similar provisions have been incorporated in later tariff acts, including that of 1930.

The obscene picture, book or spectacle, pornographic in character and intent, is generally considered as open to legitimate censorship. But any administrative description of such matter which is definite enough to guide the action of police officers will at the same time apply to works of art, often of great genius and vital moral worth. The moral censorship through the nineteenth and twentieth centuries has been notable for the prosecution of famous works of art, such as Flaubert's *Madame Bovary* and Hardy's *Tess of the d'Urbervilles*. In America under one jurisdiction or another many books of outstanding literary merit have been subject to censorship. So universal has been the stupidity of censorship in dealing with works of art that even many of those who believe in the importance of suppressing pornography have come to view censorship as on the whole an undesirable institution.

Often more effective results are secured by relying upon a "voluntary" censorship than by depending upon a compulsory one. Usually the "voluntary" arrangements have been perfected in the hope of averting greater interferences. The newspapers of the United States, England and several other countries organized "voluntary" censorships during the Great War. The moving picture industry and the stage have imposed restrictions upon themselves. The National Board of Moving Picture Censors was accepted by the producers, and they also took into association with them an official who was supposed to standardize productions in such a manner as to lessen the vulnerability of the enterprise to regulative attacks. Libraries and booksellers have sometimes undertaken to censor books, declaring that they would not circulate books "personally scandalous, libellous, immoral, or otherwise disagreeable," and endeavoring to secure the cooperation of publishers. Private groups have often sought to intimidate the producers, distributors and the public; such has been the technique of the vice leagues, the Ku Klux Klan and many pressure organizations. The Daughters of the American Revolution and various industrial, racial and religious groups have "blacklisted" speakers and protested against cartoons, headlines, editorials, posters, plays and books which reflected against their organizations. There have been "letters to the editor" or manager, delegations of protest and withdrawal of financial support. Preachers, teachers, editors, reporters and members of all the articulate trades and professions have been targets for everything from simple criticism to instigated violence.

In general it may be said that censorship technique demands that censorship shall be applied as unobtrusively as possible. The German authorities would not permit their newspapers to appear with the blank spaces which so often marred the French press, or with the inked columns which were once so common in

Russia. Codes of practise have been developed to facilitate the administration of censorship regulations; the official rules of censorship for the German press, published in 1917, went into profuse detail in prescribing rules for the elimination of anything detrimental to morale.

Every censorship produces a technique of evasion as well as a technique of administration. The Petrograd *Dien* (Day) was suppressed by the Communists, and immediately reappeared as *Notch* (Night). Clemenceau circumvented the order suspending his paper, *L'homme libre*, by rechristening it *L'homme enchaîné. La lune* was suppressed by the censor and passed into *L'éclipse*. In the continuous matching of wits the purveyors of dangerous material often come out ahead. A radical democratic paper in Germany had much trouble with the authorities during the war. On the anniversary of Bismarck's birthday it came out with a huge headline, "Bismarck's Greatest Day," and was passed by the censor. The article said that his greatest day was when he urged a peace of moderation against Austria and created an important precedent for the rulers of Germany.

Great skill and ingenuity have been lavished on the secret printing and distributing of journals banned by the censor. A Russian printing office in London published the *Bell* and it is reported that Alexander II was an assiduous reader of the paper. The successive waves of ecclesiastical and political persecutions in France led to the growth of a large clandestine press both inside the country and in Holland. The "gazettes of Holland" were famous in the eighteenth century and later. During the war *La libre Belgique* was remarkably successful in eluding authority. In 1890 the German Index Expurgatorius contained the names of a hundred and forty-three German newspapers and foreign journals and periodicals of socialist tendency, and a huge smuggling system arose for the transporting of socialist literature into Germany.

It is universally conceded that the censorship which draws publicity to an "evil" thought is a clumsy censorship, and that obstruction should be imposed near the source. Moreover, it is a notorious fact that censorship or the threat of censorship may make the fortune of a book or play which might otherwise have failed to win public attention. Various authors, publishers and theatrical producers have been popularly charged with deliberately presenting their work in a form to challenge the attention of the censor and to win the *réclame* of a prosecution.

It is a moot question whether censorship can actually attain important ends in the complicated circumstances of modern life. The military censorship during a war, supported as it is by universal patriotic fervor, may succeed in depriving the enemy of much miscellaneous information that might be useful and in protecting the civil population against the discouragement that would follow upon an exact account of national weakness and enemy strength. Political censorship, as in czarist Russia, may for a long time force reform movements underground. The resultant security of the established order may, however, be wholly deceptive. By suppressing reform the censorship may transform it into a revolution.

Similarly the apparent victories of censorship in the field of morals are likely to prove vain in the long run. New opinions in morals may yield to transient restraint, only to plunge forward resistlessly. What appeared daring and deserving of censorship in one decade becomes commonplace in the next. It does not follow that censorship is necessarily doomed to failure; but it is evident that the problem is more difficult, and the technique required more subtle, than believers in censorship will admit.

HAROLD D. LASSWELL

See: SOCIAL PROCESS; CONFORMITY; INTOLERANCE; MORALS; SEX ETHICS; APOSTASY AND HERESY; BLASPHEMY; PURITANISM; REFORMISM; CONSERVATISM; ANTIRADICALISM; BLUE LAWS; SUMPTUARY LEGISLATION; OSTRACISM; BLACKLIST; ESPIONAGE; ALIEN AND SEDITION ACTS; POLICE POWER; DRAMA; MOTION PICTURES; RADIO; PRESS; AMUSEMENTS, PUBLIC; CIVIL LIBERTIES; FREEDOM OF SPEECH AND OF THE PRESS.

Consult: Brownrigg, Douglas, *Indiscretions of the Naval Censor* (London 1920); Chafee, Zechariah, Jr., *Freedom of Speech* (New York 1920), and *The Inquiring Mind* (New York 1928); Ford, John, *Criminal Obscenity* (New York 1926); Hays, Arthur Garfield, *Let Freedom Ring* (New York 1928); Hoffmann, L., *Geschichte der Büchercensur* (Berlin 1819); Salmon, Lucy Maynard, *The Newspaper and Authority* (New York 1923); Schroeder, Theodore, *"Obscene" Literature and Constitutional Law* (New York 1911); Seabury, William M., *The Public and the Motion Picture Industry* (New York 1926); Whipple, Leon, *The Story of Civil Liberty in the United States* (New York 1927); Young, Kimball, and Lawrence, R. D., *Bibliography on Censorship and Propaganda*, University of Oregon, Journalism series, no. i (Eugene, Ore. 1928) p. 15–102 Putnam, G. H., *The Censorship of the Church of Rome*, 2 vols. (New York 1906–07); Ernst, M. L., and Seagle, William, *To the Pure* (New York 1928); Seagle, William, *Cato or the Future of Censorship* (London 1930); Hallays-Dabot, Victor, *Histoire de la censure théâtrale en France* (Paris 1862).

CENSUS. In the modern sense of the term a census is primarily an official enumeration through direct visitation of all the people either physically present or regularly residing in a country or in any of its subordinate divisions. An enumeration of all persons physically present is a de facto census; one confined to residents, like the census of the United States and its subdivisions, is a de jure census. A natural extension of the enumeration makes it include the collection of various data concerning the persons enumerated, such as race, sex, age, marital condition, etc. By extension in another direction the unit observed has been changed from one person to one farm, resulting in a census of agriculture, or to one manufacturing establishment, resulting in a census of manufactures.

The term census is borrowed from a Roman institution of a quite different character. The Roman census was a register of adult male citizens and their property for purposes of taxation, the distribution of military obligations and the determination of political status. This register, although subject to periodic revision, was essentially continuous, unlike the modern census which attempts a complete enumeration at a particular point of time and has no direct relation to any previous enumeration.

A census, being a sort of photographic record of a population group at a given moment, resembles a periodic taking account of stock in a business. Such an account needs to be supplemented and checked by a record of transactions during a period of time, usually a year. The scientific importance of a census lies in large part in the fact that it furnishes the needed basis for a study of changes in the number of people through births and deaths, immigration and emigration, and of changes in their status through marriage and divorce.

Scientific interest in the application of the numerical method to the study of population groups seems to have been undeveloped in the ancient world. The main roots of population statistics hardly run back beyond the second half of the seventeenth century. In 1661 G. B. Riccioli published in Italy his *Geographiae et hydrographiae reformatae libri duodecim* and in 1662 John Graunt published in England his *Observations on the London Bills of Mortality;* Riccioli made the first serious attempt to estimate the population of the earth, and Graunt, of a large city. About a century elapsed before these beginnings developed into a national census along modern lines. During this interval there were various attempts to enumerate the population of cities, provinces or cantons, but no successful attempts to count the whole population of large countries.

Perhaps the earliest of these preliminary efforts was a municipal census of the entire population of Nuremberg, taken in 1449. All previous enumerations both in the western world and in the Orient had been limited to certain age classes or other classes of the population or to hearths and households and thus had lacked the inclusiveness characteristic of the modern census. In the middle of the fifteenth century Nuremberg was threatened with a siege and the city fathers ordered a return of the entire population and of the available food supply. The results were guarded as a state secret and were not made public for more than two centuries. Other municipal censuses and censuses of provinces or of Swiss cantons were taken in the fifteenth and sixteenth centuries. All these, however, were merely foreshadowings of the later development.

The honor of introducing the modern census has been claimed for several countries, notably Canada, Sweden and the United States. The periodical enumeration established in the colony of New France in 1665 and continued in Quebec until 1754 has been called "the earliest of modern censuses" (Baines' article on "Census" in *Encyclopaedia Britannica*, 11th ed. 1910). The first of these, however, was later than Virginia's enumerations of 1624–25 and 1634–35, while the population affected was not significantly larger. The Canadian censuses, however, unlike those in Virginia, constituted a regular series and recorded the name of each person and various facts about him gathered by a house to house visitation. They included the villages of Quebec, Three Rivers and Montreal as well as a farming population scattered for some 200 miles up the St. Lawrence valley.

Sweden's claim to priority is based on a census taken in 1749, which according to Guinchard (*Sweden: Historical and Statistical Handbook*, Stockholm 1914) merits recognition as the original census. This was the first of a series which the Swedish government has continued without interruption down to the present. The Swedish census was based at the start on parish registers established in 1686, when each pastor was instructed to maintain not only registers of births and deaths and of all persons moving into or leaving the parish but also a list of its members. In 1748 a supplementary law

was passed requiring three tables to be prepared annually for each parish, one for births, a second for deaths and a third for the whole population. These parish reports went to the Home Department, where a summary for the year 1749 was prepared with the help of Wargentin, secretary of the Swedish Academy of Sciences.

An enumeration in Denmark and Norway in 1769, when they were under one government, was entrusted to private persons and is admittedly somewhat unreliable. The first general census of Spain, taken in the same year, encountered not a little resistance from the people, who feared that it was a preliminary to increased taxation and accordingly tended to supply incomplete or inaccurate information.

As a result of these experiments the few European students and administrators who considered the problem in the last half of the eighteenth century seem for the most part to have formed the opinion that an attempt to enumerate the residents of a large and populous country would be shipwrecked on administrative difficulties. Necker had written that it was impossible to make a general census of so extensive a country as France, and similar views had been expressed by German and English scholars. Even as late as 1827 Quételet (*Recherches sur la population*) desired to estimate the population of the Netherlands, which then included Belgium, by the method that Laplace had proposed a generation before, i.e. by enumerating the population of certain districts, determining for them the ratio between the population and the number of births or of deaths and applying that ratio to the whole country. This he proposed because he was skeptical of the census method.

Undeterred by the failures, or at best the partial successes, in these European countries, and faced by a serious and threatening political problem, the drafters of the American constitution of 1787 inserted therein a provision that an "enumeration shall be made within three years after the first meeting of the Congress of the United States and within every subsequent term of ten years." A similar plan for a periodic census had previously been set forth in the first constitution of New York state. It prescribed "that as soon after the expiration of seven years subsequent to the termination of the present war as may be, a census of the electors and inhabitants of this State be taken. . . . And further that once in every seven years after the taking of the said first census a just account of the electors resident in each county shall be taken." But the first enumeration in New York state under this provision was not taken until 1795, five years after the first federal census, and reported merely the electors, not the entire population.

The constitutional provision for a decennial census of the United States was not, however, an imitation of the New York constitution or of the practise of any European country. Nor is it to be ascribed, as Moreau de Jonnès ascribed it in 1847 (*Éléments de statistique*), to the fact that the members of the Constitutional Convention appreciated the value of statistics so keenly that they instituted the statistics of their country on the very day that they founded their government. The provision for a decennial census grew out of a protracted controversy between the large and the small states. Under the Articles of Confederation then in force each state had one vote and the congress one chamber. In the Constitutional Convention the small states insisted on retaining their equality; the populous and wealthy states demanded a weight in the councils of the nation proportional to their population and wealth. The compromise which was adopted provided for a legislature of two chambers, in one of which, the Senate, the claim of the small states should be granted, while in the other, the House of Representatives, the claim of the large states was allowed. When this agreement was reached, it was a short step to recognize that a periodic readjustment of the number of representatives in the lower House to changes in the population or the wealth of the states was desirable in a country where growth was rapid and uneven. It was decided to base representation on population, to count the slaves as three fifths of the same number of free persons and to enumerate the population every ten years.

On the surface the American census seemed like a political accident, but there is a real connection between democratic forms of government, with their attendant publicity, and the taking of a census. Until the nineteenth century the statistical data gathered by countries of continental Europe were usually treated as secrets of state. The modern census began in the United States in close association with democratic forms of government, and even at the start the results were immediately made public. Along with the growth of democracy in the nineteenth century there was an attendant spread of census taking. When the United States assumed responsibility for the government of Porto Rico and the Philippines one of its early measures

was the taking of a census, in order to provide information needed in setting up a more democratic government. The effort to take a census in China in 1910 resulted from a plan to establish local representative institutions in that country.

Whether Canada or Sweden or the United States be regarded as the originator of the modern census there can be no doubt that the periodic censuses of the United States have been preeminently responsible for introducing the practise into other countries. The history of statistics has been traced more carefully in Germany than elsewhere, and German students ascribe the origin of modern census taking to the United States. Thus Wappäus said in 1881 (*Einleitung in das Studium der Statistik*) that the United States was the first to undertake a census embracing all persons in a country. Von Mayr declared in 1895 and again in 1914 that the United States introduced censuses proper, which give not only the total number of persons but their main social classes (*Statistik und Gesellschaftslehre*). Van der Borght in 1911 called the census of the United States taken in 1790 the first census in the modern sense of the word (*Handwörterbuch der Staatswissenschaften*, 3rd ed., vol. viii, p. 502).

The first English census was taken in 1801 through the agency of the local overseers of the poor, or substantial householders. There is apparently no evidence that the sponsors knew of the American experiment eleven years earlier. This English census reported not merely the population classified by sex, but also the number of families and inhabited houses and the number of persons chiefly employed in agriculture, trade and manufacture or handicraft. At the same time the number of baptisms and burials in each tenth year through the eighteenth century and of the marriages in each year between 1754 and 1800 was reported by the parish rectors, vicars or curates.

France ordered a general enumeration in 1800, the results to be reported to Paris within two months. But the administrative machinery was inadequate and when at the end of two years the figures were received they were not treated seriously. The same was true of the second French census in 1806. It was not until thirty years later that the French government took a careful census by modern methods and with trustworthy results.

Block in 1886 claimed that the census of Paris in 1817 was the first real census, since it introduced schedules giving the names of all persons whether adults or children, masters or servants, a procedure extended in 1836 to all France (*Traité théorique et pratique de statistique*). Whether the claim be admitted depends mainly on whether the reporting of the name of every person is regarded as the essential characteristic of a census.

Probably no European census has had a more widely extended influence than the Belgian census of 1846. Nearly twenty years earlier Quételet had laid before the Belgian Academy of Sciences a study of the Dutch births, deaths, etc. in the hope of inducing the government to take a census, and in 1841 Belgium had organized a central statistical commission with Quételet as its president. Its main work at the start was in organizing and taking a census of the kingdom. At that time Quételet was perhaps the most widely known and influential of living statisticians and the Belgian census gained influence from his prestige. It was carefully planned, and by the use of a schedule with one line for each person provided space for answers to numerous questions. The most striking and important innovation was a careful analysis and critical interpretation of the returns. As soon as Italy and Germany had succeeded in achieving unification of the many parts into which they had been broken state wide censuses were organized, by Italy in 1861 and by Germany ten years later. The first Russian census was taken in 1897, almost at the end of "the statistical century," and with that step the census was extended over almost all of Europe.

Census taking has been carried also to more remote countries until now perhaps two thirds of the earth's population has been enumerated. The percentage is steadily rising, and practically the only unaffected and densely populated regions remaining are China and some independent or semi-dependent districts of Africa.

The returns of the first American census, as of the eight which followed, were gathered by federal marshals and assistant marshals in the judicial districts. In 1790 the returns gave the total population, white (male and female) and colored (free and slave). The white males were classified into those above sixteen years of age and those below; but Madison's proposal of a simple occupational classification, while approved by the House of Representatives, was rejected by the Senate.

On the eve of the second American census the Connecticut Academy of Arts and Sciences with the support of its elder sister, the American

Philosophical Society, petitioned Congress to direct that the census be taken in a more detailed manner. The memorial of the American Philosophical Society doubtless received special attention inasmuch as its president, Jefferson, was vice president of the United States and ex officio president of the Senate, the body to which the memorial was addressed. Both petitions urged a more detailed classification of the population by age, in the hope of getting light upon the average duration of human life. In the census of 1800 the whites (male and female) were classified into five age groups.

The American censuses before 1850 made the family the unit and reported only a few details such as the number of persons of each sex falling within the different specified age groups. Beginning with 1850 the individual became the unit, and additional details, such as the sex, age, race, birthplace and occupation of each person were reported. This great change in procedure, perhaps the most important in the whole history of the census, was made almost simultaneously on both sides of the Atlantic. It furnished, far more effectively than had earlier methods, guaranties of the accuracy of the enumeration and means of detecting inaccuracies. The material thus obtained also permitted more detailed and complicated tabulations.

The change has often been attributed to the direct influence of Quételet and the Belgian census of 1846. But the immediate prototype of the American census of 1850 was the slightly known Boston census of 1845, the creator of which, Lemuel Shattuck, was called to Washington in 1849 and contributed greatly to organizing the federal census of the following year along similar lines. Shattuck seems to have drawn heavily for his ideas upon the Irish census of 1841, organized by Thomas Larcom. Larcom in turn had found and utilized many suggestions in a report upon the approaching British census of 1841, presented in April, 1840, by a committee of the Statistical Society of London. This committee had corresponded with Quételet, and may have derived many suggestions both from him and from John Rickman, who had prepared the reports on the first four English censuses (1801–31). Whether the lineage goes further back, as Block claimed, through the French census of 1836 to the Paris census of 1817 and Joseph Fourier, has not been determined. What connection there was between the United States census of 1850 and Quételet was probably through these links. The main innovations common to the Boston census of 1845, the Belgian census of 1846 and the American census of 1850 were: making the individual rather than the family the unit of enumeration; increasing greatly thereby the amount of information gathered; and interpreting the information in a critical text.

After these changes had been made and at least four items of information had been asked about each free inhabitant the number of possible tabulations was greatly increased and the work of the central office in supervising the enumerators in the field and in planning, producing and interpreting the census tables became steadily more important. At the start hand tallying was employed in building up tables from the answers on the schedules—a method which required expert clerks and careful supervision, since a misplaced tally is almost sure to go undetected. Labor saving in tabulation began in the United States as early as 1872, when a device was introduced for exposing only those columns on the large tally sheet which were for the moment in use. This primitive machine was of much help in tabulating the results of the American census of 1880. In an effort to reduce the mechanical labor of hand tabulation two other methods have been tried. One consists of a schedule card for each person, filled by the enumerator in the field and used in the office as a classifying and counting unit. This method has been employed in Italy, Prussia and Massachusetts. The other is the use in the office of slips or cards or chips, one for each person, to which all the information needed for tabulation is transferred. This originated in Bavaria in 1871 and was used later in Massachusetts and India. "In order to reduce the labour of filling in the slips various devices were resorted to; slips of different colours were used for the different religions; sex and civil condition were indicated by the shape of, or symbols printed on, the slips" (Risley, H. H., and Gait, E. A., *Census of India*, 1901, 4 vols., Calcutta 1903, vol. i, pt. i, p. xv).

Since 1890 these devices have been slowly displaced by mechanical methods of tabulation, usually employing an electric current. In American field work enumerators use a large schedule printed on both sides and providing room for answers concerning one hundred persons, the answers for each occupying one line across the schedule. The statistical information thus obtained about each person is transferred in the central office to a small tabulation card by

punching small holes, the location of each indicating the nature of the answer. By the aid of an electric current guided to the proper dial by the location of these holes, it is possible to tally simultaneously instead of successively, and with mechanical accuracy. This device, originally invented by Hollerith and first used in the American census of 1890, greatly increased the scope of the tables and made the tabulation of complicated facts (e.g. number of married male barbers 25–34 years of age) almost as easy and cheap as the tabulation of simple facts (e.g. number of males). These complicated tabulations are of primary importance in turning census material to scientific use. As a result of this innovation the tables in the census of 1890 increased in number and complexity over those in the preceding census almost as much as had those in the census of 1850 over the 1840 tables.

With the development of the census the inquiries on the population schedule have tended to multiply. Thus in 1850 four questions, and in 1930 seven, were asked about every resident of the United States; in 1850 six questions, and in 1930 ten, were asked about everyone in a defined class, e.g. about the literacy of every person over a specified age. This change has greatly increased the amount of possible tabulation; by adding to the enumerator's load it has further increased the danger that he may neglect questions less readily answered. There is a great difference in difficulty, for instance, between reporting the sex of an individual and reporting the industry or business in which he works. The tabulation of occupations is almost as difficult as that of all the other answers combined. Some countries in order to secure a detailed and accurate picture of the industrial grouping of the population have taken special censuses of occupations and industries at a different date from the regular population census. Since industrial legislation in the United States falls within the field of the states an industrial census is of immediate importance for the latter and is not likely to be introduced unless it is called for by the states to furnish a basis for their legislation.

Following the example of the United States, a number of states have taken periodic censuses and even incorporated provisions for them in their constitutions. In a few cases, notably those of Michigan in 1854 and later, New York 1855, 1865 and 1875, and Massachusetts and Rhode Island 1875 and later, the results have been of scientific value. For the most part, however, these state censuses were taken by persons not trained for such tasks and the results were insignificant or serviceable only for reapportioning members of one or both branches of the state legislature. The tendency of the states in recent years has been to abandon this practise and to rely upon the federal censuses both for the figures needed in state apportionment and for information about state conditions in various fields.

Very few American cities have taken censuses of value. Usually they are entrusted to the police department and thus become purely political or administrative in character. The only important exception to this rule is the Boston census of 1845, already described. In European cities statistical offices with trained staffs are more generally found. Although these often take over the local work of national censuses and add to the general schedule approved questions of local importance, such as those about buildings and housing, population per room, etc., there are few cities which have developed independent censuses.

After it had been found that the enumeration method was serviceable for counting persons and that its results were so much more accurate than any method of estimate that they justified the added labor and money required, the question arose whether the same method of complete enumeration might be found serviceable in other directions. In 1850 a census of agriculture was taken in the United States. The enumeration unit was not the resident but the farm, about which many questions were asked involving area, total and improved, produce of various crops, number of various kinds of livestock, etc. This method of obtaining agricultural information has spread to other countries but not so fast and far as the censuses of population. In the United States the agricultural census is now taken every five years but the intercalated ones are restricted in scope and less expensive. These returns from an agricultural census are treated as bases of reference for crop estimates of post-census years. Censuses of agriculture involving a call at each farm by an enumerator were introduced much later than censuses of population and are found today in only a small proportion even of the leading agricultural countries. In Great Britain agricultural censuses were taken in 1906 and 1925 but the farm schedules were sent out by mail. The agricultural returns which have been obtained in Germany at intervals of five or ten years are as a rule not true censuses but estimates made by the officers of each commune.

A census of the products of industry was introduced in the United States as part of the census of 1850. The unit at first was the producer or producing establishment, including "all kinds of mercantile, commercial or trading business . . . confined to dealing and exchange of articles of merchandise or manufacture." Thirty years later the phrase productive industry was defined as including "not only all factories and large works but also the mechanical trades, as blacksmithing, coopering, carpentry, etc." Since 1905 the census of manufactures, which then began to be taken every five years and now is taken every two, has omitted these hand industries or neighborhood industries, which never were completely enumerated, and has been restricted to industries conducted under the factory system.

The testing of the accuracy of a census is difficult because there is no standard more trustworthy by which its results can be measured. But a census is sometimes discredited by the inconsistencies between its different results or by divergences between its figures and those of earlier or later enumerations. The results of the census of 1870, accepted without question at the time, are now admitted to have been defective especially in the southern states, although the proportion of omissions is often exaggerated. The accuracy of a census is ordinarily judged by the accuracy with which the population has been counted, and that total under American conditions is, according to the expert opinion of Francis Walker and Carroll Wright, probably within one percent of the truth. But a complete census is composed of answers to many inquiries, each with its own degree of error. Negroes are enumerated less accurately than whites and the probable error of that count may run as high as two percent. Age is very badly reported, especially among adults; who as they grow older tend to become increasingly inaccurate in this respect. Errors from this source decrease, however, from census to census. The foreign born are, with the exception of the Negroes, least accurate in reporting their ages. The actual number of divorced persons in the country at a given date is not far from twice the reported number. Whenever the conditions permit and the degree of error is important, the probable error of each class of answers should, in spite of the difficulty of the task, be estimated.

Such an estimate is a part of the interpretation of the results. Some American officials have thought it best to publish tables with little comment, and thus leave the public to make their own interpretations. This cautious position, while at the start it was probably wise and in some controversial fields may still be justified, has been generally abandoned for census statistics. It remains true, however, that a writer in a governmental publication is less free than a private citizen, and it becomes a question how far an official commentary should go. The interpretations should probably be limited to those "inferences which would be accepted as almost certain by anyone competent to weigh the evidence and which seem to be of general rather than of merely local interest or importance" (United States, Census Office, *12th Census 1900, Supplementary Analysis and Derivative Tables*, Washington 1906, p. v).

Because of the temporary character of American census organization before 1902 and the pressure upon the office staff both before and after that date, the interpretation in many cases was for a long period inadequate or perfunctory. This shortcoming has recently been overcome in part through a series of census monographs prepared usually by collaboration between the bureau and outside scholars.

WALTER F. WILLCOX

See: STATISTICS; REGISTRATION; POPULATION; DEMOGRAPHY; OCCUPATIONS; APPORTIONMENT.

Consult: Wright, C. D., and Hunt, W. C., *The History and Growth of the United States Census, 1790–1890* (Washington 1900); American Economic Association, *The Federal Census: Critical Essays* (New York 1899); Mayr, Georg von, *Statistik und Gesellschaftslehre*, 3 vols. (2nd ed. Tübingen 1914–26) vol. i, sects. 27–44 and 79–82; *The History of Statistics*, ed. by John Koren (New York 1918).

CENTANI, FRANCISCO (dates of birth and death unknown), seventeenth century Spanish economist. His only work which is extant is a memorial, *Tierras; medios universales . . . para que . . . tenga la real hacienda dotación fija para asistir a la causa pública* (Madrid 1671). He is considered a precursor of the physiocrats because of his doctrine that land is the "true" and "physical" source of wealth and should bear the brunt of taxation. His projected reforms, prompted by notorious frauds in the fiscal system and excessive administrative expenses, centered on the abolition of vexatious indirect taxes which hindered economic progress. Malversation in the *real hacienda* and poverty among the people would cease with the substitution of a single tax upon land, with no exemptions for the nobility or the church. The tax would be levied

on the basis of a statistical survey of fertility and the value of crops. This concept of an *impôt unique* contrasts with such of his other ideas as have a mercantilistic stamp. After describing the natural resources of the realm Centani argued that his proposals, which included restriction of the importation of manufactures, would increase the population of Spain from six to thirty million. Associated with his consideration of land as the only real wealth is his belief that "the greatest wealth consists in increasing families." Following the thought of contemporaries Centani decried monetary inflation, pointing out that although there was twice as much money in Spain in 1670 as in 1630 the majority of the people were living in greater distress.

ROBERT S. SMITH

Consult: Colmeiro, Manuel, "Biblioteca de los economistas españoles" in Real Academia de Ciencias Morales y Políticas, *Memorias*, vol. i (1861) 104–5.

CENTER PARTY, GERMANY. *See* PARTIES, POLITICAL; CATHOLIC PARTIES.

CENTRAL AMERICAN FEDERATION. Perhaps the earliest step in the direction of Central American federation was the organization of the captaincy general of Guatemala by the Spanish government in 1527. A similar centripetal tendency operated during the brief period when, on their severance from Spain, some of the Central American provinces were joined to the Mexican Empire. After the dissolution of the latter in 1823 the provinces of Costa Rica, Guatemala, Honduras, Nicaragua and Salvador established the first Central American Union, for which a constitution, evidently patterned after that of the United States, was promulgated on November 22, 1824. This federation was dissolved in 1839 under the impact of intense party strife, in which the radicals or liberals, who favored federation, were driven from power by the aristocratic and clerical elements, largely because of their strong anticlericalism. The idea of a central organization did not die out in Central America after the dissolution of the first union. In some of the constitutions subsequently adopted by independent nations of Central America the hope was expressed that at some future time the old federation would be reestablished. This sentiment was embodied in the Costa Rican constitution of 1847, the Salvadorean constitution of 1886, the Guatemalan constitution of 1887, the Honduran constitution of 1904, the Nicaraguan constitution of 1905 and the Costa Rican constitution of 1917.

After the collapse of the original union the adherents and opponents of federation in each state maintained interstate affiliations. Mid-century Isthmian politics involving Great Britain and the United States and, somewhat later, the filibustering expeditions of William Walker increased union sentiment, but several attempts in the forties by Honduras, Nicaragua and Salvador—the three states most alike with respect to racial elements and social conditions—to set up loose federations failed. With the decline of the early parties favoring and opposing federation the important factors in the situation became individual statesmen and dictators. In 1885 General Justo Rufino Barrios (*q.v.*), president of Guatemala, having failed to bring about a union by peaceful means, proclaimed the establishment of a Central American Union, placed himself at the head of an army and summoned the other republics to join the movement. He met his death in the first battle with the soldiers of Salvador. Eleven years later the presidents of Honduras, Nicaragua and Salvador agreed to form the Greater Republic of Central America. Although this union was recognized by the United States, it was short lived. Opponents of the Greater Republic declared that it was the work of a few men, not the wish of the people.

Factional disputes of this sort over leadership, in countries unstable in their democratic organization and frequently embroiled with conflicting dictatorships, have thus stood in the way of Central American federation. Other centrifugal forces have been the opposition of politicians in different sections to centralization because of the strength of local interests and the fear that political preferment might be lost. The difficulties of intercommunication between different sections of Central America have encouraged particularism and checked any move toward the unification of the different sections. Economic forces have not always worked for harmony: the banana planter of Nicaragua has little in common with the coffee planter of Salvador.

The United States has generally favored a federation of the republics of Central America. Such a policy, recommended by a desire to further political stability on the American continent, has been fortified by the necessity for safeguarding American economic interests and giving no ground for European intervention. In 1874 and again in 1880 the United States

evinced an interest in federation, and such an interest was also part of Blaine's pan-American policy as secretary of state. Roosevelt's corollary of the Monroe Doctrine—that it is the duty of the United States to preserve peace in Central America—led him, with the aid of President Díaz of Mexico, to promote the Central American Conference at Washington in 1907. This conference resulted in the framing of a series of treaties which aimed to remove Central American discord and encourage the formation of a firm union: recognition of unconstitutional governments was discountenanced; intervention and the fomenting of revolt in neighboring states were banned; Honduras was neutralized; a Central American Court of Justice and a Central American Bureau were created. In 1922, when some of these treaties had lost their force, the United States sponsored another conference at Washington, where treaties were again framed, dealing with the establishment of amity, the reduction of armaments and the creation of an International Central American Tribunal.

At the Central American Conference of 1907 the delegates from Honduras and Nicaragua had urged that an intimate union among the Central American republics was needed, while other delegates declared that as yet this was only a noble aspiration. This view is borne out by the results of a move toward a Central American Union that took place in 1921. On January 19 of that year a treaty was signed at San José by representatives of Guatemala, Salvador, Honduras and Costa Rica. This "pact of union" sketched a provisional constitution for the four republics that wished to reconstruct the Federal Republic of Central America. This constitution declared that united into a "perpetual and indissoluble union" those republics would henceforth constitute a sovereign and independent nation designated the Federation of Central America. So far as the federal constitution would allow, each state in the union was to preserve its control of local affairs and was to exercise all the powers not delegated to the federal government. Until the central government could negotiate new treaties the respective states were to fulfil their existing treaties with foreign nations. The state constitutions were to remain in force so far as they were in harmony with the federal constitution. But Nicaragua opposed this treaty because it impinged upon her trans-isthmian canal interests, which were protected by the Bryan-Chamorro Treaty with the United States. Nevertheless, arrangements were made that the new confederate flag should be unfurled on September 15, 1921. Eventually, however, Costa Rica, which has generally been cool to federation, chiefly because of its geographical isolation and the large European elements in its population, turned against the confederation, and a coup d'état that took place in Guatemala city in December, 1921, completed the downfall of the projected Federation of Central America.

WILLIAM SPENCE ROBERTSON

See: PAN-AMERICANISM; FEDERATION; GOVERNMENT; MONROE DOCTRINE.

Consult: Moreno, L., *Historia de las relaciones interestatuales de Centroamérica*, Monografías Hispano-Americanas, no. i (Madrid 1928); Slade, W. F., "The Federation of Central America" in *Journal of Race Development*, vol. viii (1917–18) 79–150, 204–75; Bancroft, H. H., *History of Central America*, vol. iii, which is vol. viii of his *Works* (San Francisco 1887); Munro, Dana G., *The Five Republics of Central America* (New York 1918); Cox, I. J., "Nicaragua and the United States, 1909–1927" in World Peace Foundation, *Pamphlets*, vol. x (1927) no. vii; Brown, P. M., "American Intervention in Central America" in *Journal of Race Development*, vol. iv (1913–14) 409–26; Bustamante y Sirven, A. S. de, *El tribunal permanente de justicia internacional* (Madrid 1925), tr. by E. F. Read (New York 1925) ch. v; "The Central American Peace Conference at Washington" in International Bureau of the American Republics, *Monthly Bulletin*, vol. xxv (1907) 1334–73; "Conference on Central American Affairs," *International Conciliation*, no. 189 (New York 1923).

CENTRAL BANKING. The term central banking is of comparatively recent origin, not being widely used before the beginning of the twentieth century. While some variations in the meaning of the term survive even to the present, the consensus of opinion now limits the designation "central" only to those banks which have a distinctly public purpose, that is, banks which transact business not primarily for the purpose of making profit but rather for the sake of the ulterior effects upon the money market and upon the banking structure in general. Among such banks we may distinguish bankers' banks, which have virtually no dealings with any customers except bankers and governments, and banks which do business with all classes of customers, although they are disposed to limit their larger dealings to operations in which other banks are involved or in which the government largely figures.

Prior to the World War most of the larger European countries had well developed central banks, although these varied a good deal among themselves in detailed function. In the United

States, however, genuine central banking was unknown, the First and Second Banks of the United States having been enterprises of a quite different nature; likewise in South America, notwithstanding the existence of several so-called central banks, there was no well established system; and little progress in this direction had been made in the Orient. During the World War experience showed that central banks can exert a considerable degree of control over the price level and are in a position to render substantial assistance to governments in rectifying their financial affairs. As a result a movement set in for the establishment of central banks; it was strongly furthered by the resolutions of the Genoa Conference (1922) which advised the organization of a central bank in each of the new countries created by the Treaty of Versailles. Several such banks were promptly established, and in practically all of the central banks a new conception of function was developed during the decade following the war. This movement was marked by some exaggerations; oversanguine opinions as to the possible power and effectiveness of central banks were frequently expressed. During the latter part of the decade, however, opinion swung in the opposite direction; people were disposed to minimize the scope of action of central banks and to restrict them to a position similar to that which they had held prior to the war.

The primary function of central banks is to maintain the banking reserve of the country at a sufficiently high point and in a sufficiently liquid condition. By this is meant (1) the maintenance of what is considered an "adequate" cash reserve against the bank credit of the country, such reserve to be held in the vaults of the central bank or in those of other banks or divided between them; (2) the defense of the entire specie stock of the country against undue depletion by exportation or unwarranted increase through importation; (3) the maintenance of an adequate note issue convertible into bank credit through deposits at any time and presumably convertible into coin upon demand.

Experience has shown that in order to perform its function the central bank must have the power to supply or "create" in the course of its operations ultimate reserve funds in some fashion. This is accomplished by investing the central bank with a monopoly of banknote issue or, at least, with a power of note issue superior to that of other banks, these notes being used by the latter as vault reserves. The same effect may be achieved by requiring the other banks to maintain "reserve balances" with the central bank—balances which are the result of either cash deposits or paper rediscounts. In order that the central bank may at all times be ready to meet the requirements of other banks for more reserves it is usually authorized to rediscount the paper brought to it by other banks (normally with their endorsement), the proceeds then being represented either by issues of its own notes or by credits on its books considered as reserve for such other banks. The fundamental problems, therefore, confronting the central bank are the note issue policy—or the total amount of notes and the basis on which they should be issued—and the discount policy. The latter is usually thought of as including the determination of the kind of paper which the bank will ordinarily admit to rediscount, the rate at which it will admit such paper and the extent to which it is willing to go in granting rediscounts both in the aggregate and to any individual banking institution.

During the first half of the nineteenth century there developed in Great Britain a controversy with respect to the basis of note issue, which had an important bearing upon the fundamental problem of central banking. The currency school put forward the view that note issues in order to be "safe" should be protected by a reserve of specie so that all additions to the notes in circulation beyond a specified amount (protected by collateral, preferably in government obligations) be covered unit for unit by specie. The banking school, on the other hand, held to the view that the proper basis for note issue was the development of business or exchange, as evidenced by the amount of liquid commercial paper discounted with the issuing bank. This was later called the "commercial asset theory" of currency issue. The British Bank Act of 1844, imitated in the National Banking Act (1863) of the United States, represented the triumph of the currency school. Most of the continental note issue systems, however, rested upon the banking theory, and the Federal Reserve Act, passed in 1913, adopted virtually the same position. When in the course of time banknotes declined in importance as an integral part of the country's currency, the older controversy developed into a discussion as to the type of paper which the central bank should discount in order to provide the basis for its deposit credits. There are those who insist that it should discount the obligations

of other banks with sound collateral attached, and on the other hand those who would limit the discount operations of the central bank to liquid paper growing out of bona fide commercial transactions.

In recent years there has become apparent also a pronounced difference of opinion as to the scope of central bank activity. According to the exponents of the so-called emergency point of view the central bank stands ready to act "like a fire engine," putting out financial conflagrations as they develop—an emergency institution, really active only from time to time. The adherents of the banking point of view maintain, on the contrary, that the central bank should function like a bank and not like a relief institution; its work should be constant and regular and its policy should be that of shaping and adapting itself to critical conditions as these arise. Although the extent of its participation would necessarily vary, it should be a constant factor in the money market. The difference between these points of view is reflected most clearly in the scope which they allow to the so-called "open market" operations of central banks, that is, those operations in which the central bank goes out into the open market and seeks business, buys and sells paper and otherwise takes the initiative in injecting or withdrawing credit. When the Federal Reserve Act was under advisement strenuous efforts were made by the banking community to prevent the incorporation of open market powers in it, but since the close of the war the continuous and large use of these powers has been recognized, both in America and Europe, as practically indispensable in the operation of central banks. The relation between discounting and open market operations necessarily varies with varying market situations. Since the central bank is not properly concerned with the satisfying of ordinary credit needs, its activity is generally at its lowest when the operations of other banks are at the average or usual level and the volume of their credit extension shows no appreciable change. It is this fact which probably gave rise originally to the emergency relief theory. Yet conditions seldom are normal or average. The great transactions of governments, which are now largely in the hands of central banks, disturb the market; international banking operations affect and readjust market conditions; speculative processes may have a similar distorting effect. Thus, although the degree of its participation varies, the central bank in practise is called upon to be steadily in the market.

Whether the central bank remains an emergency relief institution or functions as a constant factor in the money market, it is desirable that its head office be located in the principal financial center of the country. But such functions as clearing on its books a considerable proportion of the country's check transactions, regarded within recent years as pertaining to central banks, and acting as a fiscal agent for the government have obviously led to a need for branches. Most central banks have developed accordingly larger or smaller groups of such branches. The Bank of England, for example, has 10; the Bank of France, about 660. The Federal Reserve system in the United States provides for 12 central banks, each operating in its own district as a separate corporation independent of all others; but all of them are supervised by a central board, possessing such extensive powers of control over their policy, expenditures and personnel that it may be treated, in theory at least, as a central board of directors of which the local institutions are in a sense branches. The Federal Reserve Banks have established branches of their own which numbered 25 in 1930, but the whole theory of their operation and of the degree of their independence still remains unsettled. The problem of the proper relation between the head office and the branches of a central bank is much more than a mere matter of technique; the delimitation of the degree of independence of the branches is conditioned by the view taken as to how far it is possible and expedient to go in setting up local discount markets.

Some authorities declare that in addition to maintaining the banking reserve of a country in a satisfactory condition central banks should attempt to regulate the supply of credit in such a way as to bring about readjustment in cases where relationships between purchasing power and the price of goods depart from an average or normal level. This phase of central bank activity, the possibility of exerting "credit control" in order to stabilize the price level, came into great prominence after the close of the World War and has continued ever since to excite largest interest. Obviously, such use of central banking is possible only if the central bank has the power of directing and regulating the volume and use of bank credit in general and if bank credit is, at least, the most important price determining factor.

In order that the first of these conditions be

realized in practise it is necessary that the central bank exercise a considerable degree of control over other banks in the country. It is supposed that the central bank, by changing its discount rate or by "rationing" its credit to various classes of customers, can regulate the amount of credit available, within a certain range of cost, to other banks. Being thus able to add to, or to subtract from, the reserves of other banks the central bank is in a position to force them to broaden or diminish their lending, to determine the expansion or contraction of their credit to the public. It is argued further that if other banks do not offer to deal with it in a volume sufficient to enable it to obtain such results the central bank may undercut them by going into the open market, thereby compelling them to regulate their rates more or less with reference to its own rate and in some measure at least to adjust their conditions of lending to those made by the central bank.

The ability of a central bank to exercise such a degree of control depends upon its power to make its discount rate fully "effective." There are conditions under which this seems to be impossible. For example, if the price level is already advancing at considerable speed it is probable that the raising of the discount rate may be relatively ineffectual, as was demonstrated by the experience of the European central banks during the post-war period. Similarly, when other banks are not as yet at the point of being "loaned up" and are themselves of substantial size, with resources comparable to those of the central bank (as in England), they may be quite able, either singly or by joint action, to neutralize except within a restricted range of transactions the efforts of the central bank in the open market.

In this connection it is interesting to observe the differences in the mechanisms employed by central banks in the regulation of credit extension by other banks. The older practise of the Bank of England and of other central banks has been founded upon the view that the discount rate of the central bank should be the controlling factor and should "lead" the market. The Bank of England has thus habitually sought to have its official rate slightly higher than the market rate, with the purpose of penalizing those banks which sought to enlarge their credit by borrowing from it; at the same time through its private rate, at which it discounted the paper and advanced loans to its non-banking customers, it sought to drive the other banks into conformity with its policy by compelling them to charge rates similar to those which it was itself enforcing. In the United States the banking authorities have never accepted the original Bank of England practise but have usually fixed a rate lower than that of the open market. The Federal Reserve Banks, reluctant to raise discount rates for the purpose of curtailing the supply of credit in the market, have made their increases usually after, instead of before, open market changes. They have, therefore, in a good many cases been disposed to substitute a rationing of bank credit for changes in the discount rate and have sometimes sought to curtail credit by refusing to discount specified kinds of paper. This has never been very successful and the prevailing opinion undoubtedly regards the established practise of the Bank of England as the correct one. The older technique has, however, been greatly disturbed by the development of new conditions since the close of the war.

If central banks are to be in a position to regulate the price level it is also necessary that bank credit play a decisive role in the determination of prices. The advocates of price stabilization through credit control maintain that the price level is governed, by and large, by the volume and velocity of currency, an overwhelming proportion of which is made up of bank credit instruments such as checks and banknotes. Without going into a detailed analysis of this theory it may be observed that even if its soundness be admitted for normal conditions factors operating entirely on the goods side of the equation of exchange, such as invention of new labor saving devices or of new methods of distribution, may effectually change the direction of prices. It is also doubted by some authorities whether actual conditions of competition and mobility are such that a change in the volume or velocity of credit is felt immediately throughout the entire field or indeed fully felt at any time. Moreover, the existence of artificial price control in certain important branches of economic organization may result in greatly altering the effect of changes in credit supply upon other groups of prices. A practical argument advanced against this theory is that statistical information is too fragmentary and inadequate to permit the day-to-day regulation of bank policy with a view to keeping the price level stable. Thus the United States Federal Reserve Board has officially asserted that in fixing discount rates it will often be true that statistical analysis is too late or too inadequate

to be of service and that in lieu of conclusions based thereon the use of "judgment" or conjecture is a safer guide. Most persons, however, admit that where practical stability in the price level or regulation of the increase or decrease at a moderate rate is a prime prerequisite central banking policy should so far as possible be directed to the purpose of bringing that about. There is still difference of opinion as to whether price stability should take precedence over all other purposes.

In the course of its routine business a central bank establishes contacts not only with the government and the other banks in the country but also with banks in foreign countries. Under the conditions of international economic and financial interdependence which are characteristic of the present economic order in the western world regular relations with foreign banks are to be regarded as virtually mandatory. The exigencies of credit control and of such financial ties between governments as are likely to arise in war time enhance the scope and importance of these international relations and may lead to the development of cooperative relationships between central banks. Of recent years a good deal has been said about the necessity and practicability of such international cooperation. Before the war in times of a world wide crisis or of special domestic pressure central banks successfully undertook international transfers of gold and on one or two notable occasions interbank rediscounting. The satisfactory results achieved in these isolated instances encouraged economists to suggest the possibility of a world bank, an idea which was discussed as eagerly as that of international money. After 1914 war necessity led to an informal pooling of resources by central banks among both the Central Powers and the Allies. When the United States entered the war, the funds of the Federal Reserve system were also thrown into the common stock. Cooperation at that time did not extend to the imposition of uniform currency and credit regulations, and independence of the price levels was maintained through the artifice of exchange "pegging." War experience, however, had been so striking that it stimulated a desire for joint action in the period of reconstruction. The work of the Gold Settlement Fund of the Federal Reserve Board had attracted wide attention, and discussions at Versailles had later led to proposals for an international gold settlement plan. These proposals came to nothing because of the mutual distrust which prevailed.

With the complete collapse of currency and domestic values in Germany it became evident, however, that the restoration of normal conditions in the field of currency, foreign exchange and international trade depended to a considerable extent upon the assistance which central banks in a strong position and with large holdings could extend to weaker institutions in other countries. It was believed that the anticipated renewal of the pre-war "scramble for gold" could be prevented only by the cooperation of the central banks of the world. After 1925 a series of agreements was therefore entered into by various leading central banks, under which they promised to provide means for safeguarding the normal functioning of the new currency systems established in the several countries following a period of stabilization. The Federal Reserve Bank of New York, for example, undertook to support the Bank of England in putting the British currency stabilization legislation upon a permanent basis by obligating itself to purchase bills up to a specified amount at a rate of discount fixed with reference to its own prevailing rate, if such assistance was needed. As such agreements became more numerous and complex, the ordinary business problems to which they gave rise increased in number and urgency; central banking conferences were therefore called from time to time. The subjects discussed at these meetings and the results of the discussions were never made public officially; they were understood, however, to relate to such questions as discount rates, international gold movements, and problems of credit control in which the collaboration of two or more of the banks was considered desirable. These conferences led to a renewal of the discussion regarding the feasibility of a world bank working toward the international stability of price levels and exercising an international control over the several money markets. The conferences had no official status, however, and their outcome was largely dependent upon the personalities of the participants. Nor were they always successful in bringing about genuine cooperation, the outstanding failure being the inability of the Federal Reserve Bank of New York and of the Bank of England to obtain an altogether satisfactory working relationship with the Bank of France during the stabilization of the French currency (1927–28).

Since in several European countries German reparation payments appeared as a significant

element in financial and fiscal budgetary programs, the international financial discussion after 1925 tended increasingly to center about the problem of reparations or issues connected with it. The Dawes plan which was adopted in 1924 provided for the residence of an organized supervisory body in Berlin, but it was understood that Germany would be relieved of this foreign financial occupation as soon as possible. In 1928 the question was raised of a new reparations conference to readjust the entire basis of the payments and to eliminate the foreign supervision which had proven so galling to the Germans. This led to the conference of reparations experts at Paris which produced the Young plan, perfected in detail at The Hague during August and September, 1929.

At an early stage of the preparation of the Young plan the proposal was made to substitute an incorporated "world bank" for the international group in Berlin which until then had administered reparations. There was still much work to be done in steadily receiving and disbursing payments made by Germany and in maintaining German exchange at a fixed parity with other currencies. It was essential that the large transfers involved should never be permitted to interfere with the soundness of the finances of the participants in the reparations plan. It was also recognized that the recipients of the annuities under the new plan might wish to "commercialize" them by issuing securities representing the capitalized value of these annuities. All these operations were found to require sympathetic and experienced handling from day to day and close cooperation between the central banks of the participating countries. A world bank, the feasibility of which was discussed several years before, appeared at this juncture to satisfy an immediate and genuine need. As a result the proposal of a Bank for International Settlements was incorporated in the recommendations of the reparation experts, and in 1930 the institution was organized under a Swiss charter by representatives of the central banks of Belgium, England, France, Germany, Italy and Japan and of an American banking group.

The primary duty of the Bank is to be the managing of reparation payments, but it was also given restricted functions of a general banking nature. It is not permitted to exercise the power of note issue, and in the performance of other functions of a bank of deposit it will encounter difficulties because of its location at Basle, at a great distance from its chief customers. Nevertheless it is the most distinct development of the world bank idea, the most positive extension of central banking into the international field that has been attempted so far. Such questions as the influence which it may exercise upon credit control in the several countries, the inflationary possibilities which it supposedly offers, the elimination of free fixing of foreign exchange rates which it makes theoretically feasible remain for the present in the field of controversy. These are matters which depend largely upon the policy to be adopted by the management of the new institution.

In addition to its other functions the central bank acts usually as the agent of the government in the money market. It stands ready to make as large advances to the government as banking soundness permits and undertakes to distribute government obligations to other banks and private investors. This practise is justified at present by the magnitude of the financial transactions of the government, which make it an important factor in the money market. Yet the practise is essentially an outgrowth of the peculiar conditions in the early history of central banking. Originally the central bank rendered its chief service to the government by furnishing it with short term accommodation, which too often developed into long term loans. In some cases, indeed, a "permanent" loan to the government was the price paid for the charter and the exclusive privilege of note issue. During the nineteenth century it was recognized, however, that in lending to the government the central bank should act merely as an intermediary, issuing government obligations and selling them to bona fide investors but refraining from any considerable purchasing or lending upon such obligations. The fact that it appeared as the lender to the government caused the central bank to be designated as the holder of government funds, and out of this grew the function of acting also as the receiving and disbursing agent. For a long time the United States under the independent treasury system held out against the establishment of such relationships with banks. During the Civil War, however, it was obliged to reestablish its banking connections, and after the close of the war the increasing complexity of its relations with the business world compelled the continuation of the depository functions of the national banks despite the fact that the subtreasury system was not abolished. In the Federal Reserve Act,

provision was made for transferring the fiscal functions of the subtreasuries to the Federal Reserve Banks, the actual transfer being made in 1920. Since then the Federal Reserve Banks have exercised the same functions as other central banks, issuing and distributing treasury obligations, holding and disbursing government funds and generally performing all duties in connection with custody and trusteeship, except those which for reasons of historical sentiment have been continued in the hands of the Department of the Treasury at Washington. In foreign countries the practise of having the financial business of the government, particularly that involving contacts with the money market, managed with the close cooperation of the central bank is nearly universal. During the World War most central banks became heavily overburdened with government obligations, which accumulated in their hands because it was easier to obtain the funds directly from the central bank than to await the results of a general subscription, or because after great quantities of obligations had been sold it was necessary for the central bank to support the market by lending. The result in either case was the same, the immobilization of the portfolios of all central banks with government obligations. While the Cunliffe Committee Report pointed to the retiring of government obligations from the portfolio of the Bank of England as an essential factor in banking reform, the effort in this direction has been only partially successful. In most countries it has been thought necessary that the central bank should continue its support of the money market and of the public treasury; central banks have therefore continued to be large dealers in short dated public obligations, which by reason of their constant renewal represent really long time indebtedness. The situation has been rendered more complex by the belief that the central bank can effect the stabilization of prices and that dealing in government securities offers substantial aid in this process. Perhaps of even greater importance has been the belief that through the influence of the central bank upon the money market the actual cost of funds to the treasury can be greatly reduced.

The close cooperation between the central bank and the government is at least partly explained by the fact that the government, whether as owner or as the highest authority in the land, exercises in most countries a considerable degree of control over the management of the bank. In some countries it appoints a group of directors or some of the more important officers of the bank, while in others custom and unofficial pressure make it possible for the government to exert a decisive influence in connection with the management. Thus the Federal Reserve Act requires the direct government appointment of three out of nine directors of each Federal Reserve Bank, while it leaves to a central board, all of whose members are government appointees, the power to veto the rates, salaries and appointments of the several banks. Practically all countries exact from the central bank either a share of profits or a franchise tax, which is often defended on the ground that the privilege of note issue is a profitable monopoly.

H. PARKER WILLIS

See: BANKING, COMMERCIAL; FEDERAL RESERVE SYSTEM; BANKNOTES; BANK RESERVES; MONEY MARKET; FOREIGN EXCHANGE; INVESTMENT; CREDIT CONTROL; MONETARY STABILIZATION; PRICE STABILIZATION; INTERNATIONAL FINANCE; REPARATIONS; GOVERNMENT OWNERSHIP.

Consult: Kisch, C. H., and Elkin, W. A., *Central Banks* (3rd ed. London 1930); *Foreign Banking Systems*, ed. by H. Parker Willis and B. H. Beckhart (New York 1929); Palgrave, R. H. Inglis, *Bank Rate and the Money Market* (London 1903); Beckhart, B. H., *The Discount Policy of the Federal Reserve System* (New York 1924); Willis, H. Parker, and Steiner, W. H., *Federal Reserve Banking Practice* (New York 1926); Lawrence, J. S., *Stabilization of Prices* (New York 1928); United States, House of Representatives, 69th Cong., 1st Sess., Committee on Banking and Currency, *Stabilization*, 2 pts. (1927); United States, House of Representatives, 70th Cong., 1st Sess., Committee on Banking and Currency, *Stabilization* (1928); Einzig, Paul, *The Bank of International Settlements* (2nd ed. London 1930).

CENTRAL LABOR UNIONS. *See* TRADE UNIONS.

CENTRALIZATION. The problem of political centralization is historically rooted in the rise of the modern state. The modern national state sprang from the confusion and conflict of authority which, in the political sphere, characterized the Middle Ages. Allegiance in the later mediaeval period was dispersed among a number of claimants—emperor, pope, king, feudal baron, bishop and free city—each embodying and representing a distinct political idea: their rivalries and strife for power constitute the substance of mediaeval politics. The king was the visible exponent of the concept of a national, territorial state, and his eventual success definitely established the doctrine of

sovereignty as the principal concern of modern political thought. Even in Germany and Italy, where national unity was not attained until the nineteenth century, the state, though frequently of limited extent, came to be recognized as supreme within its territorial limits.

That political authority was centralized in the monarch was indeed the theory, but in actual fact the process of political and legal centralization was nowhere completely and absolutely accomplished. The general recognition of royal supremacy did not prevent the continuance of many vestiges of feudal and local autonomy. In England local government remained until 1835 in the confused and unregulated condition in which it was left by the Tudors with practically no central control. Although justices of the peace were appointed by the crown they were inevitably drawn from the landed gentry of the county and preserved their local character. Sitting in county court they constituted the chief instrument of local government. The parishes preserved their anaemic existence and through their vestries attempted some control of local affairs. In the boroughs many types of government existed, depending upon the provisions of their charters. As a rule they were governed by close corporations. In France the absolute monarchy more nearly achieved a centralized government than elsewhere, but even here the task was not completely accomplished. A unified system of law did not develop, the local *coutumes* resisting the centralizing influence until the revolution. Administration was largely vested in intendants appointed by, and responsible to, the king, but the provincial *parlements* continued until the revolution to constitute centers of local sentiment and barriers to the free flow of national authority. In the American colonies an even greater degree of decentralization obtained than in England, although in certain ones there was a larger democratic element in local government. "The state," says White, "yielded to the county, the county gave way to the town, and the town bowed to its districts." The lack of efficient means of transportation and communication made any centralized system of government impossible. Most of the rudimentary functions of administration were performed by agencies of local government. Generally speaking, the theory of a strong, centralized, national state was modified in practise by a large degree of local autonomy. Particularly did the stiff necked townsmen constitute a problem for royal authority which could be solved only by compromise. The grant of charters to the cities may have theoretically expressed the principle of royal supremacy, but these embodied very substantial rights of local self-government.

While the problem in the contemporary constitutional state of the degree to which government should be centralized has, as indicated above, a historical connection with the process by which the modern national state came into existence, there is no essential identity between the circumstances which favored the growth of a strong centralized government in the fourteenth and fifteenth centuries in England and France and the present tendency toward the concentration of power in a central government. The present problem of centralized versus decentralized government assumes the existence of the sovereign state. The old mediaeval and feudal elements have quite disappeared. Monarchy has given way to constitutional government, but the supremacy of the state is generally accepted. It is no longer a question of whether the state must share its control over the individual with other institutions. The question today is substantially one as to the most expedient and satisfactory organization of power, and this must be answered in the light of a changing economic and social situation and with reference to a gradually clarifying conception of the end and purpose of government.

In one aspect, that of federal government, the problem is closely related to the historical process of national growth and integration. The explanation of such federal states as the United States, Germany and Switzerland is to be found in the historical circumstances that induced "union without unity." The structure of such federal systems represents a balance between the particularism of the small state, jealous of its sovereignty and independence, and the forces of national unification which the modern world has brought into play. Whether these federal systems do not constitute a condition of unstable equilibrium has been a subject of considerable speculation by students of political science. Dicey and Leacock, for example, have maintained that federalism is everywhere to be viewed as a temporary stage in the inevitable evolution toward a strongly centralized form of government. An examination of the constitutions of federal states during the past century and a half reveals a definite centripetal tendency. Not only are those of later origin more centralized than their predecessors, but by the process of constitutional amendment all have become in-

creasingly centralized. On the other hand, the federal system would appear to be the only possible one under which democracy can succeed where widely divergent communities are brought under one government. Even in a country like the United States, where a strong national consciousness and a universal loyalty to the ideals and common interest of the nation exist, the diversity of physical and geographical circumstances makes it probable that this form of government will continue indefinitely.

Even in federal systems the political ideology upon which the national state rests is unquestioned. The state is conceived of as sovereign, although the question of where the attribute of sovereignty is located may be disputed. The theoretical basis of federal government may involve a controversy over "states rights," which assumes at times a highly doctrinaire character. In the United States before the Civil War this became a vital issue in constitutional law and national politics, and occasional echoes of this debate may still be heard. But today we are not much interested in whether sovereignty resides in the Union or in the member states; whether the constitution is a compact between the states or springs from the will and consent of the people of the entire nation. We no longer believe that the division of powers between state and federal government is sacrosanct. And if the courts pay occasional lip service to the "principles" upon which the federal system was founded they have not hesitated to entertain "interpretations" which have fundamentally shifted the center of gravity in the direction of national control. In federal as in unitary states the problem is essentially a pragmatic one as to the most satisfactory organization of political authority.

A general tendency toward centralization has been clearly evident during the last century and is particularly marked at the present time. The forms which this process takes are often complex. In the United States there has been a two-fold movement: the federal government has increased the scope of its authority at the expense of the states, and the states have established a larger degree of control over the local communities. But a more important distinction, possessing a more general validity, is that between legislative, or political, and administrative centralization. Political centralization is accomplished by the enactment by the central legislative body of a detailed code of laws regarding local affairs. Administrative centralization involves the creation of a hierarchy of officials appointed by the central government who either directly perform the functions of local government or effectively supervise their performance. In Germany, in many instances, centralization is political, state officials being the administrative agents for federal legislation. In the United States, in general, the laws which Congress enacts are administrated by federal officials, although much of American centralization takes a political form. In the case of the Eighteenth Amendment the establishing of national control over the manufacture and sale of intoxicants was a significant example of political centralization. But to what extent the federal government shall undertake through its own administrative officials to enforce the amendment and the supporting congressional legislation and to what extent it may leave such enforcement to the states, are questions of administrative centralization.

The basic reason for the trend toward centralization has been the industrial revolution, which has transformed the conditions of modern civilization. The movement of industrial, economic and social organization has been constantly toward larger units, achieving in some instances even an international character. The integration of governmental power is merely a necessary concomitant of these economic and social changes. As the entire nation is psychologically and socially knit into a single community by modern techniques of communication, local political and administrative units appear increasingly ineffective. Moreover, the problems of government today are very numerous and extremely complex. The conception of government as exclusively concerned with the protection of the life and property of the individual has given place to that of the state as a great public service corporation which must provide its citizens with many of the basic utilities of our modern life. In the performance of these new functions a degree and range of technical knowledge is required which local communities are manifestly unable to supply. Modern government demands the services of engineers, chemists, bacteriologists, statisticians, psychiatrists and a host of other technical experts whose employment is quite beyond the capacity of small local communities. The industrial revolution must not, however, be thought of as the sole and exclusive cause for the centralization of government. Many other factors, historical, geographical and sociological, have influ-

enced in varying degrees the extent to which the force of the new industrial economy has been effective in transforming government in particular circumstances.

In France, where government is more highly centralized than in any other constitutional state, the process of centralization was completed before the effects of the industrial revolution were felt. Under the old regime, in spite of a decentralized legal system and the provincial *parlements*, government in local matters was largely under the control of the king's agents. The revolution introduced experiments in local democracy, but these were speedily swept away by Napoleon, who finally unified French law by the establishment of the civil code and set up a system of extreme administrative centralization which has lasted with little change to the present. Such few changes as have occurred have been in the direction of decentralization, and the trend of opinion in France today is definitely toward a larger degree of local autonomy.

The history of centralization in England dates from the passage of the Municipal Corporations Act in 1835. Parliament possesses, of course, unlimited legislative competence, but before this date it had only occasionally concerned itself with local affairs. Local Government was thoroughly decentralized, the only unifying factor of importance being the common law, which was administered through the king's courts. During the last century, however, a large body of statutes regulating local government has been enacted. This legislation has been framed in general terms and has left much more to the discretion of administrative officials than have corresponding state laws in America. The result has been the growth of an elaborate and complex system of administrative control. The functions of local government are not ordinarily performed directly, as in France, by officials of the central government. There exists in England rather a system of supervision which involves the enforcement of standards, the holding to a strict accountability. M. R. Maltbie (*English Local Government of Today*, New York 1897, p. 260) has summarized as follows the instruments by which administrative centralization has been effected in England: grants in aid, that is, national subsidies for local services, conditioned upon the maintenance by local authorities of minimum standards which the national government sets up; administrative orders and regulations issued by the central administration under broad statutory powers; approval or disapproval by central administrative authorities of acts of local authorities under statutes which require approval for their validity; decisions on appeal by central authorities from decisions of local authorities or in cases in which one party at least is a local authority; the taking over of the administration of local affairs by the central authorities when the local authorities have neglected to perform their duties or have improperly performed them, and the imposition of penalties for maladministration; the conduct of investigations, the publication of reports and the diffusion of information by central authorities with regard to local administration.

In the United States the extreme localism of the colonial period persisted after the winning of independence. In the opening up of the new communities in the West reliance was chiefly upon local institutions of government. The Jacksonian epoch, with its emphasis on popular elections, rotation in office and hostility to bureaucracy, strengthened the centrifugal tendency. But the adoption of the federal constitution and the great series of Supreme Court decisions beginning with Gibbons *v.* Ogden [9 Wheaton 1 (1824)] inaugurated a growth of the federal power at the expense of the states which has been continuous for more than a century. Federal centralization has been chiefly political in character and has taken two forms. The amendments to the constitution, particularly the fourteenth, sixteenth and eighteenth, have greatly extended the scope of federal authority. And through an increasingly broad construction of the constitution the courts have encouraged Congress to legislate upon a wide variety of subjects. The interstate commerce clause has been so interpreted as to permit Congress not only completely to control the instruments and agencies of interstate commerce but under the guise of regulating commerce to establish effectively a supervision over the general welfare of the people. The due process clause of the Fourteenth Amendment has been used by the courts as a means to nullify state legislation, presumably enacted under the state's police power, which does not meet the approval of the judges. Through the power of judicial review there has thus been accomplished not only a centralization of legislative power but a centralized judicial control which is not to be found in any other country. In recent years Congress has appropriated large sums of money as grants in aid to the states to assist them in a number of tasks, including road

building, education, the rehabilitation of ex-soldiers and the care of mothers. Such grants are made contingent upon the states appropriating at least an equal sum and are accompanied by the requirement that certain standards of efficiency shall be maintained in administration.

The enlargement of state authority over the local communities dates in the United States only from the Civil War. In relation to their local communities the American states have not developed the degree of centralization which obtains in Europe. They have, nevertheless, made long strides in the last two generations. The process involves detailed regulation by an elaborate structure of statutory enactments rather than the building up of an administrative machine. The American doctrine of the separation of powers has been interpreted so as to prevent the development of a system of administrative regulations. There is, however, a wide variety of means by which the states are assuming control over local affairs. Any classification must be partial, but the following summary has been suggested (White) as including the most usual devices: advice and information; requirement of reports; inspection without specific power of control; inspection with conditional grant of money; audit of accounts; requirement of prior permission; authoritative review; issuance of orders with power to compel performance; partial or total assumption of activity.

The advantages of centralization have been strongly urged on the ground of efficiency. Certainly many of the functions of modern government cannot be effectively performed except upon a national scale. There is, however, the danger in centralized government of failure to differentiate between communities whose circumstances are widely variant. There is the danger of reducing all government to a dead level of uniformity, where variety would permit useful experimentation and allow adjustments to be made to particular conditions. This has been strongly felt in France where all important regulations emanate from the central government and the local communities have only the most meager share in the determination of their own affairs. Not only is there often great delay in securing the central government's attention to local needs, but decisions are made by bureaucrats, often mere clerks in government departments, who do not possess the information or interest of citizens immediately concerned.The movements for regionalism in France, for devolution in England, for municipal home rule in the United States, are manifestations of currents in public opinion hostile to these tendencies toward centralized government.

The problem of the best organization of government ought not, however, to be approached merely as one of efficiency. The aims and purposes of government have a direct relation to the form that it should take. If we believe that the fullest possible development of the individual is the primary end of government, it is clear that there is an educational function that must not be neglected and which is not completely performed through the public school system. Participation in politics offers the individual citizen a significant means for self-realization. Yet this is practicable only where there are institutions of local self-government offering not merely to the few but to the many an opportunity for acquiring an experience in public affairs. An effective democracy demands something more than that the qualified voters shall occasionally cast their ballots for national or state representatives. But if the postulates of democracy demand that some effective share in political determinations be provided the ordinary citizen, the question of the most fruitful form of organization is of significance. Such organization should spring from the individual's primary interests and provide the best means for their expression. Neighborhood relationships undoubtedly constitute one set of such primary interests, and institutions of local government afford the opportunity for their realization. But in our present day civilization the most significant relationships are becoming increasingly functional and less and less geographical. Occupational and professional attachments are coming to mean much more than the ties of neighborhood, ward or election district. A vital, continuing interest in politics can be secured only by developing, alongside the instutitions of local self-government, a network of institutions and agencies based upon the economic and occupational relationships of individuals.

W. J. SHEPARD

See: DECENTRALIZATION; STATE; MONARCHY; ABSOLUTISM; SOVEREIGNTY; AUTONOMY; FEDERATION; FEDERALISM; NATIONALISM; GOVERNMENT; LOCAL GOVERNMENT; MUNICIPAL GOVERNMENT; BUREAUCRACY; ADMINISTRATION, PUBLIC; ADMINISTRATIVE AREAS; ADMINISTRATIVE LAW; COMMISSIONS; GRANTS IN AID; JUDICIAL REVIEW; CODIFICATION; POLICE POWER; EXPERT; GOVERNMENT REPORTING; COMPACTS, INTERSTATE; CONCURRENT POWERS; STATES' RIGHTS; REGIONALISM; HOME RULE; PLURALISM; LOCALISM.

Consult: United States, Library of Congress, Division

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CERCLES DE FERMIERS. *See* FARMERS' ORGANIZATIONS.

CEREMONY

PRIMITIVE. Social intercourse among primitive peoples is commonly regulated by fixed patterns. An Australian, for example, treats his mother's brother in a predetermined way distinctive of this particular relationship; and as soon as he discovers that a newcomer, even though he may be from a different tribe, is to be addressed as "maternal uncle" the form of behavior toward him is at once clarified. In Australia, in fact, all individuals with whom social relations are to be maintained at all must be fitted into one or the other of the traditional kinship categories; and a corresponding mode of treatment automatically follows.

Such standardization is often extended to a variety of activities, embracing even what are to us trivial details of the daily routine. A Crow Indian will not simply unwrap his shield: he takes live coals, burns incense, holds his shield over the fire, raises it a little, lowers it, lifts it higher than before and thus continues until the fourth time, when he raises it high above his head and proceeds to remove the covering. In Uganda the father of a nursling would not set out on a journey without previously jumping over the child's bedding, specially brought out for the purpose by the mother, and then jumping over his wife. Again, Maori fowlers returning from their first day's outing were welcomed by the women who waved branches without uttering a sound; a new fire was kindled; the priest recited an incantation over it; and it was only after the priest had taken the first bird snared, pronounced another magical spell and offered the body to the gods that a feast followed and the season was regarded as open. Indeed, at the meal itself the celebrant ate birds cooked in one oven, the fowlers those from another and the rest of the people ate birds from still another oven.

In each of these instances the end in view is apparently not sought in consonance with the rationalistic principle of economy but by a devious route. For natives, however, the intervening performances are not trivial delays but elements essential to the success of the undertaking. Any set series of observances not founded in reason, whether overtly associated with religious significance or not, may be designated as ceremonial. A ceremony is not inevitably rooted in religious faith as commonly understood, but it partakes of the solemnity of a religious act. Further, because of the strong primitive tendency to form secondary associations and the overshadowing significance of the supernatural in primitive conditions, a primarily secular observance is very frequently invested with a religious halo. Even when no specific personal deity is linked with the performance the atmosphere is one of supernaturalism and the slightest departure from traditional norms may be fraught, in the native's mind, with catastrophic consequences.

While the essence of ceremonialism probably exists everywhere and is everywhere much the same, its specific manifestations inevitably vary in form and quantity. Naturally, societies which recognize hereditary classes that are hierarchically graded evince a great measure of ceremonial in social behavior. Thus in Tonga, which places a characteristically Polynesian emphasis on pedigrees, a speaker never addressed an assemblage of chiefs before first enumerating the various great personages, who

at least in theory are supposed to follow one another in order of dignity. On these islands the pontiff was regarded as semi-divine and took precedence over the temporal ruler. He was often carried in a litter, any mat or bark cloth he touched became consecrated to his own use, and metaphorical verbiage was employed in speaking to or about him. "The heavens are void" was the phrase used to announce his death. In accordance with Tongan notions of kinship, however, this dignitary was outranked by his elder sister and special ceremonial rules obtained between him and her family, as well as between him and the people in general. The pontiff put his head under the foot of the eldest daughter of his elder sister and was obliged to abstain from eating in the presence of all sororal nephews and nieces. But all others were his inferiors: noble officials executing his business kissed his feet, lesser attendants allowed his foot to rest on their heads, and the riff-raff were too plebeian to touch him directly at all and were cured of illness by being rubbed with the bowl in which the great man had washed his hands. Equal elaboration of ceremonial is reported from many Negro kingdoms in Africa, where court procedure often rivaled in intricacy the arrangements fashionable in France in the time of Louis XIV. In Africa, as in Polynesia and in Europe, the etiquette engendered becomes so complex as to encumber the supposed beneficiaries and make equal victims of all classes.

But a fair sociological estimate of ceremonial must envisage other than purely rational motives. When the essentially non-rational nature of human beings is considered, the apparent waste of effort implied in ceremony achieves in truth a kind of economy of its own. That is to say, the individual, instead of being obliged to devise solutions to meet a series of constantly shifting social contingencies, has his course definitely prescribed in its minutest details. He knows precisely what must be done when his son is born, when his daughter has her first menses, when he himself sets out on a war party or returns laden with booty. He need not worry as to the proper mode of behavior, since a sanctioned pattern of conduct exists ready made and is merely to be learned from observation and the precepts of his elders.

Nor is the consequent sense of security the only positive gain. Ceremonial also serves the ends of beauty and is intertwined with specifically aesthetic motives. Thus the repetition of acts according to a mystic number should probably be linked, as Boas suggests, with the urge for rhythm. Again, the impersonation of supernatural beings, so common in the secret societies of African Negroes and other aborigines, the Plains Indian fiction that the first tree chopped down for the Sun Dance lodge is an enemy and must be struck accordingly, and many similar features are in no wise inevitable exhibitions of the religious impulse, which might be satisfied by an ungarnished prayer, sacrifice or thanksgiving. If ceremonialism develops until a rank growth of extraneous elements completely obscures the alleged end of ritual, it is clearly because other ends assert themselves and rise to ascendancy. Ceremonial, then, even when associated with religion, exists not as a purely religious phenomenon but as an end in itself, set by profound irrational needs of the human soul for social stability and aesthetic satisfaction.

ROBERT H. LOWIE

HISTORICAL. Ceremony is a formal series of acts indicating, usually by traditional methods, an attitude of reverence or a sense of the exceptional importance of an occasion. All ceremonies are valuable as signs of social experience and also as causes of social experience, in the sense that smiling may be a cause of the joy which it is normally supposed to express. Some ceremonies are religious, others are connected with political institutions and still others are forms of social and cultural intercourse. Religious ceremonies may be magical in origin, as in the case of processions with candles or that of the giving of the ring in marriage; and ceremonies of this type seem to retain some of the atmosphere of magic even among highly developed peoples. But magical ceremonies are clearly most powerful in all early stages of civilization, whether the series of acts includes formal words or is a dance form only. The acts which are supposed to affect divine or non-human forces have also psychological effects upon the doers and are often continued because these effects are valued, long after the magic in the acts is discarded or forgotten. Thus certain forms of prayer, cult or worship survive because of their psychological effects.

Kneeling, placing hands palm to palm, bowing and processions are typical elements of ceremony; but a characteristic ceremony is generally a behavior pattern made up of many of these. The ceremonies of Assyrian, Egyptian, Hittite, Greek or Roman civilization may be

regarded as at once religious and political, as we use those words. They bound the community together and heightened the sense of a common life, as in harvest or death ceremonies or in the more sophisticated Athenian ceremonies, the Anthesteria or the Eleusinia. Ceremonies gave a person his place in society, marked his transition through the crises of adolescence or manhood (*rites de passage*) or canalized the emotions at a change of seasons. They have had, therefore, an immense importance in the development of group experience in all types of civilization. The repetition of well recognized behavior patterns gave the first sense of a traditional order in social relationships. Ceremonies gradually elaborated out of many different elements have been the support or even the source of the authority of priest or king and of the sense of common life in any group or people.

Some ceremonies, such as the Eleusinian mysteries, developed out of magical acts and have made men feel a relation to the universe which could not be expressed in doctrine; and some ceremonies have given rise to beliefs as to deity or as to the fate of man at death. Indeed, it was not until very recent times that argument or the inculcation of doctrine was regarded as the most important element either in religion or in political society. The altar is older than the pulpit; the throne older than the tribune. But the pulpit and the tribune do not supply in social experience what was once found in ceremonies. The most influential of all western ceremonies is the mass, in various forms both within and outside the Roman Catholic church—a form of ritual dance by sacred persons, uniting the congregation to themselves by what is called "communion." In its highly developed forms since the fourteenth century, both in the western and in other sections of Christian organization, it has combined pre-Christian "mysteries" with ritual hymns and prayers added in crises, as the *Agnus Dei*. Sacramental ceremonies, for baptism, marriage or extreme unction, continued into the Christian tradition the earliest *rites de passage*, and different seasons had their ceremonies, as at Christmas or Easter. In non-Christian traditions the ceremonies of Judaism and Islam give great prominence to a sacred book; and they are generally more individualistic, as in the case of the Islamic prostrations in prayer. The ceremonies connected with "purification" of women after childbirth or with circumcision seem to relate the individual to the community. In surviving Asiatic religions such as Hinduism, ceremonies include the ritual slaughter of animals, bathing and turning of prayer wheels, some undertaken by priesthoods, some by devout individuals. Where mediaevalism continues, as in India, there is hardly any distinction between religious ceremonies and social customs embodied in rituals. But in China mediaevalism seems to be less religious, in our sense, and more closely confined to ceremonies of human intercourse or of the crises in experience, such as death. Ancestor worship, as it is called, is largely a matter of ceremony.

In most forms of religion a revival of enthusiasm is marked by an opposition to traditional ceremonies; for it seems to be the habit of those with exceptional religious experience to believe that the traditional forms of action obscure or exhaust the spirit underlying action. In the Protestant Reformation mediaeval ceremonies were regarded as signs of superstition; in the Enlightenment of the eighteenth century ceremonies were regarded as concessions to the needs of the unintelligent. But precisely the same attitude toward ceremony in religion is found in all ages among mystics or individualists. Thus in Islam and Buddhism the same disdain of ceremony is to be found as in Protestant forms of Christianity. This attitude is a rationalization which has led to a complete misunderstanding of the character of ceremony; for ceremony is never intended to inculcate doctrine. But when it is used to convey non-traditional attitudes or emotions it changes into drama. In the Greek, mediaeval and Chinese drama, ceremonies or ritual forms are used as means of expression for various and new conceptions; but in such cases the distinction between religion and art is not yet established. The ceremonial dance, play, music or painting is not in our sense of the word "art," but more nearly what we call "religion." What ceremony is in earlier undifferentiated stages of civilization is best understood by us if we consider some contemporary social ceremony such as shaking hands; for an effectual ceremony is not an arbitrary symbol, nor is it clearly divisible from the attitude it is supposed by rationalizers to express.

As the earlier phases of civilization pass into a division of functions among different institutions, political authority is reenforced and in some cases made "sacred" by traditional ceremony. It is thus with the religious crowning of a king, a survival of which may be noted in the inauguration of a president. Survivals of the

primitive are to be seen in the military ceremonies of armed forces, presentation of colors and reviews of troops or ships. The prestige of the law is enhanced by the ceremony of court procedure; authoritative assemblies preserve traditional practises, as in the bow toward the speaker's chair in the British House of Commons; diplomacy continues the mannerism of augurs. Especially at important occasions the ceremonies used are traditional; but new rituals can be invented, as in Armistice Day celebrations. An occasion is rendered more impressive by ceremony, as at the drinking of a toast. A person is given greater influence by ceremony, as in the case of a chairman at a meeting.

In social intercourse the most primitive customs of greeting or departure developed into shaking hands in the West or bowing in the East or taking off the hat or clasping hands together. Kissing has a more restricted ceremonial use now than it had in Europe in the fifteenth century; but, on the other hand, some forms of respect, as, for example, men's rising at the entrance of women, tend to spread from "superior" classes to the whole of society. An egalitarian society adopts ceremonies used among equals in a "superior" class. Thus ceremonies become marks of good breeding and indeed do promote a certain graciousness in the contact between persons. Thus also ceremonies pass into etiquette and finally into manners and are, as Confucius recognized, the skeleton bearing up the body of civilization.

The sense of the value of ceremony seems to vary in proportion to the sense of tradition and of mutual dependence. In individualistic societies ceremonies and even manners or traditional forms of politeness are regarded as hypocritical or superficial; and indeed at some stages of social development traditional forms obstruct the tendency to new experience. It is significant that in the section of experience in which ceremony is still strongest—the religious—the social development has been much slower than in politics, industry or art. Ceremonies are like the forms of language, not rationally planned or amenable to reconstruction by analytic reasoning, but preserving a tradition most adequately when most easily adaptable to new situations. The function of ceremony seems to decrease in importance as a community becomes more civilized, because more of social experience can be conveyed and shared by other means. The sense of unity, for example, may be preserved in any people without flag ceremonials if daily life has a common pattern. Education takes the place of puberty rituals for the entry of a new generation into responsibility for social order. But there is some place for ceremony in any society, just as manners are essential to a democracy even if they have not the same place as in a caste society.

C. DELISLE BURNS

See: RITUAL; ETIQUETTE; CONVENTIONS, SOCIAL; SOCIETY; SOCIAL ORGANIZATION; CUSTOM; FOLKWAYS; TRADITION; CONFORMITY; CONDUCT; RELIGION; MAGIC; ANCESTOR WORSHIP; HERO WORSHIP; DEIFICATION; BIRTH CUSTOMS; DEATH CUSTOMS; MARRIAGE; INITIATION; CASTE; CLASS; MONARCHY; COURT, ROYAL; DIPLOMACY; DANCE; DRAMA; ART; SYMBOLISM; ICONOCLASM.

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CERNUSCHI, HENRI (1821–96), French-Italian politician and economic pamphleteer. Cernuschi, a lawyer by training, was one of the radical-bourgeois leaders during the "five days" (March 18–22, 1848) in Milan. Later in the Roman assembly he championed a republic and opposed monarchistic centralization under Piedmont. Compromised by his enlistment under Garibaldi's banner and disillusioned he went in 1850 to France, where he engaged in banking and speculation. He gained the favor of Napoleon III and accumulated a fortune which enabled him to retire in 1870. In the meantime he was active also in French politics. By the end of

the sixties he joined the anti-Bonapartist forces, figuring as a frequent contributor to *Le siècle* and financing the republicans opposed to the plebiscite of 1870. For a while he entertained a passing fancy for cooperation and financed with considerable personal loss the cooperative selling of meat. This experience led to the publication of *Illusions des sociétés coopératives* (Paris 1866). He is perhaps best known as "the most ardent, enthusiastic and combative of the bimetallist pamphleteers" (F. A. Walker) and as the inventor of the term bimetallism. His interest in monetary problems was first evidenced in 1865, when he published *Mécanique de l'échange* (Paris) directed against banknotes (*or supposé*), but his multifarious activity in behalf of the bimetallist cause began only a decade later. He came to the United States to testify before the congressional monetary commission in 1877 and served as a delegate of France to the international monetary conference of 1881 and the Paris monetary congress of 1889. He also published a large number of tracts, most of which were translated into English. Orally and in print he fought zealously for international bimetallism based on a 15.5 ratio. Since he insisted on disregarding completely the price trend in the free market for silver he probably did more harm than good to the cause to which he was so quixotically attached.

SOLOMON KUZNETS

Consult: Bertolini, Angelo in *Giornale degli economisti*, 2nd ser., vol. xii (1896) 609–16; Strauss, Louis, "Le pair bi-métallique de M. Cernuschi" in *Journal des économistes*, 4th ser., vol. xl (1887) 367–78.

CERTIORARI at common law is a discretionary prerogative writ issued from a tribunal of superior jurisdiction to one of inferior, commanding the latter to certify to the former a record of its proceedings either for use as evidence or in order that they may be reviewed. Originally the writ of error was apparently merely a special kind of certiorari. After it had developed separate identity as the normal procedure for review of proceedings in inferior law courts of general common law jurisdiction, certiorari as we now know it took shape for review of decisions by tribunals of limited jurisdiction or tribunals "not proceeding according to the course of the common law," at least where no other method of review was specially provided. Thus in England during the eighteenth century many proceedings before justices of the peace in petty criminal cases were removed by certiorari either before or after decision into the court of King's Bench.

Certiorari also came early into use to test the validity of administrative action. The question was first raised in the seventeenth century whether the writ would lie to an administrative agency exercising quasi-judicial functions, and it was at first held that it would not [Ball *v.* Pattridge, 1 Sid 296 (1666)]. But this decision was soon reversed [Rex *v.* Inhabitants in Glamorganshire, 1 Ld. Raym. 580 (1700)], and review of quasi-judicial administrative determinations became one of the normal functions of the writ. It was not long, however, before it lost its importance in this respect. The justices of the peace came to be controlled in their administrative capacity through the general Quarter Sessions of the Justices of the Peace; and they also developed the device of voluntarily "stating a case" to the ordinary law courts. Parliament inserted into many administrative statutes clauses forbidding resort to the courts. Although these held that such limitations did not apply where proceedings were vitiated by defects of jurisdiction, this meant no more than that the courts would determine whether the forms of a statute had been observed. The supremacy of Parliament prevented the courts from interfering with administrative agencies which were no less creations of acts of Parliament than the High Courts themselves. In view of this situation it has been regretted that there exists no special system of administrative courts such as that which prevails in continental countries.

In the United States, however, the interpretation of constitutional guaranties by the courts has led to a considerable use of the writ of certiorari to secure judicial review of the exercise of administrative authority, and it has been one of the means of developing whatever administrative law may be said to exist. The leading doctrine has been that certiorari will not lie to review all decisions by administrative agencies but only those which are held to be judicial or quasi-judicial in nature. But state courts have had great difficulty in agreeing as to the types of administrative determinations which meet this test. The doctrine has been sometimes construed so broadly as to cover practically all determinations requiring the exercise of judgment upon facts and the interpretation of law, e.g. a decision by mayor and aldermen to lay out a street [Parks *v.* Mayor and Aldermen of City of Boston, 8 Pick, 25 Mass. 218 (1829)], the action of

school trustees in uniting or dividing school districts [Miller *v.* Trustees, 88 Ill. 26 (1878); State *ex. rel.* Moreland *v.* Whitford, 54 Wis. 150 (1882)] and the action of county commissioners in raising the salaries of county employees [Robinson *v.* Bd. of Sup. of City and County of Sacramento, 16 Cal. 208 (1860)]. In New Jersey the writ apparently lies to review municipal ordinances generally [Christie *v.* Mayor and Council of City of Bayonne, 35 Vroom, 64 N. J. L. 191 (1899)]. The meaning of judicial action has not been construed so broadly in all states. It has been held that certiorari will not lie to review the action of a mayor and aldermen in making an appointment under the civil service laws [Attorney General *v.* Mayor and Aldermen of Northampton, 143 Mass. 589 (1887)] or the action of a health board in ordering the cleaning out of a pond [People *ex. rel.* Copcutt *v.* Board of Health of City of Yonkers, 140 N. Y. 1 (1893)] or cellar [Hartman *v.* Wilmington, 1 Mar., 15 Del. 215 (1894)].

In the case of administrative agencies of the federal government certiorari is practically unavailable because of the holding that administrative action does not become judicial merely because it requires use of discretion [Degge *v.* Hitchcock, 229 U. S. 162 (1912)]. The availability of the writ is further limited by the rule that it will not lie where there exists another method of securing review of the administrative act complained of, e.g. by action at law for damages against the official (People *ex. rel.* Copcutt *v.* Board of Health of City of Yonkers, Hartman *v.* Wilmington, *supra*). In effect this leads to the same result as the application of the test of the "judicial" nature of administrative acts, since ordinarily an action will not lie against an officer for a judicial or quasi-judicial act. It is clear that certiorari will not lie when the administrative act is of a nature which does not result in a record on which the writ can operate, e.g. an act of summary execution.

What administrative errors the courts will correct by certiorari depends on which of several theories they adopt as to the scope of the writ. It has been widely held that the writ opens up only the question of whether the administrative tribunal exceeded its jurisdiction, and that errors of fact or law made by it within the sphere of its legitimate discretion are not subject to correction on certiorari. When this view is taken with the further doctrine that no error will be corrected which requires for its disclosure a resort to extrinsic evidence not appearing on the face of the record below, the review is reduced to narrow limits [Dolan's Appeal, 108 Pa. St. 564 (1885); the People *ex. rel.* Maloney *v.* Lindbloom, 182 Ill. 241 (1899)]. It has been held elsewhere, with or without statutory authorization, that review on certiorari extends to all errors of law made by the administrative tribunal [Morewood *v.* Hollister 6 N. Y. 309 (1852)], including the error of making a finding of fact on evidence not sufficient to justify a reasonable man in reaching such a conclusion [Jackson *v.* People, 9 Mich. 111 (1860); People *ex. rel.* Cook *v.* B'd of Police, 39 N. Y. 506 (1868)]. Substantially the same result is sometimes attained on the jurisdictional theory of review by holding that the existence of jurisdiction may depend on the actual existence of a fact, and that a finding by the administrative body that such fact exists will be reviewed to determine whether there was evidence rationally capable of supporting it: the so-called doctrine of "jurisdictional fact" [State *ex. rel.* Milwaukee Medical College *v.* Chittenden, 127 Wis. 468 (1906)].

With the increasing importance of administrative action of a substantially judicial nature, such as is involved in the decision of workmen's compensation cases, rate fixing cases for public utility services and the like, certiorari offers the most practicable method of court review in face of the constitutional obstacle, raised under the American view of the doctrine of the separation of power, to a direct appeal from such decisions to the courts. A collateral action at law for damages is either not available to bring such decisions before the courts or, when available, is not adapted to the needs of the case. The effect of direct review is sometimes obtained, as in the federal jurisdiction, by a statutory form of injunction; normally, as in New York, it is achieved by extended use of certiorari.

The employment of certiorari to control inferior courts has also proved especially important in the United States as a statutory means of bringing proceedings of lower courts before the Supreme Court. Since the writ is discretionary in the reviewing court it affords a way of enabling an upper court to sift the business coming before it and to take jurisdiction only of cases of such importance as to justify, in the opinion of the court, the time which their consideration involves. The overburdened docket of the United States Supreme Court has therefore led Congress to prescribe certiorari in an ever increasing number of cases as the method for bringing decisions of lower courts for review be-

fore the Supreme Court. The method was first resorted to in the act of 1891 establishing Circuit Courts of Appeals. Certiorari has since been substituted for the writ of error (which is a writ of right) in additional classes of cases, notably by the act of 1916 which prescribed certiorari as the method of securing review by the Supreme Court of all decisions of state courts except those denying the validity of an exercise of federal authority or affirming the validity of an exercise of state authority which had been challenged as an infringement of the federal constitution or laws. By the act of 1925 certiorari was also made the sole method of appeal to the Supreme Court from decisions of the Court of Appeals of the District of Columbia, and from the Federal Circuit Courts of Appeals except in the single case where a state statute has been challenged as repugnant to the federal constitution and the decision has been against the validity of the statute. This restriction of appeals as of right to the Supreme Court and the substitution of discretionary review by certiorari will, it is hoped, operate to some extent to relieve the pressure on the court by excusing it from considering routine questions of law and allowing it to concentrate its attention on issues which in its opinion are of major importance. The extent to which this hope will be realized must depend upon whether the jurisdictional rules of the court are laid down with such clarity that few needless applications for certiorari will be made. In this the cooperation of the bar is obviously also required. In 1925, following the enactment of the new Judiciary Act, the Supreme Court had to consider the rather large number of 539 petitions for certiorari, and this figure has thus far been exceeded in each subsequent year. It indicates the danger that too much of the time of the Supreme Court may be taken up in deciding, when it can put its time to better advantage.

JOHN DICKINSON

See: COURTS; APPEALS; PROCEDURE, LEGAL; WRITS, LEGAL; ADMINISTRATIVE LAW; JUDICIAL REVIEW; COURTS, ADMINISTRATIVE.

Consult: Goodnow, F. J., "The Writ of Certiorari" in *Political Science Quarterly*, vol. vi (1891) 493–536; Dickinson, John, "Judicial Control of Official Discretion" in *American Political Science Review*, vol. xxii (1928) 275–300, and *Administrative Justice and the Supremacy of Law*, Harvard Studies in Administrative Law, vol. ii (Cambridge, Mass. 1927); Freund, Ernst, *Administrative Powers over Persons and Property* (Chicago 1928) p. 260–69; Hewart, G. H., *The New Despotism* (London 1929); Zoline, E. N., *Federal Appellate Jurisdiction and Procedure* (3rd ed. New York 1928) ch. viii; Frankfurter, Felix, and Landis, J. M., *The Business of the Supreme Court* (New York 1927).

CESSION is primarily a term of international law denoting the act, within the limits of that law, of a state in granting to another state rights possessed by the former in respect of territory, as modified by any servitudes resting thereon. Where a state incorporates itself entirely with another state the action goes beyond cession and is not to be so regarded, and where—but only where—an entire state and the governmental organization exercising its sovereignty are conquered by force the action escapes the limits of cession. The term might etymologically be applied to the grant of non-territorial rights but it is not commonly so employed. On the other hand the action cannot be confined to the grant of full sovereignty over territory and hence cannot always be spoken of as a cession of territory itself. Thus there may occur a cession of territorial jurisdiction, or rights of use and exclusion, without full sovereignty or the right of alienation (as in leased areas and concessions).

The power to cede territorial rights depends upon enjoyment of international status by the ceding state (dependencies may not cede) together with prior possession of the rights ceded (internationalized states may not cede). The power to cede may also have been limited or lost entirely by a prior agreement concluded by the sovereign state possessing normal territorial rights (as by the treaty of 1903 between Cuba and the United States). It is also limited slightly by rules of general international law; thus the power of a state to cede a portion of its territory occupied under the law of war by forces of another state is impaired by the somewhat indeterminate status of the sovereignty over that territory.

But the power of a state to cede a portion of its territory is not under international law limited by any requirement for consent, in plebiscite, by the inhabitants thereof. Such consultation of the inhabitants of territory to be ceded is gaining favor as a result of the growth of support for the principle of national self-determination, or government by consent of the governed. In practise, however, it is subject to the exigencies of national policy. By the Treaty of Versailles such action was taken in a number of territories ceded therein (e.g. Schleswig) but not in all (e.g. Alsace-Lorraine).

It does not appear that cession must be accomplished by use of the term itself, or of any particular formula. The action may be given the form of a relinquishment or renunciation. It may be accomplished without written treaty agreement as by tacit cession, under the rule of *uti possidetis* at the end of war; indeed it is such tacit cession which alone converts military conquest into acquisition of title. Agreements for delineation of interstate boundaries may involve cessions of territory not expressly designated as such. Nevertheless the action depends for its completion upon both the consent of the ceding state and that of the grantee (otherwise it would be mere abandonment) together with formal taking possession by the latter. Cession of full sovereignty or of mere territorial jurisdiction may be made in perpetuity or for a period of time, as in cases of leased territory. Partial and temporary surrender of territory has been described as disguised cession, but the true character of the action must be determined in each case by application of the principles stated herein.

The motives which may lead a state to cede territorial rights are not determined by international law. It may take such action for the sake of pecuniary compensation (sale, lease), in consideration of other territorial rights received from the grantee (exchange) or for any other reason which seems sufficient to itself, as, for example, to avoid the expense of reconquest of occupied territory or to avoid military attack and possible conquest.

The effect of cession is to substitute the grantee state in the territorial rights of the ceding state. In view of the rights of these parties to participate in such a transaction under international law, other states are under obligation to recognize this substitution. For example, the United States is bound to recognize the cession of Alsace-Lorraine to France although it is not a party to the Treaty of Versailles. The grantee may now cede the rights acquired by him unless, as in cessions of jurisdiction, the cession has been made without power of alienating them. The rights of the successor state are limited by the law of state succession in general and are frequently limited in treaties of cession themselves. The successor state takes all public property in territory ceded in full sovereignty, unless it is otherwise stipulated by treaty. It inherits, in principle, all public debts attached to the territory ceded or reasonably contracted for its specific benefit, together with a share, proportioned to the capacity of the ceded territory, of the general public debt of the ceding state, provided it has not been contracted for the purpose of resisting the efforts of the grantee to compel the cession by force. Because of the complexity of these standards and the effects of their application the question requires detailed negotiation and settlement in treaty agreement. The public law—constitutional, administrative and criminal—of the ceding state ceases to enjoy authority in the ceded territory where it conflicts with the public law of the grantee state. The latter may now extend its public law to the territory. It may also henceforth modify the law regulating private relations in it, but private rights relating to property, contract or tort remain intact at the time of transfer. The nationals of the ceding state who are resident in the ceded territory become nationals of the grantee state whether so stipulated in the treaty or not; it is not obligatory for the grantee state to allow such individuals to retain their original nationality but this is frequently done (option) subject to any conditions of removal and disposition of property imposed by the grantee state.

PITMAN B. POTTER

See: STATE SUCCESSION; CONQUEST; ANNEXATION; PLEBISCITE; SELF-DETERMINATION, NATIONAL; TREATIES; BOUNDARIES; CONCESSIONS.

Consult: Hershey, A. S., *The Essentials of International Public Law and Organization* (rev. ed. New York 1927) p. 279–83, containing further references to treatises on international law; Lawrence, T. J., *The Principles of International Law*, ed. by P. H. Winfield (7th ed. Boston 1923) §§ 49, 76; Louter, Jan de, *Le droit international public positif*, 2 vols. (Oxford 1920) vol. i, p. 362–74; Phillipson, Coleman, *Termination of War and Treaties of Peace* (New York 1916); Guggenheim, Paul, *Beiträge zur völkerrechtlichen Lehre vom Staatenwechsel* (Berlin 1925); Kunz, J. L., *Die völkerrechtliche Option*, 2 vols. (Breslau 1925–28); Mattern, Johannes, *The Employment of the Plebiscite in the Determination of Sovereignty* (Baltimore 1920); Sack, A. N., *Les effets des transformations des états sur leurs dettes publiques et autres obligations financières*, vol. i– (Paris 1927–).

CHAADAYEV, PETER YAKOVLEVICH (1794–1856), Russian social philosopher. A member of an old aristocratic family, he served in the army during the Napoleonic wars but resigned from military service in 1820. He participated in the secret revolutionary organizations of his fellow officers of the guard, but in 1821 he left Russia to return only in 1826, after the insurrectionists of December, 1825, had been severely punished for their courage. Early in his career he came under the influence of

de Maistre, Bonald and Ballanche. In the famous letters on the philosophy of history, written in 1829, he declared that Roman Catholicism was the universal form of Christianity and that outside of its discipline no civilization, no continuous progress, was possible. He held that the Russians had handicapped themselves from the start by borrowing Christianity from corrupt Byzantine sources. Russian history exhibits no significant cultural development and the Russian nation, far from representing the synthesis of occidental intellectualism and oriental imaginativeness, is merely uncivilized, barbarous. The publication of the first "philosophical letter" in a Moscow magazine in 1836 provoked a storm of official and popular indignation. The magazine was suppressed, its editor exiled to the far north, the censor dismissed and the author declared mad by order of the czar. The letter was a sharp thrust at the official doctrine of autocracy and Greek orthodox Christianity, which extolled ancient national virtues and proclaimed the superiority of Russia to the nations of the West. In the words of Herzen, it was "a shot of alarm in the darkest night" of Nicholas I's reactionary reign, and earned for Chaadayev the reputation of a revolutionary philosopher. In the "apology of a madman" he attempted a reconciliation with the authorities and the Slavophiles, an emerging group of nationalist thinkers. He renounced his "exaggerations" and admitted that it was possible that in the future Providence might entrust Russia with a "mission" to the world, but he still rejected Slavophile delusions as to the significance of the Russian past. Eventually he decided that his ideas were too far in advance of the times and retired to private life. He received a few friends at home and appeared occasionally in the Moscow literary salons—a handsome and lonely figure looking down with silent irony on the worldly clamor about him.

PAUL MILIUKOV

Works: *Oeuvres choisies*, ed. by Father Gagarin (Paris and Leipsic 1872); *Schriften und Briefe*, tr. from the French with an introduction by E. Hurwicz (Munich 1921).

Consult: Gershenzon, M., *P. Ya. Chaadayev; Zhizn i mishlenie* (Life and thought) (St. Petersburg 1908); Winkler, M., *P. J. Čaadaev*, Osteuropäische Forschungen, n.s., no. 1 (Berlin 1927).

CHADWICK, EDWIN (1800–90), English sanitary reformer, economist and statistician. Although he was not a physician his continued insistence on the connection between disease and poverty and on the importance of state regulation of sanitation makes him one of the great figures in the history of public health. He was born at Longsight, Manchester, but his parents moved to London in 1810. He worked his way to the bar by engaging in journalistic activities. Attracting the notice of Jeremy Bentham, he became the philosopher's assistant and lived with him until Bentham's death in 1832. Henceforth he devoted his life to the cause of social reform, and particularly to questions of the poor law and public health. As a member and later as secretary of the Poor Law Commission of 1832 he carried through much important work despite strained official relationships. The introduction of the half time system of education may be traced to Chadwick's report on child labor in factories. Recommendations which he made as the result of an investigation into the causes of epidemic diseases in Whitechapel laid the foundations for an enlightened program of urban sanitation. Chadwick, more than anyone else, was responsible for the formation of the first Board of Health in 1848, and was one of its first members. By its very nature the board infringed on local autonomy and vested interests, and this led to its reconstruction in 1854, when Chadwick "retired" on a pension. For over a generation after his "retirement" he continued his crusade for social reform on a wider basis and with an enthusiasm no longer curbed by official restraint. He achieved a European reputation as a sanitarian. His activities were varied and to them is due much of the progress in poor law reform, water supply, drainage, sewage utilization, army sanitation, tropical hygiene, interments in urban areas, open spaces, school architecture and the education of pauper children.

W. H. DAWSON

Works: Chadwick's principal writings were collected in *The Health of Nations: a Review of the Works of Edwin Chadwick, with a Biographical Dissertation*, ed. by B. W. Richardson, 2 vols. (London 1887).

CHAIN GANG. *See* PRISON LABOR.

CHAIN STORES. *See* RETAIL TRADE.

CHALMERS, THOMAS (1780–1847), Scottish divine, economist and social reformer. Chalmers was one of the first to put forward the theory that poverty is relative to habit, place and time. He stressed the necessity for investigation of the extent and causes of poverty in each case,

as well as for the stimulation of sources of relief within the family and the community, and strongly opposed the whole existing system of taxpaid public outdoor relief, administered on the findings of a mechanical "work house test" of poverty. As head of the parish of St. John in Glasgow he succeeded in obtaining consent to the suspension of the public charity system within the district and substituted an experiment in voluntary poor relief administered by the church and grounded on his theories. The experiment did not last long enough to prove or disprove his contentions, but it started a school of thought, developed by Octavia Hill, Edward Denison and Charles Loch in England and by others in the United States, which eventuated in the Charity Organization movement and finally in the development of the technique of social case work. A parallel movement, known as the "Elberfeld system," had been in progress in north Germany from the middle of the century.

Chalmers accepted the chair of moral philosophy at St. Andrews in 1823 and that of theology at Edinburgh in 1828. These appointments afforded him further opportunity for the elaboration of his social and political theories, which he expounded in his *Political Economy in Connexion with the Moral State and Moral Prospects of Society* (2 vols., Glasgow 1832).

In the ecclesiastical history of Scotland Chalmers' contribution was as outstanding as his accomplishments in the field of social reform. He was not only widely known as a great and stirring orator but was the prime mover in the struggle for spiritual autonomy which culminated in the great secession from the Scottish church and the formation in 1843 of the Free Church.

W. H. DAWSON

Works: *The Works of Thomas Chalmers*, 25 vols. (Glasgow 1836–49, new ed. London 1849); *Posthumous Works*, ed. by William Hanna, 9 vols. (Edinburgh 1847–49).

Consult: Hanna, William, *Memoirs of the Life and Writings of Thomas Chalmers*, 2 vols. (new ed. Edinburgh 1878); Blaikie, W. G., *Thomas Chalmers* (Edinburgh 1896); *Chalmers on Charity*, ed. by N. Masterman (Westminster 1900); Holl, Karl, *Thomas Chalmers und die Anfänge der kirchlich-sozialen Bewegung* (Tübingen 1913); Henderson, C. R., Introduction to his abridged edition of Chalmers' *The Christian and Civic Economy of Large Towns* (New York 1900); Held, Adolf, *Zwei Bücher zur socialen Geschichte Englands* (Leipsic 1881) p. 233–41.

CHAMBER OF DEPUTIES. *See* LEGISLATIVE ASSEMBLIES.

CHAMBERLAIN, HOUSTON STEWART (1855–1927), German publicist. He was born in England but became a naturalized German citizen and an influential exponent of the mystical mission of the German nation. He received his early education in France and Germany; he then studied various sciences at Geneva; thereafter he steeped himself in the Wagnerian musical, dramatic and metaphysical theories at Dresden. Chamberlain early became a member of Wagner's circle and married the composer's daughter.

His most famous work is his *Die Grundlagen des neunzehnten Jahrhunderts* (2 vols., Munich 1899, 14th ed. 1922; tr. by John Lees, London 1910). Though pseudo-scientific in character and teeming with self-contradictions this work greatly stimulated the rising racial and nationalistic megalomania in pre-war Germany. Chamberlain saw European culture as the composite product of five factors: the art, literature and philosophy of Greece; the law, statecraft and citizenship of Rome; the Christian revelation as rescued from Romanism by the Reformation; the organizing, creative, regenerating genius of the Teutons; and the alien and disrupting influences of Judaism and the Jews. The *Grundlagen* is thus a vast rationalization of European history animated by a sincere but obscure Christolatry, an aristocratic scorn for the masses and a romantic idealization of the Teutonic race as uniquely conceived by Chamberlain. He rejected the findings of the physical anthropologists and devised a "rational anthropology" of his own, so as to include among his "genuine Teutons" brunets like Dante and roundheads like Luther. He did not define race but held that extensive race mixture was the cause of the decline of Rome and of the subsequent millennium of social chaos. He attributed the Renaissance and the Reformation to pure Teutonic leadership; and he despaired of the European future unless the racial purity of the Teutons could be restored and express itself in an uncontaminated Teutonic religion.

FRANK H. HANKINS

Other works: *Das Drama Richard Wagners* (Leipsic 1892, 6th ed. 1921), tr. as *The Wagnerian Drama* (London 1915); *Richard Wagner* (Munich 1896; new ed., 2 vols., 1911), tr. by G. A. Hight (London 1897); *Worte Christi* (Munich 1901); *Heinrich von Stein* (written in collaboration with F. Poske, Berlin 1903, 2nd ed. Munich 1905); *Immanuel Kant* (Munich 1905, 4th ed. 1921), tr. by A. B. Redesdale, 2 vols. (London 1914); *Goethe* (Munich 1912, 4th ed. 1927); *Kriegsaufsätze* (Munich 1914, 11th ed. 1915), tr. by C. H.

Clarke as *The Ravings of a Renegade* (London 1916); *Politische Ideale* (Munich 1915); *Lebenswege meines Denkens* (Munich 1919); *Natur und Leben*, ed. by J. von Uexküll (Munich 1928).

Consult: Seillière, Ernest, *Houston Stewart Chamberlain, le plus récent philosophe du pangermanisme et mystique* (Paris 1917); Hankins, F. H., *The Racial Basis of Civilization* (New York 1926) ch. iv; Hertz, Friedrich, *Rasse und Kultur* (3rd ed. Leipsic 1925), tr. by A. S. Levetus and W. Entz (New York 1928) ch. viii; Schroeder, L. von, *Houston Stewart Chamberlain* (Munich 1918).

CHAMBERLAIN, JOSEPH (1836–1914), English statesman. Chamberlain came of an old established manufacturing family. At the age of eighteen he began a twenty-year association with his uncle's screw factory in Birmingham. He retired in 1874, was elected to the House as a Liberal in 1876 and within four years entered the cabinet. From the beginning his political career diverged from that of most Liberals of the manufacturing class in the direction of social reformism decidedly opposed to laissez faire notions. He attacked the established church, demanded liberalized education and land reform, sponsored sanitation and civic planning projects and successfully championed municipal ownership of public utilities in Birmingham. His views were expounded in terms of natural rights doctrine and a theory of the obligation of private property to pay ransom for its security.

In foreign affairs Chamberlain was an apostle of territorial expansion. He fought Irish home rule, proposing instead various combinations of local autonomy and imperial federation, and finally seceded from his party because of differences on this question. As colonial secretary in Lord Salisbury's new Liberal Unionist government of 1895 Chamberlain renovated the administrative machinery of the Colonial Office and enthusiastically set out to extend the empire and to promote trade within it. In matters affecting British interests in Egypt, Uganda, Samoa, the Gold Coast and Lagos and in the events culminating in the Boer War he constantly kept to the fore his program of expansion and consolidation. His policy of reconciliation with the defeated Boers was a link in the chain to bind to Great Britain her dependencies and possessions. The creation of a department of agriculture for the West Indies, the sponsoring of tropical health work and similar enterprises had the same motivation.

Chamberlain, who had seen Birmingham's steel industry badly hit by the dumping tactics of the protected manufacturers of the United States and Germany, gradually abandoned pure Manchesterism for a neomercantilist position. He argued that social progress in Great Britain depended on imperial prosperity, and that prosperity in turn depended on the development of trade within the empire, in the direction of self-sufficiency. His solution of imperial economic problems was the abandonment of free trade and the adoption of reciprocal preference arrangements among the constituent parts of the empire. Three years of agitation with the support of the Tariff Reform League failed to teach the electorate "to think imperially," although later some reciprocal concessions were made.

Chamberlain hoped that commercial and fiscal unity would constitute the basis for political federation. He proposed to the colonial conferences of 1897 and 1902 the establishment of a "great Council of Empire" of advisory character which might develop into that federal council with executive and some legislative power "to which we must always look forward as our ultimate ideal." Chamberlain's proposals met with little support at the time, and recent developments have revealed a tendency toward the substitution of local national rather than imperial attitudes in place of the waning colonial attitudes of the self-governing dominions.

Eight years before his death Chamberlain suffered an attack of aphasia which cut short his career.

HERBERT SOLOW

Consult: Milner, A. M., and others, *Life of Joseph Chamberlain* (London 1914); Gulley, E. E., *Joseph Chamberlain and English Social Politics*, Columbia University Studies in History, Economics and Public Law, vol. cxxiii, no. 1 (New York 1926); Notestein, W., "Joseph Chamberlain and Tariff Reform" in *Sewanee Review*, vol. xxv (1917) 40–56; Fiddes, G., *The Dominions and Colonial Offices* (London 1926).

CHAMBERS OF AGRICULTURE. Chambers of agriculture originated in Germany, where they have attained their greatest development. The oldest existing chamber was created in 1824 in the free and Hanseatic city of Bremen. The movement in its present form had its beginning with the Prussian law of 1894. Since the World War legislation regarding these organizations has been substantially modified and extended. In 1920 both Austria and Hungary adopted measures establishing chambers of agriculture. While their legal structures are somewhat different in the three countries, their general purposes and scope of activities are

similar. The analysis below applies largely to the forty-one chambers in Germany.

Chambers of agriculture are a unique mixture of the private and the official in one organization. They are official in that they are supported in part by a land tax levied upon all farmers of the district and collected by the revenue officers of the state. The minister of agriculture may reject the budgets of the chambers if he considers them excessive. The legal intent is that the chambers shall work in close harmony with state and federal officials, who are in turn instructed by law to consult with the chambers in the formulation of agricultural policy. On the other hand, these organizations are free agricultural associations. Their members are elected solely by the agricultural classes. Each chamber elects its own officers. Perhaps the greatest essential difference between the chambers of Germany as compared with those of Austria and Hungary is that the latter are subjected to a greater degree of governmental control, especially in Hungary.

The members of each chamber are elected by secret ballot on the basis of proportional representation. While eligibility for voting differs, the qualifications in Prussia may be taken as typical. "Every German without distinction of sex has a right to vote, who has completed his or her twentieth year, who enjoys civil rights, and has been engaged for at least a year in agriculture as a principal occupation, either as owner, holder in usufruct, or tenant of lands used for agriculture or forestry in Prussian territory. . . . On an equal footing with owners, holders in usufruct, and tenants, are considered the wives of such persons working with them on the farms." All persons qualified for voting who have reached their twenty-fifth year and have lived continuously in the district of their chamber for at least one year are eligible for election. Hence the elected members are drawn entirely from those engaged in farming. The chambers are permitted, however, to choose a limited number of members in addition to those elected, in order to enlist the services of agricultural scientists and others not engaged in farming. The number of members varies with the different chambers. On January 1, 1929, it ranged from eleven in Sigmaringen to one hundred and twenty-three for Saxony. In Baden, for example, the law specifies that thirty-six members shall be elected as representatives of the farmers and eight as representatives of agricultural labor. Twelve additional members are co-opted by the chambers; of these four must represent forestry, one market gardening and one labor, and the remaining six must be persons of repute and of experience in stock breeding, arable farming, viticulture, fruit growing and cooperation.

The general purpose of the chambers is to "safeguard the rights and promote the welfare of agriculture." The following summary of the functions enumerated in the Prussian law illustrates the wide scope and general nature of their mandates: to safeguard agricultural interests, economic, commercial and fiscal; to increase agricultural production in all its forms; to collaborate with state institutions for agricultural purposes; to preserve existing institutions and to create new institutions designed to improve the conditions of the rural classes; to promote the economic disposal of agricultural products; to collaborate in the placing of farm labor; and to assist in the promotion and extension of agricultural education and research.

The chambers specialize in the technical aspects of agriculture as contrasted with the buying and selling activities of the cooperative associations or with the political programs of such groups as the Imperial Land Alliance or the Association of German Farmers' Unions. They work in close harmony with the other organized agricultural groups. The following table of expenditures of the Brandenburg chamber for the year 1927–28 indicates the principal lines of activity followed:

Activities	Expenditures	
	Absolute	Percent
Research, teaching and extension	$ 544,885	31
Veterinary purposes	148,400	8
Promotion of:		
Livestock breeding	309,965	18
Fisheries	319	—
Forestry	65,032	4
Horticulture	86,030	5
Agricultural societies	236,339	13
Administration and other purposes	361,161	21
Total	$1,752,131	100

The Brandenburg chamber, which is one of the largest in Germany, has a staff of more than four hundred people. It maintains laboratories, conducts fertilizer, feed and seed tests, operates experimental farms and agricultural schools.

The following figures on the receipts of the

Brandenburg chamber for the year 1927–28 may be taken as a reliable indication of income sources:

Source of Income	Receipts	
	Absolute	Percent
State subsidies	$ 167,206	10
Other subsidies, including provincial and communal	131,732	8
Taxes	441,829	25
Other receipts, principally for services rendered	1,011,364	57
Total	$1,752,131	100

The central national body is the German Council of Agriculture composed of representatives from the local and state chambers. It looks after those interests of the chambers in which the federal government can and does play a part, and is occupied chiefly with questions of policy. Its activities are divided into five parts: general policies, education and credit; taxation; foreign trade, tariffs and marketing; press and publications; and business management.

Asher Hobson

See: Farmers' Organizations; Agrarian Movements; Agriculture; Peasantry.

Consult: Schindler, Axel, "The Organization of German Agriculture" in *Scottish Journal of Agriculture*, vol. x (1927) 144–55; Altrock, W. V., "Landwirtschaftskammern" in *Handwörterbuch der Staatswissenschaften*, vol. vi (4th ed. Jena 1925) p. 220–29; Date, Heinrich, "The New Legislation on Chambers of Agriculture in Germany" in *International Review of Agricultural Economics*, n.s., vol. i (1923) 151–61; Germany, Brandenburg, Landwirtschaftskammer für die Provinz Brandenburg und für Berlin, *Die Landwirtschaftskammer für die Provinz Brandenburg und für Berlin. Werden und Wirken von 1896–1930* (Berlin 1930).

CHAMBERS OF COMMERCE are essentially institutions for the representation of the vocational and sometimes also civic interests of business men organized on a regional basis. They undertake to develop and facilitate commerce through technical, administrative and promotional work and to influence government organs and officials to give favorable consideration to commercial interests; and they pursue, in the United States, also civic objectives, reflecting the business man's point of view. In the United States and the British Empire such institutions are sometimes, although with decreasing frequency, known as boards of trade, commercial clubs, merchants' associations, boards of commerce and associations of commerce. In other countries the equivalent term for "chamber of commerce" is generally employed, such as *chambre de commerce*, *Handelskammer*, *camera di commercio*, *kamer van koophandel* and *cámara de comercio*.

Associations of merchants for somewhat similar purposes existed at least as early as the Roman Empire, and the mediaeval guilds and corporations were historical prototypes of the chamber of commerce, but the Chambre de Commerce of Marseille, founded in 1599, was the first such organization bearing the modern name. The type of chamber generally created by law in France during the eighteenth century was introduced into the Rhineland by Napoleon and is found today in France, Germany, Italy, Spain, the Austro-Hungarian successor states, Holland, Denmark, China, Japan and Brazil. The Jersey chamber in England and the New York chamber in America were both established, although independently of each other, in 1768. By 1801 New York, Philadelphia, Charleston and New Haven had chambers; by 1858 there were thirty, although some of these had only an ephemeral existence. In 1880 England had less than forty chambers. During the last quarter of the nineteenth century, however, the institution became more popular and in the last thirty years it has spread rapidly, established itself firmly and increased the scope of its work. Today there are 172 chambers in England and approximately two thousand in the United States. More than 2,000,000 individuals are affiliated in several thousand chambers throughout the world, 920,000 being affiliated with the United States Chamber of Commerce through 1655 organizations.

The growth of chambers of commerce has been a concomitant of the expansion of commerce. The increased complexity of problems confronting the merchant class and the growing consciousness of mutual interests underlying competitive activities created the desire for a means of collective action for the solution of those problems and the furthering of those interests. The paternalistic states of continental Europe produced the official type of chamber of commerce, established by law and subject to government control, and supported by government subsidy or special taxes levied on a membership composed of all merchants of a particular class within the district covered. The Anglo-American type of chamber, on the other hand, was a creation of private initiative and is still a purely private and voluntary institution without

financial resources except membership dues and small incidental earnings.

The organization of a chamber of commerce consists usually of a board of directors and a president. In the continental type the president is generally a nominal head and the directing board alone is known as the chamber. Work is accomplished through committees and bureaus under the general supervision of a paid secretary, who formulates the program and manages finances. His task has become highly professionalized and in continental countries is regarded as public service of a reputable character, attracting, especially in Germany, where state pensions are provided, many economists and students of international trade. In the United States, however, chambers of commerce, forced by their lack of official support and financial security to resort to constant membership drives and oftentimes to high pressure town boosting campaigns, have tended on the whole to attract as secretaries publicity or promotion men adept in concocting optimistic propaganda but with slight equipment to handle complicated problems of trade development. As a result chamber work in this country is on the whole unscientific. For example, repeated cases of economic distress have resulted from the inevitable failure of industries attracted by publicity and special concessions to locate in unsuitable towns. The secretaries of American chambers have a national organization and a training school which is endeavoring to raise the standards of the profession.

Federation of chambers of commerce has taken place on a regional basis in most countries. The French national chamber is only a few years younger than the Marseille chamber. The German national federation (Handelstag) is a descendant of a seventeenth century body. Both the French and the German institutions have an official status. A National Board of Trade was organized in the United States in 1868 "especially in order to secure the proper consideration of questions pertaining to the financial, commercial and industrial interests of the country. . . . " In 1912 it was superseded by the Chamber of Commerce of the United States, an organization formed with government encouragement. Its stated aims were to promote foreign trade, business cooperation, standardization of methods and the raising of business ethics. The dynamic force back of the organization at its inception was the widespread fear of the contemporary trend toward government regulation of business. The membership of this chamber is composed of local chambers, which pay dues equivalent to about one half of one percent of their income and have the right to vote, and of individuals who pay a fixed sum, receive all the chamber's services but may not vote. The chamber is governed by a directorate representing both districts and interests. It issues a magazine, the *Nation's Business*, and maintains a large technical staff in its building at Washington. There are also national chambers in England, Belgium, Switzerland, Brazil, Cuba, Australia and other countries. In some of the federal countries state chambers of commerce function in state affairs much as the local and federal chambers do in their fields.

The functions of chambers fall into two divisions. On the one hand, they perform a variety of technical and administrative services for the members and the commercial class in general. On the other, they attempt to interpret to the government the attitudes and desires of the commercial class and to influence the government favorably.

The technical and administrative services of continental chambers include: the administration, and sometimes the ownership, of stock exchanges, employment bureaus, docks, warehouses, weighing and testing machinery, commercial schools, museums and libraries; the preparation of trade reports; the issuing of export certificates and certificates of origin; and the appointment of experts, inspectors, surveyors, accountants and commercial arbitrators. American and English chambers render a more limited technical service. They concern themselves with improving transportation; lowering freight rates; providing information on traffic routes, markets, credit standing, methods of packing for foreign shipping and general trade conditions; collecting claims; commercial arbitration; provision of labor supply; standardizing of methods; and general publicity work such as advertising home products, enticing tourists and conducting expositions, special sales, "get acquainted" trips. A number of the larger chambers both in Europe and America maintain research bureaus. But inasmuch as their work is published only with the approval of the directors it cannot generally be regarded as unbiased scientific research.

The second great phase of chamber of commerce work is its representation of the commercial class before the government. The continental type of chamber has formal contacts with

government instrumentalities and officials. These contacts may range from representation on a legislative council, as in the Straits Settlements, or on other official bodies, such as the Bavarian Railway Council, to the more common arrangements for receiving from the chambers reports, advice and proposals for legislation. This official relationship, together with the fact of compulsory membership, which automatically makes the continental chamber a representative body, has won for it high prestige and great influence. The Anglo-American type of chamber makes its approach to the government unofficially and by means of the ordinary lobbying technique of general publicity, political pressure, public hearings and the like. Such action, whether official or unofficial, is generally directed at killing unfavorable, or passing favorable, laws on budget, tariff, bankruptcy, trusts, banks, itinerant merchants, labor conditions and hours, store hours, child labor and similar questions. Commercial legislation of the first importance has been effected by the activities of chambers of commerce. Not only has their influence been brought to bear in inducing the United States government to undertake more and more technical and research investigations of a type beneficial to business men, but it has also contributed largely to the passage of the United States Transportation Act (1920) and the Budget Act (1921), to a revision of postal rates (1928) and to the defeat of a proposed quota for Mexican immigration (1928).

Such activities classify chambers of commerce with numerous other pressure groups of the modern democratic state functioning outside the ordinary legislature. In fact the chambers have been viewed by some as the germ of a system of functional representation, and their official status in such countries as Germany and Austria, where they contribute materially to the making of government decisions on all business matters and where they are counterweighted by official labor bodies of similar character, is pointed to as foreshadowing developments in this direction. Even in the United States the national chamber, with seventeen members sitting in Congress, constitutes an unofficial functional constituency of the federal legislature.

Although their membership is drawn from the commercial and employer class and although they devote themselves primarily to the interests of that class, the chambers in the United States maintain that they represent the entire community. They launch elaborate civic programs which they believe to be beneficial, from a business man's point of view, to society. These programs include municipal reform and reorganization of the state government, road and bridge construction, public hygiene, sanitation, water supply, park developments, traffic control, regional and town planning and conservation and development of natural resources. They insist upon better methods of public budgeting, accounting and financing, and a generally more businesslike procedure in the conduct of the public business. On the other hand they oppose all civic action which they regard from a business man's point of view as against public interest. They view proposals for the acquisition by the state or municipality of a gas, electric light or power plant or a street railway or for the promotion of model housing by a state or municipal subsidy as "socialistic attempts to put government into business," and proposals to use excess condemnation in the financing of public improvements as schemes violating the rights of private property. They are inclined to regard proposals for the establishment of a chain of federal, state and municipal employment bureaus as signs of the further multiplication of an already excessively large bureaucracy and of further interference with business; and proposals for the establishment by the state of a system of old age pensions as "paternalistic schemes that will discourage thrift."

The chambers are opposed to all social movements considered inimical to commercial interests. They were prominently identified with post-war campaigns against liberals, radicals and union labor. The Chamber of Commerce of the United States has officially endorsed the doctrine of individual initiative without any qualification except the urging of government services for business, and it has opposed government operation, ownership or even energetic regulation of business. It endorsed without qualification the so-called "open shop" and opposed federal regulation of child labor. One Pennsylvania chamber has attacked as "vicious" a law prohibiting night work in glass factories for children between fourteen and sixteen. Standing for progress in all matters calculated, according to the understanding of the average business man, to advance the interests of the business class the chambers are inclined to assume a negative attitude in all matters not calculated, according to such understanding, to accomplish that result, and to op-

pose militantly any proposal of a change in the present system of distribution of wealth and power between the different classes of society. On the whole the chambers seem to be reservoirs of ultraconservatism in modern society.

As in all discussions of pressure groups the question must be answered as to how accurately the chambers reflect the views and interests of their members. The usual response to referenda conducted by the Chamber of Commerce of the United States among its members to determine opinion as a basis for lobbying activities involves not more than 58 percent of the total membership. The questions are answered by organization members and often by organization secretaries, who may or may not consult their group before replying. In either case the matter is given only cursory consideration. Furthermore, the questions are frequently framed in the referendum in such a way that there can be little doubt in the mind of the representative of the average chamber as to how he should vote upon them. The secretary of a local chamber ordinarily draws up resolutions which obtain automatic endorsement. Thus the members approve opinions not only on commercial topics but also on such general questions as government ownership, compulsory military training, the teaching of evolution and international peace—opinions which bear the mark of amateurishness and gross ignorance and which sometimes may be contrary to the real interests of the members. The same superficiality usually characterizes other actions of the chambers. Committee reports are drawn up hastily, usually by the secretary of the organization, whose business it is to see that no action is recommended which may stir up a controversy and cause a loss of members. Actions are taken which are unobjectionable or which, it is known, will be popular with the members. Even if these difficulties were solved by providing for a more thorough consideration and debate of questions and reports and by canvassing more accurately the whole membership the fact would remain that chambers, especially in America, represent elements which, measured by the criteria of functional representation, constitute more than a single class. Only a few places (e.g. Hamburg and Bremen) have separated wholesale from retail merchants, and the American chamber includes, in addition to these, manufacturers, mine owners, transportation officials, professional men and real estate dealers, groups whose special interests may deflect the chamber from a purely mercantile policy.

Two modern developments of the chamber of commerce warrant special attention. As an outgrowth of modern international trade have come the "foreign" chambers of commerce which, beginning in Hongkong in 1861, have been established by alien merchants to stimulate trade with the mother country, a motive usually expressed as a desire to promote reciprocal exchange. Such organizations are common in European and American capitals. In some non-Christian countries all the European merchants have joined a common chamber. American and English foreign chambers are private organizations; some, like the French, are semi-official, partially subsidized and controlled by the home government. Some states desiring to discourage such chambers in their own territory try to prevent their nationals abroad from forming them. Others have found them useful as part of the machinery of economic and political imperialism in backward countries; they spread the home culture, influence and propaganda, supply information to the home government and on occasion serve as convenient mouthpieces to raise the cry for intervention.

Finally, there is an International Chamber of Commerce, established in 1920 to replace the International Congress of Chambers of Commerce which had been held from time to time before the war but which never had any permanent organization. The International Chamber aims "to include all the economic factors of international business . . . to secure effective and consistent action . . . improving the conditions of business between nations and to encourage international and better understanding. . . . " A permanent staff functions in Paris, national committees are active in the countries whose national federations are members, and the chamber's general congress meets biennially. It maintains a Court of Commercial Arbitration and publishes a magazine, *World Trade*. The chamber is chiefly concerned with problems of double taxation, export credits, foreign exchange, standardization of business forms, customs regulations and statistical forms, improvement of transportation and postal systems, port facilities, neutrality of the seas, calendar reform, international expositions and, in a vague and general way, world peace.

PAUL STUDENSKI

See: CIVIC ORGANIZATIONS; TRADE ASSOCIATIONS;

EMPLOYERS' ASSOCIATIONS; BUSINESS, GOVERNMENT SERVICES FOR; BUSINESS ETHICS.

Consult: Childs, H. L., *Labor and Capital in National Politics* (Columbus, Ohio 1930); Finer, H., *Representative Government and a Parliament of Industry* (London 1923); Logan, E. B., "Lobbying" in American Academy of Political and Social Science, *Annals*, vol. cxliv, 91st supplement (1929); United States, Chamber of Commerce, National School for Commercial and Trade Organization Executives, *Chamber of Commerce Administration* (Chicago 1927); Holtzclaw, H. F., *Association Management* (New York 1929); Sturges, Kenneth, *American Chambers of Commerce* (New York 1915); Wolfe, A. J., articles on commercial organization in Germany, France, Switzerland and the United Kingdom, in United States, Department of Commerce, Bureau of Foreign and Domestic Commerce, *Special Agents Series*, nos. 78, 98, 101 and 102 (Washington 1915); Zeyss, R., *Die Entstehung der Handelskammern und die Industrie am Niederrhein* (Leipsic 1907); Drossinis, C. G., *Les chambres de commerce à l'étranger* (Paris 1921); Keppel, F. P., "The International Chamber of Commerce" in *International Conciliation*, no. 174 (1922) 187–210. Such periodicals as *Nation's Business*, *World Trade* and *American City*, many pamphlets and other publications of chambers and of the National Association of Commercial Organization Secretaries contain important material on the structure, methods and aims of chambers of commerce.

CHAMPLAIN, SAMUEL DE (1567–1635), French geographer and colonist. After a voyage to Spanish America and several years spent in assisting the attempt to found a colony on the Bay of Fundy, during which he explored and mapped the adjacent coast as far south as Cape Cod, he founded Quebec in the year 1608 and so began the colony of New France. He spent the remainder of his life in the nurture of this infant colony. Champlain had to overcome the severest of physical obstacles, the lack of support from France itself, the lure of the fur trade which discouraged land settlement, the perils from the Iroquois, the controversy between Catholic and Protestant, the menace of foreign war. Company after company was founded to promote settlement, but not until 1627 did Richelieu's newly founded Company of New France seriously take up the task. Its first attempt failed, for in 1629 the English captured Quebec and held it for three years. Before Champlain died, however, the colony, although tiny and weak, had struck its roots into the soil.

Scarcely less important were Champlain's achievements as explorer and geographer. After founding Quebec he made three important voyages of discovery: to Lake Champlain in 1609, up the Ottawa in 1613 and to Lake Huron in 1615–16. Of these voyages he wrote accounts accompanied by maps which contributed greatly to the increase of geographical knowledge of the New World.

R. FLENLEY

Works: *The Works of Samuel de Champlain*, ed. by H. P. Biggar, vols. i–iii (Toronto 1922–29); *Voyages of Samuel de Champlain, 1604–1618*, ed. by W. L. Grant (New York 1907).

Consult: Flenley, Ralph, *Samuel de Champlain, Founder of New France* (Toronto 1924); Colby, Charles W., *The Founder of New France*, Chronicles of Canada series, vol. iii (Toronto 1915); Dionne, N. E., *Champlain* (rev. ed. London 1926); *Acadiensis*, vol. iv (1904), Special Champlain number.

CHAMPOLLION, JEAN FRANÇOIS (1790–1832), French Egyptologist. Champollion, who became known later as the founder of Egyptology, devoted his early youth to the study of Egyptian languages and history. In 1809 he was appointed professor of history at Grenoble; from there he went to Paris to study Egyptian antiquities. With the Rosetta stone as the key he deciphered the complex Egyptian writing, which he discovered consisted of three elements, figurative, ideographic and alphabetic. He explained the hieroglyphic alphabet in his *Lettre à M. Dacier relative à l'alphabet des hiéroglyphes phonétiques* (Paris 1822) and further elaborated it in the *Précis du système hiéroglyphique* (2 vols., Paris 1824, 2nd ed. 1828).

Following his deciphering the hieroglypnic alphabet he was appointed keeper of Egyptian antiquities at the Louvre; he directed a scientific expedition to Egypt; he was made a member of the Academy of Inscriptions and in 1831 a chair of Egyptology was created for him at the Collège de France.

After Champollion's death some of his most important manuscripts, including *Monuments de l'Égypt et de la Nubie* (4 vols., Paris 1835–45), *Grammaire égyptienne* (Paris 1836) and *Dictionnaire égyptien* (Paris 1841), were edited by his brother. These works greatly contributed toward laying the foundation for later Egyptological discoveries.

ALEXANDRE MORET

Consult: Hartleben, H., *Champollion, sein Leben und sein Werk*, 2 vols. (Berlin 1906); Moret, A., *Le Nil et la civilisation égyptienne*, L'évolution de l'humanité series, vol. vii (Paris 1926), tr. by M. R. Dobie (London 1927); Champollion-Figeac, Aimé, *Les deux Champollions, leur vie et leurs oeuvres* (Grenoble 1887).

CHANCERY. *See* EQUITY.

CHANG CHIH-TUNG (1837–1909), Chinese statesman. He entered public life in 1863, and in 1884 as viceroy in Kwangtung during the Franco-Chinese War he argued against China's responsibility to France for damages to Chinese Christians. In 1898, after the Japanese war had awakened and perplexed Chinese opinion, he suddenly attained leadership of the moderate liberals by his brilliant, widely read and influential essay, *Learn* (abr. tr. by S. I. Woodbridge as *China's Only Hope*, New York 1900), in which he urged China to avoid India's fate and to follow Japan's example by learning from the West how to develop the elements which gave those nations strength: governmental efficiency, modern armies and navies, factories, mines, railways, schools, the press. Some of these he had already introduced in his domain of Hukwang. Because of his conscientious opposition to democratic institutions and his belief that the Confucian foundations of Chinese statecraft should be conserved by more complete centralization under the Manchu dynasty, he refused to join K'ang Yu-wei and the emperor in their program of drastic reforms (1898). When the empress dowager's coup and the Boxer reaction resulted from the premature reform decrees he begged the empress dowager to withhold support from the Boxers and during their fanatical outbreak he maintained order and protected foreigners in central China. Although Chang continued in office after this disastrous rebellion his mild progressiveness—now no greater than that of the court—appeared as conservatism, since radicalism and even revolution were being preached by Dr. Sun and by growing numbers of students who had returned from Japan.

WILLIAM JAMES HAIL

Consult: Morse, H. B., *The International Relations of the Chinese Empire*, 3 vols. (London 1910–18) vols. ii–iii.

CHANG HSÜEH-CH'ENG (Shih-chai) (1738–1801), Chinese historian. He was born in Kueichi, Chekiang province, and was the most creative writer on historical method and on the theory of history that China had produced since the time of Liu Chih-chi (661–721 A.D.). His two outstanding works are the *Wen Shih T'ung I* (General interpretation of literature and history) and the *Chiao Ch'ou T'ung I* (Principles of textual criticism).

In his treatment of the origin and technique of Chinese historical scholarship Chang Hsüeh-ch'eng advocated, far in advance of his time, a genetic view of history in which the fixed categories of former historians are discarded and the form adapted to the materials rather than the materials to the form. For this reason he favored the topical rather than the chronological or dynastic treatment of history. He held that the qualifications of a great historian are talent, training, sound judgment and historical veracity and that a true history should show understanding, be faithful to the facts and have literary form. He believed, moreover, that not only the canonical books but all records of the past, such as biographies, edicts, laws, official documents, should be considered as materials for the historian, thus greatly enlarging the scope of Chinese history. In urging the establishment of centrally located libraries, under government supervision, where the rare materials of history could be preserved, classified, collated and conveniently indexed, and so made available to those who wish to ascertain the facts, he anticipated the public libraries of our day. He advocated a radical revision of the categories of local histories and stressed their importance to Chinese historians at a time when these were not regarded as works of history.

ARTHUR W. HUMMEL

Consult: Hu Shih, *Chang Shih-chai Hsien-Sheng Nien-p'u* (Shanghai 1922), and a review of the same by P. Demiéville in L'école française d'extrême orient, *Bulletin*, vol. xxiii (1923) 477–88.

CHANGE, SOCIAL. As a term carrying a definite scientific connotation, social change has come into use only recently. The concept bears a certain relation to the somewhat earlier ones, social evolution and progress. Social evolution had come to be identified fairly closely with the dogma of inevitable successive stages of development based on biological determinants; and progress usually implied a faith or borrowed standards from current morals. The need for a term free from dogmatic or moral implications explains the present day preference for the expression social change, which suggests to most readers objective description and an absence of implied values.

A first point of difference between theories of social change and the conventional theories of social evolution turns on the question, what is it that changes? Climate changes but slowly and over long periods of time. So, too, the greater proportion of a race of men appears to remain pretty much the same, although this point is still

disputed. During the historical period changes in climate or in inherited biological nature are at least slight in comparison with other changes, so slight that they are generally neglected as causal factors in the social changes of history.

What does change is culture, or the social heritage. Culture is that part of our environment for which animals living in the wild state do not have a counterpart, although some wild animals have the crude beginning of a culture. Some factors in culture do indeed show great capacity for maintaining themselves unchanged, but the system of culture as a whole may exhibit almost revolutionary changes, even within a single generation.

The key to change may be sought in invention. The word as here used means any new element in culture—a much broader meaning than the term commonly conveys. For culture as a whole the force making for change is the creation of an invention. For a particular culture area social change is due to an invention either made in that area or else imported into it. To understand social change it is necessary to know how inventions are made and how they are diffused.

Inventions are combinations of existing elements of a culture into a new form, as, for instance, the telegraph. Not all of the elements in question are material elements; some of them may be principles or ideas. There is at any one time a current stock of ideas just as there is a current stock of material objects. Thus there is the idea of rapid communication which is an element in the invention of the telegraph. Ideas that are pressed on the attention are one phase of demand or "necessity," long recognized as the mother of invention. Demand or necessity naturally cannot produce inventions unless there are in existence the materials out of which the inventions can be made. Primitive man had serious need of scientific medicine but made few discoveries in this field. There seems to be sufficient demand or necessity at all times to produce social change.

Inventions, being useful, tend to accumulate. They sometimes result in the substitution of a new form for an old one. If the old form is completely supplanted there has been no accumulation in this particular instance. This may often happen in a restricted area. The grain cradle does not persist alongside of the binder, nor do the bow and arrow alongside of the rifle. It is less frequently the case that a new form substitutes itself for the old throughout the world. Most forms ever in use are still in use somewhere. There are still culture areas in which the neolithic technique persists.

The tendency of inventions to accumulate results in an increase in the existing cultural elements which may go to make a new invention, and hence an increase in inventions. The curve of growth of inventions exhibits a similarity to the exponential curve. Accumulation of inventions means not only a greater amount of social change but a more rapid social change. No doubt other factors besides the mere drive of accumulated inventions enter into the group of forces making for new inventions. Necessity is one such factor. One may refer to the part played by necessity in war time in evoking the invention of counter-weapons for each new arm put into successful operation. In the general case, however, demand or need may be taken for granted.

It is the net addition of small elements to culture that makes invention a process. Because this process is continuous social change is continuous. It is believed that in very early times social changes were irregular because of the rareness of invention. In a particular series of inventions such as fire making this may have been true. When, however, a large number of such series are in process simultaneously social changes are more numerous, more frequent and perhaps more regular. Irregularities in the process of social change are also due to the fact that not all new elements of culture or inventions are of the same potency in precipitating changes. Such inventions as the electric motor, the incandescent light, the moving picture and the radio have vastly more capacity to precipitate social change than the flashlight or the cigarette lighter. But whatever irregularities in social change may follow from the casual occurrence of significant inventions, it appears extremely improbable that such irregularities would form a series that could properly be described as a cycle.

What has given rise to the belief that social change proceeds by cycles is the fact that there are certain historical periods of great social change with stretches of time characterized by less activity between them. Such periods, for instance, are the Renaissance and the industrial revolution. These great changes may be due to many factors, as for instance the recovery of classical learning, the opening of new trade routes or new lands for exploitation, or new sources of power of wide application, as for

example the steam engine. In such cases we may say that inventions appear in extraordinary clusters, and we should naturally expect social change to proceed at an unprecedented rate. It is also probably true that the historical perspective exaggerates these changes. History contrasts the Renaissance and the Dark Ages only with respect to art, learning and social organization, but these taken together compose only a small fraction of culture. It is not generally known that there were many important mechanical inventions during the Dark Ages. History indicates periods of quiescence between periods of rapid social change, but this too may be largely a matter of perspective. Granting, however, occasional great irregularities, we should not lose sight of the principle that social change in advanced societies is normally a continuous and even fairly regular process.

Social changes are more numerous now than formerly because the cultural elements are so much more numerous. Although there are other reasons, this is perhaps the outstanding one. Social change among the Eskimos is slow not, it is thought, because they are low in mental ability but because they do not have sufficiently numerous cultural elements to operate with.

Rates of social change differ not only according to the stage of social development but also for the several parts of our social heritage. This heritage may be classified for the present purpose under material objects (together with the immediate processes of their production and use) and non-material culture including social organization, science, art, philosophy, music, painting, sculpture, literature, religion, morals, customs and the like. Observation not, however, established by statistics seems to show the most rapid changes at the present time in material culture and in science and less rapid and less numerous changes in other aspects of non-material culture. It also appears that the accumulative process is at present more active in natural science and material culture. Thus the material and natural scientific part of the cultural base appears to be growing larger more rapidly than the non-material part. If we are justified in assuming a functional relationship between the several parts of the cultural base and the future rate of social change we may forecast increasingly rapid changes in material culture.

If the parts of culture which change at unequal rates were uncorrelated, as the water at the surface and at the bottom of a flowing stream, there would be no problem. But many of the parts of our social heritage, somewhat like an intricate machine, are closely correlated, and when one part changes the correlated part also needs to be changed. Thus science and religion are correlated, and when scientific discoveries bring new ideas concerning such items as life after death, the immaculate conception, the age of the earth and the early history of man, religion tends to change accordingly, but somewhat later. So also family life adjusts itself to the factory after a lag. A change in the family or in religion may originate from within or it may be forced upon family or church by inventions or discoveries in some other part of culture. Many changes in social life are thus precipitated by changes in the mechanical or scientific culture. Thus the preservation of food in tins or the invention of contraceptives influences the position of woman. At the present time a very large number of initial changes are occurring in the vast volume of material culture, and relatively few changes take their origin from within social life as such. At the present time it is the social life that is compelled to adjust itself to changes in material culture. It is entirely conceivable that the conditions might be reversed and the material culture might be compelled to adjust itself to changes originating in social life. It might be difficult to adduce examples covering a wide culture area, but in limited areas subject to invasion by a foreign culture it is quite possible that non-material culture will be absorbed first and that material culture will be forced to undergo a process of adaptation. So new ideas, new habits, new philosophies, were diffused into the Orient and became precipitators of change as truly as were tools and mechanical devices.

When we pass from culture as a whole to the culture of a particular country we encounter many factors affecting the rate of social change. Most changes are introduced into the particular locality from without. The rate of change is accordingly very slow in isolated islands, deserts or mountainous regions, where there is little intrusion of change from the outside. It would be still slower if change had to wait wholly on invention or discovery within the particular area.

There are various obstacles to the penetration of the factors of social change into a country, even though the barrier of isolation is broken down. Many factors of change are great clusters of inventions. The adoption of the horse meant the adoption of a horse culture. The adoption of the automobile compels the provision of the

services of mechanics, steel, cotton, rubber, gasoline, good roads, filling stations and hundreds of other correlated factors. The area adopting a new factor in culture must have the correlated elements necessary to its utilization. Similarly the successful importation of ideas such as democracy or theories of natural selection is likewise dependent on the presence in society of correlated ideas, which are as real as concrete objects. Some ethnologists claim that the diffusion of material culture is more easily accomplished than the diffusion of non-material culture, but there are certainly many exceptions.

That social changes do not follow immediately upon invention is due not merely to the fact that it takes time for an invention to become known. There are positive resistances to be overcome. Sometimes these take the form of ingrained habits. This seems to be the chief obstacle to the introduction of simplified spelling, the metric system and the thirteen-month calendar. The tenacity of personal habits also accounts for the resistance to changes in language and to the substitution of science for superstition or ignorant tradition in medicine, diet and even agriculture. Often an invention affects only one part of an extensive complex; its application would involve numerous inconvenient and expensive adaptations. The standard gauge of railway track is probably too narrow, but to change the gauge would mean changing the various parts closely related to it, the rolling stock, the stations, dispatching systems, etc. Usually the more closely correlated a part of culture is with other parts the greater is its resistance to change. There is a proverb that every old tax is a good tax and every new tax is an evil. The old tax has been adjusted into the existing complex of business; the new tax may involve a complicated and painful process of readjustment. For the same reason business is impatient of "tariff tinkering," irrespective of the merits of proposed changes.

In an analogous way those who find social life satisfactory as it is are inclined to resist change. They know the rules of the road and can guide their conduct accordingly. Other rules might be inherently better but it would be necessary to live through a period of confusion before the new rules could become equally well known and usable. Persons of status and wealth tend to resist changes that may disturb their reputations, jobs or property. Social institutions seem particularly resistant to change. Thus a pagan winter festival has persisted under the form of Christmas, taking on Christmas functions but retaining much of its original spirit. Fear of the new and respect for the traditional are change resisting attitudes, as are also the emotional attachments to national leaders, flags, religious symbols, childhood patterns. The home exerts a conservative influence resistant to social changes. If an invention succeeds at all it is by its usefulness, and being useful it is likely to make its way in time, in spite of resistances to the social changes it entails. There are conditions that often greatly facilitate the acceptance of invention and change. Thus countries with increasing incomes appear more ready to take a chance with the new. Money available for contributions and taxation offers a condition favorable to experiment. Some elements in the population are said to be addicts to change. Thus certain neurotic types, having a basic unrest, when exposed to the proper stimuli become an active element in furthering social change. So also social classes with the lowest incomes and whose chance of loss by change is least may become active agents for change, but only when points of contact with ideas of reform or revolution are made. Some psychologists claim that if children are not disciplined too early into social traditions they grow up to become active in promoting social changes that are more in accord with inherited nature than is the existing tradition. Young adults are said to favor change more than elders. A public sentiment placing a high valuation upon originality, invention, research, is conducive to social change.

Periods of great social change are usually characterized by a decline in the authority of codes of morality and by greater dependence on experiment, expediency and rationality in conduct. Similarly it is asserted that such periods are characterized by a deterioration in manners and by the frequent emergence of an uncontrolled egoism. Cultures that have undergone little social change have had time to work out by a long process of trial and error what appear to be the most suitable adjustments of the individual to the culture and the best correlations between the parts of that culture. There is thus said to be a harmonious quality in those cultures which is not found among cultures undergoing great changes. The effect of social change is to raise the questions, what is a properly integrated culture and what is the most satisfactory adjustment of culture to inherited nature? This in turn raises the question of the

values implied in progress. But whether the changes be for better or worse, the study of social changes makes the chances of control and prediction for culture as a whole appear somewhat remote. Invention has not been predicted with success and few social effects of mechanical inventions and scientific discoveries have been foreseen with certainty. With the growth of science more prediction will be possible. Indeed, for a particular area it may be quite possible to predict the introduction of culture elements from outside and the social consequences. In such cases a measure of control would even now be possible.

WILLIAM F. OGBURN

See: CULTURE; SOCIETY; SOCIAL PROCESS; INVENTION; CUSTOM; CONFORMITY; CIVILIZATION; DECADENCE; EVOLUTION, SOCIAL; PROGRESS; ORGANISM, SOCIAL; CONSERVATISM; RADICALISM; REVOLUTION.

Consult: Kroeber, A. L., "The Superorganic" in *American Anthropologist*, vol. xix (1917) 163–213; Lowie, R. H., *Culture and Ethnology* (New York 1917), and *Primitive Society* (New York 1920); Ogburn, W. F., *Social Change* (New York 1922); Chapin, F. S., *Cultural Change* (New York 1928); Hobhouse, L. T., *Social Development* (London 1924); Müller-Lyer, F., *Phasen der Kultur* (Munich 1908), tr. by E. C. and H. A. Lake as *History of Social Development* (London 1920); Wissler, Clark, *Man and Culture* (New York 1923); Ellwood, C. A., *Cultural Evolution* (New York 1927).

CHANNING, WILLIAM ELLERY (1780–1842), American clergyman. Channing became pastor of the Federal Street Church, Boston, in 1803 and remained its minister until his death. Although he is remembered today chiefly as a leader of Unitarianism he was not primarily interested in theology, and in his own time was important as a social reformer and man of letters. His aim was always religious and moral regeneration, but he proposed such practical innovations as a bakehouse for the poor, a society to advise immigrants and a fund for the ill and unemployed. An active worker in the various reform societies of Boston, he wrote on behalf of liberty of speech, temperance, prison reform, the limitation of child labor and the better treatment of apprentices. He was especially interested in the elimination of war, though he was not an absolute pacifist, and in the extension to all classes, to adults as well as children, of improved educational opportunities. During the last decade of his life he wrote several pamphlets against slavery. Underlying all his views on social problems was his faith in human perfectibility and human dignity. If this faith led him to emphasize self-reliance and to base his hope for reform on the regeneration of the individual, it also helped to make him friendly toward the utopian dreams of his younger contemporaries. He advised and encouraged George Ripley, Theodore Parker, James F. Clarke, Horace Mann and others, and through this personal influence, as well as through his writings, he affected the social thought of the twenty years prior to the Civil War.

GRANVILLE HICKS

Works: *The Works of William Ellery Channing*, 6 vols. (Boston 1841–43; new ed. in 1 vol., Boston 1886).

Consult: Channing, W. H., *Memoir of William Ellery Channing*, 3 vols. (6th ed. Boston 1854); Chadwick, J. W., *William Ellery Channing, Minister of Religion* (Boston 1903); Spiller, R. E., "A Case for W. E. Channing" in *New England Quarterly*, vol. iii (1930) 55–81.

CHANNING, WILLIAM HENRY (1810–84), American clergyman, nephew and biographer of William Ellery Channing. He was an active worker in the movements for peace, temperance, women's suffrage and the abolition of slavery. Influenced by Fourier's writings, he called himself a socialist, but his social views were, like his uncle's, based upon religious conceptions. Despite his affiliation with the Unitarians Channing wished to disregard creeds and to make social idealism the basis of the church. To this end he organized a creedless church in New York in 1843, and in 1847 founded in Boston the Religious Union of Associationists. After 1854 most of his life was spent in England. He wrote for the *Dial* and the *Phalanx*, and edited the *Present* (1843–44) and the *Spirit of the Age* (1849–50). He was interested in and influenced the development of the North American Phalanx, Brook Farm and the Raritan Bay Union. Although he criticized Fourier as deficient in the Christian spirit of love, his writings and lectures served to disseminate Fourieristic ideas.

GRANVILLE HICKS

Consult: Frothingham, O. B., *Life of William Henry Channing* (Boston 1886).

CHAPTAL, JEAN ANTOINE (1756–1832), French chemist and economist. He was professor of chemistry at the University of Montpellier and afterwards at the École Polytechnique. In 1798 he became a member of the Institut. As minister of the interior under Bonaparte and as director general of commerce and manufactures, and later as minister, under

the restoration, he devoted himself to increasing the wealth of France. He promoted the construction of roads and canals, encouraged the bourses and chambers of commerce, founded the Société d'Encouragement pour l'Industrie Nationale and created the first trade schools in France. His fundamental preoccupation was the application of science, particularly of chemistry, to industry. He made available many new processes and materials essential to the development of the arts. His most valuable economic work, *L'industrie française*, which covers the history of economic life under the old regime and up to 1815, reveals the author as a partisan of the protectionist system although at the same time an opponent of a prohibitive tariff. His work was undoubtedly read by List, who found therein confirmation of his own views.

HENRI SÉE

Important works: *L'industrie française*, 2 vols. (Paris 1819); *La chimie appliquée aux arts*, 4 vols. (Paris 1807); *Chimie appliquée à l'agriculture*, 2 vols. (Paris 1823, 2nd ed. 1829).

Consult: Levasseur, Émile, *Histoire des classes ouvrières et de l'industrie de 1789 à 1870*, 2 vols. (2nd ed. Paris 1903–04) bk. ii, ch. v; Ballot, Charles, *L'introduction du machinisme dans l'industrie française*, ed. by Claude Gével (Paris 1923).

CHARACTER. The term character (from the Greek χαρακτήρ, a distinguishing mark) applies in common usage to the distinctive organization of traits setting off one individual from all others. In the broadest sense character is coterminous with individuality; but in popular practical discussion the term is chiefly applied to groups of traits that have social significance and moral quality. Character used in this sense becomes the *sine qua non* of all collective adjustment and social intercourse.

Three types or aspects of character organization are of major importance in any consideration of the social function of character: first, such an integration of mental qualities that acts performed by the agent can be subsumed under a rule, if not a law (the essential quality of "the stable character" of popular language); then, singleness of purpose whereby an objective is pursued in spite of difficulties and temptations (the so-called "strong character"); and, finally, social or ethical consistency which prompts the individual to regard the consequences of his acts as affecting other people (the "good character"). The ordinary impression that "strong characters" need not necessarily be good nor "good characters" strong reveals a widespread assumption of the separability of these aspects of character. Character might be defined as "an enduring psychophysical disposition to inhibit instinctive tendencies in accordance with regulative principles" (Roback, A. A., *The Psychology of Character*, New York 1928). Some other phrase, such as "prepotent impulses" or "firmly ingrained habits," may be substituted for "instinctive tendencies," but the implication remains that the more resistance there is to overcome, in order to achieve a desirable end, the more character is to be ascribed to the successfully inhibiting individual.

Although there are still metaphysicians, such as Häberlin in Switzerland and Pfänder in Germany, who invest character with a mysterious entity or force, the majority of investigators now regard it as merely an organization of psychophysical tendencies which is apt to bring forth uniform acts. Characterless persons either allow of no predictability or else violate the principle of social consistency.

There is much less agreement as to the genesis of character in the individual, the problem involving the age old issue of the relation between heredity and environment in the shaping of the mental life of the individual. Those with sociological leanings, social reformers and behaviorists, place entire emphasis on the formation of habits, on environment, imitation, suggestion or tradition (Tarde, Dewey, J. M. Baldwin, Cooley, Thomas); while the individualistically inclined, although they do not ignore the importance of education and training, are nevertheless bent on the acceptance of an inborn factor in character. How else explain, they would say, cases where the environmental conditions were just the reverse of the theoretical requirements for the formation of different characters? It is sometimes urged that this inborn factor is determined by the physical constitution and particularly by the nature of the ductless glands of an individual, while changes of character are traced to organic disturbances. Even if such observations are accepted without qualification, however, the causal relationship and its *modus operandi* in specific instances have still to be proved.

Throughout the history of the subject the social and individual aspects of character have contended for supremacy. The conspicuous position of character in every system of ethics has caused it to be identified frequently with virtue, at other times with the will and sometimes even with conscience. On the other hand, the indi-

vidualistic trend, implying a more or less inborn element, is discernible in the doctrine of the temperaments, whether envisaged under the purview of the humors (Hippocrates, Galen) or as determined by constitutional differences (Cabanis, Hallé, C. G. Carus), and may be seen again in the modern treatment of human typology (Jung, Spranger). Literary characterology, beginning with Theophrastus about 300 B.C. and continued by Hall, Overbury and Earle in England and de la Bruyère and Vauvenargues in France, combined both points of view.

The modern approach to character study was adumbrated by Francis Bacon in his *De dignitate et augmentis scientiarum*, while a program of ethology was first outlined by J. S. Mill in 1843 (*A System of Logic*). Galton in 1877 proposed an anthropological approach, taking the term to mean the totality of an individual's characteristics. The clinical phase of character study, ushered in by Bourdet in 1858, took on a more scientific aspect when De-Giovanni founded his school of clinical morphology, and through Kretschmer and his followers it has in recent years dominated the whole field of psychiatry.

The rise of pathography as developed by William Ireland and Möbius in the eighties supplied the investigator of character with new clues. At about the same time the possibilities that lay in biography were becoming apparent. But it was not until laboratory methods were adopted in the nineties by such men as Toulouse and Stern that the data gained could be relied on. Even these data, however, represented mainly knowledge of individual differences rather than of character traits in the strict sense. These explorations, combined with the statistical inquiries of Heymans and his associates in Holland, laid the basis of the psychographic method.

Toward the beginning of the twentieth century, with the development of dynamic psychology, attempts were made to place the concept of character on a more genetic foundation. Ribot and Fouillée in France, Shand and McDougall in England and Meumann in Germany attempted an analysis of character on the basis of the organization of instincts, forces (*idées-forces*), emotions, sentiments or forms of energy. Through these critical discussions the close connection between motivation and character was revealed.

Up to this time what experiments had been conducted in connection with character were of a general nature and related to bare reactions, without regard for motives or purposes and other conative tendencies, which from the nature of the case are not subject to adequate introspection. The problem of motivation was first attacked in the laboratory by Ach in Königsberg about 1910. In the meantime the psychoanalytic school adopted an entirely different method of ascertaining why we act as we do. Speculations about the subconscious, or unconscious, the ascription of our conduct to obscure or hidden wishes and complexes, repressions and displacements, have given to the whole subject a new significance. In the Freudian system several definite character traits are linked with emotional experiences of the individual in early childhood or even in infancy, and particularly with the pregenital components of the sex instinct—oral and anal eroticism—lingering through life. More recently Freud has brought his psychology somewhat into line with traditional ethics in that he conceives of personality as constituted by an ego, which roughly corresponds to the organized perceptual workaday self, an *id*, which embraces the unorganized reservoir of instinctive impulses and cravings, and the super-ego, upon which the ego draws for its ideals and moral inspirations. The super-ego is obviously formed out of the social fiats and injunctions and is the most consolidated part of the personality.

Just before the World War two contrasted trends in the study of character began to take definite shape—the experimental and the interpretative. In 1913 G. G. Fernald brought out his questionnaire designed primarily to gain an insight into the moral concepts and behavior of delinquent and defective children. In 1914 Spranger published his *Lebensformen*, afterward expanded into a book. This essay develops the theme that there are six human types—the economic man, the theoretician, the artist, the *Machtmensch*, the social individual and the spiritually minded—each one participating in and contributing to the social organization. Character is to be estimated on the basis of what a man sees value in. The value motif thus becomes the dominant feature of character for the whole *Geisteswissenschaften* tendency (school of interpretative sciences in contra-distinction to the experimental sciences), of which Spranger is at the present time perhaps the chief spokesman.

Pari passu with this intuitive approach, the test and experimental methods initiated by Fernald were extended by Voelker in 1921 to the

point of reproducing a life situation in a restricted sphere (overstatement, cheating, etc.). Elaborations of this method were employed effectively in the following years by a number of investigators. A series of tests devised by June Downey during the same year purported to delineate symbolically an individual's will-temperament profile from various reactions to set problems or tasks, mainly in connection with writing under given conditions.

Considerable technical skill has been developed in the several experimental investigations and some interesting conclusions have emerged. One is that traits are not unitary but are conditioned by a given setting. Were such a result definitely established it would augur ill for the predictability of character, since almost every situation would have to be appraised individually. The possibility arises, however, that the various experimenters, having made their starting point not an examination of character in its integrational significance but a desultory tapping of a popularly conceived trait such as honesty, persistence, courage, suggestibility, are led astray by the popular label and forget that the name should derive its force from the sphere of activity (locus). In the last analysis it will be noted that different spheres of activity will call forth different types of response because of the specificity of the inborn tendency which is bound up with the trait. Behaviorists will, of course, ascribe the different results to different conditionings in the early stages of character formation.

Another result, less open to criticism, gained through the experimental procedure and confirming the general observation of numerous writers, is the comparatively high correlation between intelligence and character. The applications of this finding in the social sciences and particularly in education are clear.

Throughout history one aim of all educators, as of all social reformers, has been the inculcation of moral principles, the principles conceived by any group to be the basis of "character." But only in the last decade has character education been approached from a scientific angle. Since then this phase of character study has received considerable attention. Not only has a program of character education been included in many public schools but in a number of colleges the subject is now treated as a research field under the guidance of trained experimentalists. Teachers' College of Columbia University and Iowa University are at present the chief centers of such investigations, both having been subsidized by the Institute of Social and Religious Research. The National Council on Religion in Higher Education and the Religious Education Association, as well as the American Ethical Union through its subsidiary societies, are also promoting the study of character both in its theoretical and practical aspects. It is too early to estimate the effect of such efforts on social stability or the maintenance of existing conceptions of morality, but it is not to be doubted that the relationship may be significant.

A. A. ROBACK

See: PERSONALITY; CONDUCT; MENTAL TESTS; PSYCHIATRY; PSYCHOANALYSIS; BEHAVIORISM; HEREDITY; EDUCATION; CIVIC EDUCATION; MORALS.

Consult: Paulhan, F., *Les caractères* (2nd ed. Paris 1902); MacCunn, John, *The Making of Character* (New York 1900); Fouillée, A., *Tempérament et caractère* (2nd ed. Paris 1895); Shand, A. F. S., *The Foundations of Character* (2nd ed. London 1920); Weininger, Otto, *Geschlecht und Charakter* (Vienna 1903); Kretschmer, E., *Körperbau und Charakter* (6th ed. Berlin 1926), tr. by W. J. H. Sprott as *Physique and Character* (London 1925); Apfelbach, Hans, *Der Aufbau des Charakters* (Vienna 1924); McDougall, W., *Character and the Conduct of Life* (New York 1927); Dewey, John, *Human Nature and Conduct* (New York 1922); Jastrow, Joseph, *Character and Temperament* (New York 1915); Downey, J. E., *The Will-Temperament and Its Testing* (Yonkers 1923); Häberlin, Paul, *Der Charakter* (Basel 1925); Spranger, E., *Lebensformen* (5th ed. Halle 1927), tr. by P. J. W. Pigors as *Types of Men* (Halle 1928); Utitz, Emil, *Charakterologie* (Charlottenburg 1925); Wahle, Richard, *Die Entstehung des Charakters* (Munich 1928); Klages, Ludwig, *Die Grundlagen der Charakterkunde* (6th ed. Leipsic 1928), tr. by W. Johnson as *Science of Character* (London 1929); Roback, A. A., *The Psychology of Character* (2nd ed. New York 1928), and *A Bibliography of Character and Personality* (Cambridge, Mass. 1927), listing about 3400 publications in 16 languages.

CHARCOT, JEAN MARTIN (1825–93), French neurologist. He devoted the first part of his career to pathological anatomy, but turned to clinical neurology, in which he did extremely important research at the Salpêtrière. His brilliant work in the systematic classification of nervous diseases won him great prestige, but he is known today chiefly for his study of hysteria, especially hystero-epilepsy. In these researches he made considerable use of hypnosis, believing that susceptibility to deep hypnosis is a mark of the hysterical constitution. In opposition to the generally accepted organic neurology, he demonstrated, as had others, that ideas might cause functional nervous disorders such as paralysis, and he believed that ideas

might cure disorders of this character. In sending some patients to Lourdes he spoke of "la foi qui guérit."

His pupil, Pierre Janet, who agreed in general with Charcot's conception of hysteria, proceeded to develop the concepts of subconscious ideas and of dissociation, or splitting of personality. In 1885–86 Sigmund Freud studied under Charcot and was deeply impressed by the significance of mental factors in nervous disorders, and also by Charcot's emphasis, on one occasion, upon sexual factors in such conditions. How much of Freud's later emphasis on these points is due to Charcot's influence it is impossible to say; but certainly Charcot, Breuer and Bernheim, though representing three very different approaches, are all to be considered of major importance in leading Freud to formulate a psychological approach to hysterical personality, and thence to a new systematic psychology.

French neurology, of which Charcot was so celebrated an exponent, did much late in the nineteenth century to stimulate systematic study of suggestion and imitation in relation to such phenomena as crowd psychology and fashion.

GARDNER MURPHY

Chief work: *Leçons sur les maladies du système nerveux* (Paris 1873; also published as vols. i–iii of *Oeuvres complètes*, 1890–94), tr. by George Sigerson, New Sydenham Society Publications, vols. lxxii, xc, cxxviii (London 1877–89).

Consult: Freud, S., *Gesammelte Schriften*, 11 vols. (Leipsic 1925–28) vol. i, p. 243–57, tr. in *Collected Papers*, 4 vols. (New York 1924–25) vol. i, p. 9–32; Wittels, Fritz, *Sigmund Freud* (Vienna 1924), tr. by Eden and Cedar Paul (London 1924) ch. ii.

CHARITABLE TRUSTS. In all mature systems of law devices have been developed for disposing of property for charitable purposes. The devices differ in different systems. In the Anglo-American system there are two methods of devoting property to charity. Property may be given to a charitable corporation for the objects for which it is created; or it may be given to individual trustees to hold and administer for charitable purposes.

A charitable trust differs from a private trust in two important respects. In the case of a private trust the beneficiaries are definite persons. Property held upon a charitable trust has no beneficial owner; it is devoted to the accomplishment of purposes which are or are supposed to be of benefit either to the public in general or to an undefined part of the public. In the case of a private trust it is not possible except for a limited time to tie up property in such a way that it does not vest in a person who can dispose of it. This time is in most states limited to a period of twenty-one years after the death of designated persons living at the time of the creation of the trust. By means of a charitable trust, however, property can be taken out of commerce and perpetually devoted to designated purposes. By creating a charitable trust the owner of property can control its disposition for centuries after he is dead.

Since charitable trusts may continue indefinitely the question of obsolescence arises. If it becomes impossible or impracticable to carry out the precise purpose for which the trust was created the courts may authorize an application of the property *cy pres*. That is, the trust property may be applied to some similar charitable purpose if the general charitable intent of the creator of the trust is thereby achieved. If, however, the specific directions of the creator of the trust are an essential part of his scheme and it becomes impossible or impracticable to comply with those directions the trust will fail and the property will revert to him or to his heirs. On the whole the courts tend to be rather strict in permitting such applications and, so long as it is possible and practicable to follow them, do not authorize a departure from the directions of the creator of the trust merely because changing conditions make it unwise to follow his instructions. In order to avoid the difficulties which arise from unforeseen changes provision may be made in the trust instrument authorizing an adaptation of the trust to changing conditions; or authority may be given to devote the property to such charitable purposes as the trustees may from time to time deem wise. In some sixty cities in the United States "community trusts" have been created; the terms of these provide that the property contributed shall be devoted to such charitable purposes as may be determined from time to time by a committee of representative citizens, subject to such limitations as any donor may impose with respect to the property given by him.

From time to time restrictions have been imposed by legislation upon the creation of charitable trusts. The early mortmain acts in England provided for the forfeiture of land held by corporations unless they were licensed to hold the land. In some of the American states there are statutes restricting the amount of property which may be held by charitable corporations.

The purpose of these statutes is to prevent the taking of property out of commerce. In some states there are statutes which provide that property cannot be given by will for charitable purposes unless the will is executed at least a month or more prior to the death of the testator, and statutes which forbid a testator to leave for charitable purposes more than a certain portion, usually a third or a half, of his property, at least if he is survived by a wife or children. The purpose of these statutes is not so much to prevent accumulation of property by charitable organizations as it is to prevent testators from disinheriting their relatives in favor of a charity.

Not every benevolent purpose is recognized by law as charitable. Charitable purposes include the relief of poverty, the advancement of education, the promotion of religion and other objects which are or may reasonably be supposed to be beneficial to the public or to a part of the public. Such, for example, are the construction or maintenance of public buildings, highways and bridges, the prevention, treatment or cure of diseases, the protection of animals, the promotion of temperance.

Perhaps the oldest of charitable purposes is the relief of poverty. In England many trusts were created for this purpose long before Parliament began to afford public relief through the poor laws. The beneficiaries were often limited, however, to certain classes of needy persons and the methods of relief were various. Many of these trusts proved in course of time to do more harm than good, often causing rather than curing pauperism. The numerous trusts for the payment of doles became so pernicious that Parliament finally authorized their diversion to purposes of education.

The charitable trust has been an important instrument of religious freedom. In England it was formerly held that a trust for the promotion of religion is valid only in the case of the established religion. Gradually, however, it has come to be held that trusts to promote other religions are valid, including those of the Jews, the Roman Catholics and the various dissenting sects. It has even been held by the House of Lords that a bequest for the promotion of atheism is not illegal, though it has not been decided whether such a purpose is charitable. In the United States a trust to promote any religion is valid provided it is not one which involves illegal practises, such as polygamy. In a majority of the states in which the question has arisen it is held that a trust for the saying of masses is charitable, although there are a few decisions to the effect that such trusts, though not illegal, are not charitable because they are primarily for the benefit of particular individuals rather than of an indefinite number of persons.

Trusts for the promotion of education have long been upheld as charitable trusts. Such trusts include trusts for the founding or support of schools and colleges, the creation of scholarships, the establishment of public libraries and museums, the endowment of public lectures, the distribution of books and pamphlets and the like. The charitable trust thus provides a method of social experimentation. Private persons can devote their property to the making of experiments which could not or would not be made with public funds. This has been particularly the case in the field of education. In privately endowed institutions it has been possible to make educational experiments which it would have been difficult if not impossible to make in public institutions. These private institutions have been enabled to conduct researches which would perhaps have imposed too heavy a drain upon the public treasury. It is also possible by means of charitable trusts to endow the teaching of doctrines and the advancement of new or unpopular causes. It makes no difference that the purpose of a trust is to present only one side of a question and that most people regard that side as the wrong side, if rational persons regard it as the right side and believe that the promotion of the purpose will benefit mankind. Institutions supported by charitable trusts can be conducted without interference from the public authorities as long as they are carrying out the purposes for which they were founded. There is always a danger, however, that a minority view will be regarded by an illiberal court as irrational and that a trust to promote it will be held invalid.

Because of the public character of charitable trusts and since there are no beneficial owners to guard against mismanagement, the responsibility for their enforcement is placed upon a public officer, the attorney general. At the suit of the attorney general the trustees may be compelled to conform to the terms of the trust. In few if any of the American states is the office of the attorney general so organized as to maintain adequate supervision over the administration of trusts. In England in the early part of the nineteenth century parliamentary commissions under the leadership of Lord Brougham spent

many years in investigating the administration of charitable trusts. Many of those investigated had been established hundreds of years before and in many cases great abuses in their administration had grown up. In 1853 a permanent Charity Commission was created by act of Parliament and was given general oversight of charitable trusts. The reports of Lord Brougham's commissions and the annual reports of the charity commissioners are a valuable source of information on charitable trusts in England and emphasize the absence of sources of information as to such trusts in the United States.

The absence of any control over the trustees except such as is exercised by the courts at the suit of the attorney general has its disadvantages as well as its merits. Although charitable trusts may be experimental in their origin they have a natural tendency to become stereotyped. This is particularly true in the case of trusts for educational or religious purposes. Opinions change, and if property is devoted forever to the teaching or preaching of opinions once held by the founder of the trust but since generally abandoned the trust may not only cease to perform a useful function but may even put a premium upon hypocrisy. The hand of the founder may preserve its grasp too long after he is dead. It is important, therefore, that the courts should exercise liberally their power to authorize departures from the terms of the trust whenever such departures become reasonable. In England the unwillingness of the courts to exercise this power except in extreme cases has necessitated the intervention of Parliament on many occasions. Since the power of legislatures in the United States is restricted by constitutional limitations it is particularly necessary that the courts should be free to authorize the adaptation of charitable trusts to changing social conditions.

AUSTIN W. SCOTT

See: CHARITY; ENDOWMENTS AND FOUNDATIONS; TRUST AND TRUSTEES; INHERITANCE; PROPERTY.

Consult: Tudor, Owen Davies, *The Law of Charities and Mortmain* (4th ed. London 1906); Tyssen, Amherst D., *The Law of Charitable Bequests* (2nd ed. London 1921); Kenny, C. S., *The True Principles of Legislation with Regard to Property Given for Charitable or other Public Uses* (London 1880); Duke, George, *The Law of Charitable Uses* (new ed. by R. W. Bridgman, London 1805); Escarra, Jean, *Les fondations en Angleterre* (Paris 1907); Hobhouse, Arthur, *The Dead Hand* (London 1880); Zollmann, C. F. G., *American Law of Charities* (Milwaukee 1924); Perry, Jairus W., *A Treatise on the Law of Trusts and Trustees*, 2 vols. (7th ed. Boston 1929).

CHARITY. The term charity denotes in common usage both a quality of thought or feeling and a mode of conduct with reference to those visited by misfortune. The most characteristic elements of charity are doubtless derived from the feelings and experiences associated with family life—the affection and sense of responsibility which find natural expression in the bond between parent and child and between mates. The term was first applied, however, to the extension of social obligations beyond the immediate circle of kinship. Both the sentiment and the practise of charity early acquired the sanction of religion. It became a personal virtue and a religious duty as well as a social utility. Its motivation throughout history has constantly reflected this intertwining of personal, religious and social sanctions.

Until the advent of the laissez faire philosophy the concept of charity as an individual act of mercy was of comparatively small social significance, since it was an extension of the more basic recognition of the responsibility of the group for all its members and of the communal code of ethics with respect to strangers. As long as the community represented both a religious and a political unity, the assumption of this reciprocal responsibility was a constant function. Altruism thus became an expression incidentally of a more imaginative interpretation of group self-preservation.

Ancient writings among all peoples abound in references to the twin duties of care for the aged, widowed and orphan members of the family group and help for guests, wayfarers and strangers. Among primitive peoples the succoring of wanderers and beggars assumed something of the nature of a communal rite linked with religious observances. Many centuries before the Christian era communal feasts to which strangers and unattached poor were especially invited and wayfarers' lodges and rest houses were signs of a lively sense of communal responsibility sanctioned by both religious and social considerations.

The scope of charity has undergone many changes with regard to potential beneficiaries, and the types of benefits have reflected the changing social standards of communities. The ancient Greeks, for instance, centered their attention on the relatively small number of the inhabitants known as citizens, whose leisure and means for performance of civic duties required protection in the face of economic pressure. A wide variety of experiments in public poor re-

lief, supplementing traditional private and family aid, was directed toward conserving the unity of the state by strengthening its economically weakest members. These experiments took the form of remission of taxes, annulment of debts, confiscation and redistribution of lands and surplus wealth, as well as periodical doles of cash and food. Emigration and exile were further means employed to maintain social unity within the confines of the state.

In the Roman state, as in Greece, the fact of citizenship was the basis for the right to relief. Wars of conquest, which drew men almost continually from their fields and left their families the victims of economic adversity or of the aggrandizement of stronger neighbors and which steadily displaced free labor with armies of slaves from conquered territory, filled Rome—the teeming capital of a militaristic world state—with hordes of dispossessed, dependent citizens, the plebs. The agitation of the plebs was a constant threat to social and political unity, and vast measures of public and private relief were undertaken, culminating on the one hand in the free distribution of corn by the state (*annona civica*) and on the other in private largess (sportula) by wealthy patricians to hordes of personal clients.

This practical group protection basis for charity was not wholly absent in the early Christian church, a persecuted sect recruited mainly from the weak and lowly members of Roman society. But the dominant elements of Christian charitable theory and practise were derived from its Jewish antecedents.

The religious aspect of Hebrew charity, like the family life in which it was nourished, had preeminently a social significance which because of the nature of the group often transcended political or territorial boundaries. It partook of the deep ethical fervor and rigid moral code of the Hebrews, especially under the spur of the prophets, who emphasized the quality of social righteousness over that of individual mercy. It was also an individual religious duty, a source of religious merit, as well as a mutual obligation for the protection of group solidarity and security. Both in the individual and social attitudes and acts the desirability of mercy was emphasized in addition to the duty of righteousness and social justice.

The Christian emphasis upon personal immortality and the importance of life after death tended to weaken charitable motives related to immediate social conditions and objectives and to exalt motives related to the eternal personal welfare of the donor. Responsibility was transferred from the group to the individual. The cure of the souls of the sick and the unfortunate tended to take precedence over the relief of their physical or social disabilities. On the other hand, the heightened regard for the dignity and worth of every human creature as an individual personality with an immortal destiny, which the same faith expressed, gave new warmth to fraternal feeling and an immense stimulus to private charitable effort.

From the beginning Christian charity was a dynamic element in the congregational life which came to replace the political body as the center of charitable endeavor. As early as the second century church charitable funds had come into being and organized parochial charities were in process of growth. Numerous institutions for the sick, for orphans and for the aged were established. The great expansion of church charities, however, came with the accumulation of extensive endowments, administered by the monastic orders, which for a thousand years dominated the charitable thought and practises of the western world. Scores of thousands of hospitals and almshouses thus came into being, and immense resources, constantly replenished by the gifts of wealthy patrons in return for the prayers of the faithful, were dispensed to armies of beggars and vagrants, as well as to other dependents for whom special institutions were provided. An orgy of almsgiving, comparable to that which helped to demoralize Roman society but springing from religious rather than political motives, swept over the world, and only an occasional voice of protest was heard. St. Francis of Assisi (1182–1226) denounced the somewhat perfunctory and impersonal charity which had grown up under the influence of the powerful wealthy monasteries. Abandoning all his possessions, dwelling in poverty among the poor, he brought the Christian precept of charity out of the confines of the monastery into the world of men and recaptured for a time something of the individual's sense of brotherhood. Later leaders in their zeal for stimulating a life of sacrifice and service assigned specific spiritual values and rewards to specific charitable acts and thus again made the very act of almsgiving, apart from feeling or purpose, the test of religious merit.

This emphasis upon good works as a means of grace, associated with the practise of granting

indulgences in return for alms, formed one of the crucial points of attack upon the Roman Catholic church during the series of convulsions that constituted the so-called Reformation in the sixteenth century. The rise and spread of the Protestant concept of justification by faith and the denial of the reality of any abstract religious virtue to be won from particular acts dissociated from the whole moral life of the individual had much to do with the gradual replacement of the church by the state as the dominant factor in charitable effort. They not only tended to weaken the rigorous sanctions that had sustained lavish giving throughout the Middle Ages but directly contributed to the schisms that culminated in the nationalization of the church in England and other Protestant countries and to the confiscation of monasteries and other church properties there and elsewhere.

Economic and political upheavals contributed powerfully to the same end. The awakening of trade and industry following the crusades transferred the dynamic center of social life from the old feudal estates to the growing towns. There the trade and craft guilds, organized for the mutual protection of those engaged in the new economic activities, began successfully to compete with religious organizations for the loyalty of their members and gradually assumed some of the charitable functions of the church. The development of new types of social maladjustment made a place for the functioning of these non-political charitable organizations, but the town governments, with the influx of transients and unattached tradesmen and craftsmen, also participated in charitable enterprises.

The stage was thus set for the intervention of the national state as the body to administer public relief. Social disorganization, augmenting the need for charity, coincided with the decline of the old religious sanctions of private giving and the depletion of charitable resources both religious and secular. Devastating wars imposed enormous burdens of taxation; the Black Death and subsequent visitations of the plague depopulated whole towns, broke up families and set thousands adrift without means of livelihood; the enclosure of lands and their conversion from farming to sheep grazing, to meet the needs of the new wool manufacturing industry, and the ultimate dispersal of this industry from town shops to widely scattered homes in town and country added to economic confusion and dislocation.

The state at first took negative action. Futile efforts were made to restrict enclosures, to regulate wages, to prevent the movement of laborers from one place to another and to suppress begging by severe punishments. The failure of these measures led to efforts to organize and systematize begging by a license system, and this, in turn, was finally supplemented by positive attempts to control and to provide systematic relief through public agencies. Public relief therefore was at first more of an enforcement of law than a charitable act.

The first and the most comprehensive measure of this sort was the celebrated Elizabethan Poor Law of 1601, the outgrowth of many earlier experiments. In its attempt to classify dependents and to provide specific treatment suitable to the needs of each group—work for the able bodied poor, almshouse care for the infirm and apprenticeship for children—and especially in its outspoken purpose of accepting public responsibility for the care of the poor, to be discharged through public funds and by public officials, this law set a new mode of public policy. The restrictive and repressive experiments from which it grew still permeated its provisions and were intensified in later enactments as events proved its inadequacy to achieve its professed ends. Pauperism, vagrancy, beggary continued, although more and more persistently the state sought to discourage and penalize dependency.

After two hundred years new and confusing social, economic and political dislocations occasioned new efforts to deal with the problem of dependency and charitable relief. Their first manifestation was in the rise of humanitarian protests against the old repressive policy. In England the rigors and cruelties of the old poor laws and their administration were somewhat mitigated and more liberal relief measures instituted. Elsewhere, especially in France, a disposition was shown to carry to its logical conclusion the principle of state responsibility for all needy citizens and to substitute generous public aid for the mixture of public and private bounty which had survived from the old order. There was established toward the end of the eighteenth century in Hamburg, Germany, a systematic review of public relief by a central municipal authority. This was supplemented by the establishment of close and sympathetic relations between almoners and the poor in place of the perfunctory and mechanical contacts of the past.

There were, however, contrary currents. The industrial revolution, which had intensified the social disorganization and distress that had stirred the hearts of the philanthropists, brought into being a new class of capitalist manufacturers, whose interests were bound up with economy in expenditure of public funds, with the maintenance of an inexhaustible supply of cheap labor and with freedom from governmental interference in economic life, all of which were threatened by governmental philanthropic activity. Furthermore, the democratic movement of the time voiced a new political and economic philosophy of individualism, which resisted paternalistic though humanitarian measures. Faith in the right and capacity of the individual to manage his own affairs and to meet his own problems without governmental aid, buttressed by the highest economic authorities—Adam Smith and Malthus—sustained the position of the new industrialists. Amongst the reformers themselves Thomas Chalmers (1780–1847) decried public aid and emphasized the role of voluntary effort and contributions.

In the contest which ensued the working classes, supported by such philanthropists as Lord Shaftesbury, sought the protection of the law against exploitation or neglect and were opposed by industrialists and economists, who were attempting to restrain the active intervention of government in social and economic life.

As Amos Warner aptly says, "Each finally triumphed on the other's native ground." Through social legislation the rigors of the new industrial system were somewhat abated, but the poor laws were ultimately rewritten in the old restrictive spirit by the economists and capitalists. The report of the Poor Law Commission of 1834 definitely reestablished the old principles of minimum relief and the workhouse test as deterrents against unnecessary dependence upon public aid, and uniformity of administration under a central supervisory authority was sought in order to restrain undue generosity or laxity in particular poor districts.

In this whole development of public charitable activity up to the middle of the nineteenth century, as in that of the ecclesiastical charities which it largely displaced and in the communal systems of ancient Greece and Rome, is to be discerned an almost complete disregard of the effect of charity upon the individual beneficiary. Although modern charity of this early period, like that of the ancients, was motivated largely by communal purposes or class interests, as distinguished from the personal or unworldly concerns that frequently dominated mediaeval religious charities, it disregarded, perhaps even more than the latter, its individual beneficiary's right to personality. Nor did the growing private charity of the same period, nourished by the mounting surplus wealth of the industrial middle class, differ greatly from public policy in its fundamental motivation.

The contribution to charitable theory and practise of a genuine interest in the individual beneficiary and an unqualified recognition of his rights as a person was reserved for the closing years of the nineteenth century, although it was heralded much earlier in the vigorous pleas of such leaders as John Howard, Ruskin, Carlyle and Dickens in England, Dorothy Dix in the United States and a host of others who challenged the right of society to seek its own ends at the expense of its individual members.

The movement for the recognition of the rights of personality and for the breakdown of the old concept of the poor as a class apart from the rest of the population took many forms and directions. In part it reiterated the old protest against indiscriminate almsgiving, still rampant despite the restrictive reform of the poor laws. In part it fostered a more respectful, more fraternal, less mechanical approach to the needy individual, as in the social settlement movement. In part it was rooted in the new scientific spirit cultivated in the universities from which many of its leaders were drawn, which demanded discriminating analysis and treatment of causes rather than casual treatment of symptoms.

One outstanding product of the fusion of all these dynamic elements was the charity organization movement, which sprang up in London in the late sixties and soon found its way to America and other parts of the world. Its emphasis upon the elimination of material relief and the development of the "natural resources" of persons in need doubtless dates at least as far back as Thomas Chalmers' experiments in his parish in Glasgow. Its emphasis upon organization, cooperation, non-duplication of effort, with districting and friendly visiting, was borrowed in part from the Hamburg plan of fifty years before and its more recent adaptation in the city of Elberfeld, Germany. The leaders of this movement, Charles Loch, Octavia Hill and Edward Denison, carrying on the laissez faire tradition of Chalmers, denounced public charity as pauperizing and demoralizing to individual initiative and as an undue enlarge-

ment of the powers of the state. But the charity organization movement made its own distinctive contribution toward a new focusing of interest in the individual beneficiary and a new respect for him; toward the elimination of personal motives and class distinctions in the practise of charity; and toward the development of scientific method and spirit in administration.

Not wholly dissociated in spirit from this movement, although of quite a different scope, was the development in America at about the same time of unpaid official bodies, often called state boards of charities and correction, with the multiple object of protecting the dependent individual against abuse, neglect or exploitation, of devising plans for his speedy restoration to normal social status and of studying the problem of dependency as a whole with the object of recommending suitable scientific preventive and curative treatment. From these state bodies there emanated soon in the United States the scientific interest, the ordered and interpreted experience and the broadened view which through the state and national conferences of charities and correction helped to introduce a new concept of charity to prepare the way for modern social work. It also supplemented private or semipublic charity by public supervision and control, thus reintroducing in somewhat modified fashion the civic elements into community life.

Probably the outstanding event of recent times in the development of charitable thought and practise was the report of the British Poor Law Commission of 1909. The majority of that commission, while recommending no drastic departure from the old administrative forms and procedures, took cognizance of the new concept of charity with its insistence upon sympathetic and disinterested administration of relief in accordance with individual needs and without violation of individual personality. The minority, frankly breaking completely away from the old tradition, demanded that charity in its old forms and connotations be definitely thrust aside; that the time honored distinctions between the poor as a class and the rest of the people be wiped out; and that in place of poor relief in the old sense specialized services through specialized public authorities be made available to all alike to meet the manifold causes and symptoms of social maladjustments.

This point of view was in some respects not so radical a departure as it seemed. Several functions formerly performed by charitable endeavor, such as universal provision for education and the establishment of institutions for the dependent and handicapped, were gradually being taken over as legitimate aspects of democratic public administration.

In the field of social politics those who pin their faith to the ultimate development of a democratic socialized state hail the demise of the old concept of charity. They emphasize, as part of a code of justice and in place of beneficence toward those individuals or groups whose dependent position is to a varying extent an incident of social and economic disorganization, a social responsibility in terms of services which in the past have been withheld from the poor or granted grudgingly and haltingly through private charity. In the name of orthodox economic theory others denounce charity as an interference with the free play of forces of human nature and are even more emphatic in their denunciation of any assumption of social responsibility for its members by the organized polity. From the field of the natural sciences other voices are heard, lamenting the persistence of charity or public relief as arbitrary interferences with the natural law of evolution, deploring the perpetuation of the unfit which follows as a result of protection from the necessity of achieving survival through a sifting and strengthening competition with their fellows and conflict with a hostile environment.

A realistic view of our complicated and dynamic economic and social system reveals the persistence and recurrence of maladjustments for the amelioration of which no organized provision would be made without the existence of charity. But the twentieth century concept of the scope and quality of charity is being recast in such a way as to embody more clearly a democratic philosophy of group life and a more genuine respect for individual personality.

KENNETH L. M. PRAY

See: SOCIETY; POVERTY; DEBT; POOR RELIEF; BEGGING; POOR LAWS; ALMSHOUSE; INSTITUTIONS, PUBLIC; HOSPITALS AND SANITARIA; CHARITABLE TRUSTS; ENDOWMENTS AND FOUNDATIONS; HUMANITARIANISM; PUBLIC WELFARE; SOCIAL INSURANCE; SOCIAL WORK; SOCIAL CASE WORK.

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CHARITY ORGANIZATION. *See* SOCIAL WORK.

CHARLEMAGNE (742–814). From his father, Pippin the Short, the last *major domus* of the Merovingian regime and the first king of the Carolingian line, Charlemagne received a two-fold legacy: the Frankish kingdom embracing principally Austrasia, Neustria, Burgundy, Aquitania, Allemania, Bavaria and Frisia—that is, modern France, Belgium, Holland and parts of Germany—and the guardianship of the western church, in whose trust reposed the remnants of Roman civilization. In its broadest aspect his career can be explained as the attempt of a man of surpassing energy and preeminent organizing ability to preserve and develop these two bequests. His conquests of Saxony, of northern Spain, of the Avars, sprang in part from the restless instinct of the born warrior and conqueror, in part from the political necessity of protecting his vast realm from the barbarians on its frontiers, in part from his assumption of a divine mission to carry Christianity into pagan lands. The same complexity of purpose led him in 774 to crown himself king of the Lombards, the potential menacers of his own authority in southern Gaul and the inveterate enemies of the papacy. For his services to the Holy See he exacted from Pope Leo III coronation as Roman Emperor at the Christmas ceremony at St. Peter's in 800. To what extent the Holy Roman Empire was the conscious creation of Charlemagne has long been a matter of historical dispute, but no doubt can exist that it was he who made possible the actual fusion of the two component elements out of which the theory of the mediaeval empire was built. Since the culmination of the barbarian invasions the claim of the Roman Catholic church to the spiritual supremacy of the world had been tempered by the fact that the popes themselves were forced to regard the Greek Catholic rulers of Constantinople as the heirs of imperial Rome and the repositories of universal earthly authority. In Charlemagne the popes found for the first time a Roman Catholic ruler whose power enabled him to dispute the aspirations of the eastern empire and whom they could appoint joint sovereign of the western world.

Charlemagne's empire was a more or less strongly centralized state imposed upon a rudimentary but rapidly developing feudal structure. His capitularies attest that he recognized the true nature of his power. He perceived the necessity of permitting a large part of his administration to devolve upon the great lords whom Pippin as well as the last moribund Merovingians had endowed with benefices in return for political service. Satisfied if he could prevent this devolution from obstructing his own final authority he pursued the method of checking the power of the lords through the *missi dominici*, who regularly investigated the work of all public officials. Instead of seeking to arrest the development of feudal institutions he gave the whole system the appearance of emanating from him by investing the oath of vassalage with the legal sanction which it had never before received. His single reservation was that no vassal should be freed from his duties to the state. He constituted himself a quasi-suzerain over all his subjects by a capitulary issued in 802 which converted the periodic pledge of allegiance demanded from all freemen into an oath of fidelity to the king as feudal lord. The organization of the army, a matter of vital importance in Charlemagne's conquests, was feudal. When war impended a direct summons to arms was issued only to the vassals holding land immediately from Charlemagne and to the feudal lords, each of whom then organized and led to the emperor under his own command his quota of soldiers. Charlemagne's purpose in adopting such a military system was typical of his general attitude toward feudalism. The obligation of freemen to serve in the army had become an in-

creasing hardship under his regime and great numbers of them had sought escape by forfeiting their liberty and passing into the condition of serfdom. Since his army was thus depleted Charlemagne was forced to rely upon extracting from the lords the full measure of their potential resources. So long as he lived these concessions to feudalism held comparatively little hazard for the authority of the state; but they contributed to the growth of institutions already deeply rooted in the social and political fabric of the age and thus possessed the element of permanence, whereas the unity of the empire was contingent upon the mortal magic of his personal strength. In reality, the ultimate consequence of his gigantic and temporarily successful effort to create civil order was the stimulation of the forces of feudal anarchy.

Charlemagne's undoubted preeminence in his own age caused succeeding generations to inflate him into a demigod. Although after the Middle Ages the impossible legends of which he was the hero lingered only in the minds of poets, something of the same tendency to exaggerate his importance has survived until the present time. In some measure it has victimized economic and social historians, who have attributed to him the initiation of various farsighted projects to promote the economic prosperity of his realm. For the most part these assumptions are supported by meager evidence. Because he sought to extinguish the constantly smoldering embers of revolt among the Saxons by deporting them and populating their lands with peaceful tribes, it has been alleged that he carried out a methodical plan of colonizing conquered territory. On even slighter testimony it has been assumed that he systematically combined small estates and converted them into great domains for the purpose of obtaining superior yield in cultivation. As a matter of fact, the forces guiding the evolution of economic feudal institutions were beyond Charlemagne's control. The inventorial statement contained in Irminon's *Polyptyque* (ed. by Auguste Lougnon, 2 vols., Paris 1886–95) does indeed seem to indicate that the normal regime during Charlemagne's reign was that of large estate, but the emperor himself had had no hand in its introduction, nor did he make any effort to arrest the visible tendency toward the breaking up of these estates through their exploitation by numerous small tenants. Charlemagne's legislation with regard to agricultural organization and administration was really confined almost entirely to his own domains, which he jealously guarded as his chief source of revenue and the most stable foundation of his political power. Even here his efforts to promote economy consisted chiefly of the codification of rules already in force rather than of the introduction of radical changes—a point well illustrated by the famous capitulary *De villis* (tr. in *Translations and Reprints from the Original Sources of European History* published by the University of Pennsylvania, vol. iii, no. ii). The same historians who have so greatly exaggerated Charlemagne's effect upon agricultural organization have sought to demonstrate by a superficially imposing mass of evidence that he was the center of a great industrial and commercial revival. It remains a little more than doubtful that such a revival ever took place. Certainly, from the kernels of truth which inhere in the thesis, no more daring conclusion can be drawn than that Charlemagne manifested solicitude to facilitate exchange through such measures as the attempted introduction of uniform weights and measures and the withdrawal of debased currency from circulation; and perhaps that articles in some of his capitularies tended toward the protection of certain industries.

LOUIS HALPHEN

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CHARLES V (1500–58), Holy Roman emperor and (as Charles I) king of Spain. Charles was born in Ghent as duke of Burgundy and in 1519 was elected emperor. Ruler of a vast empire extending over Germany, the Netherlands, Italy, Spain and America, Charles is from a constitutional point of view a most interesting figure. All his important acts should be interpreted in terms of his efforts to bridge the gap between his mediaeval office and the modern

territorial states which composed his domains. On the one hand, he attempted to revitalize the empire and make its claim to universality effective on the foundation of his enormous territorial domains. On the other hand, he tried to reorganize Spain into a territorially and politically consolidated kingdom like that of his great rival Francis I of France and to achieve a similar consolidation of Germany.

But the ideas of the Protestant revolt rendered these several objectives mutually exclusive. It has been argued that Charles, if he had had the vision and the courage to seize upon Luther's ideas, could have made himself the protector, if not the leader, of a popularly supported reorganization of the church and the Christian faith and have shaken the power of the Roman hierarchy, which had been so fatal to previous efforts at organizing a united Europe. The authority of the imperial office, however, rested upon the universality of the Christian faith as organized in the Catholic church, and once it became apparent that the Catholic hierarchy was determined to reject the Lutheran proposals Charles was obliged to act as he did. The abandonment of the Catholic religion, moreover, would have alienated his Spanish subjects completely, and since the consolidation of Spain seemed to be easier than that of Germany this task was seized upon.

He failed to take sufficient interest in the urgently needed internal reforms for which everyone in Germany was clamoring. When he finally attempted to consolidate the German kingdom in 1547 it was too late. The new national consciousness, torn by the rival claims of a universalist dream and local allegiance to prince or city, had disintegrated. Charles' abdication and retirement in 1555–56, although partly the result of his personal desire for peace, seem to substantiate this interpretation of his reign; the constitutional ideas with which he had approached his task had proved incapable of solving the most urgent problems of his office.

CARL JOACHIM FRIEDRICH

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CHARMONT, JOSEPH (1859–1922), French jurist. He was professor of civil law at the University of Montpellier from 1885 until his death. Charmont's outstanding contribution was his serious attempt, in spite of his affiliation with the individualistic school in jurisprudence, to harmonize the apparently conflicting views of the newer schools, particularly those of Duguit and Durkheim, with the tenets of natural law. His views find their best expression in "Le fondement de l'ordre collectif" (in *Revue de l'institut de sociologie*, vol. iii, 1921, p. 1–14), a paper written just before his death, in which he so modifies his individualistic conception of law as to make room for the claims of the sociologists, holding that individualism and socialism in law can be harmonized. He had already expressed a similar notion in his book *Le droit et l'esprit démocratique* (Montpellier 1908), devoting an entire chapter to "the socialization of law." Charmont also published *Les interprètes du code civil*, in collaboration with A. Chausse, constituting the first volume of *Livre du centenaire du code civil* (Paris 1905); *La renaissance du droit naturel* (Montpellier 1910; 2nd ed. by G. Morin, Paris 1927), the major part of which appears in *Modern French Legal Philosophy*, Modern Legal Philosophy series, vol. vii (New York 1916); and *Les transformations du droit civil* (Paris 1912). From 1892 to 1914 he also contributed an annual report to the *Revue de la législation et de la jurisprudence* on the state of the civil law.

J. DECLAREUIL

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CHARTERED COMPANIES. Convention has now generally narrowed the application of the term chartered company to a type of association for trade with distant points which appeared in early modern times along with the rise of strong European states and their commercial and political expansion overseas. A form of trading company sharing risks and profits had been employed by the Genoese in their highly important trade with north Africa as early as the twelfth century. Northwestern Europe was more backward in commercial organization, but toward the close of the Middle Ages the trading centers of the Low Countries and Germany had largely

adapted themselves to south European methods. Great banking firms like the Peruzzi and Bardi of Florence had maintained branches as far away as London. Even after the decline of the Flemish Hanse in the fourteenth century Low Country people played an important role in the activities of the Merchants of the Staple, monopolists in the export to the continent of the great English staples: wool, sheepskin, tin and lead. Although the Hanseatic League was not finally ejected from England until the end of the sixteenth century it had already been suffering for a long time from the aggressive competition of the English Merchants Adventurers, who dealt in various export products, especially undyed cloth, not covered by the Staplers' monopoly. These Merchants Adventurers formed a real national chartered company of the regulated type at the opening of the sixteenth century; they are mentioned here because they are often treated as the outstanding English example of a transitional type between the mediaeval guild and hanse on the one hand and the early modern joint stock concern for more distant trade and colonization on the other.

With the perfecting of ocean navigation and the rise of national states direct trade relations between distant regions began to undermine the earlier forms of commercial monopoly, which had involved several intermediaries. For example, goods from the East Indies had previously arrived in Europe by means of a number of shorter hauls, passing through many hands. Though less expensive as a whole, the direct ocean trade demanded more capital, called for more protection and involved delays longer than any which had previously been imposed upon any one set of merchants.

During the first century after the voyages of Vasco da Gama and Columbus the Italian and German trading towns lost considerably to those of Portugal and Spain, which were advantageously situated for ocean trading. Antwerp flourished for a time, largely because the Low Countries were as good a secondary distributing center for goods from Lisbon or Cadiz as they had been for those from other sources; but the final severance of the Netherlands from Spain coincided with the Spanish conquest of Portugal, and so the Dutch were shut out of the Lisbon market. After the failure of the Spanish Armada in 1588 both the Dutch and the English struck out boldly for the direct East India trade, and together with the French they also felt freer to explore the possibilities of the North American mainland. Neither the Portuguese nor the Spanish developed strong chartered companies; this may be partially explained by the fact that both had been drawn into the conflict for commercial supremacy earlier, at a time when their economic organization was still practically mediaeval, and had thus accumulated bad precedents. Under less strict governmental supervision enterprising chartered adventurers from northern Europe out fought and out traded them.

Really adequate ships for long voyages were developed only after a long time. There was a dearth of friendly ports of call for refitting and taking on supplies. To put the trade on a sound economic basis it needed to be highly organized at both ends of the voyage, and a new spirit of business enterprise was required to discover and introduce the goods which made the most profitable cargoes in both directions. In this many sided competition the chartered company demonstrated its superiority over rigid governmental control and held a unique place in the overseas trade for nearly two centuries.

There is little but their location and their national charters to distinguish the earlier north European regulated companies from the great Italian guilds engaged in the Levant trade at an earlier period. In each case the merchant obeyed the rules laid down in the charter in order to avail himself, with his own capital, of the privileges of membership. In each groups of members sometimes acted together on something like a joint stock basis. The Merchants Adventurers and the Eastland Company both overlapped the earliest national joint stock foreign trade monopolies, of which the so-called Russia, or Muscovy, Company, chartered in 1555, is perhaps the most striking example. It was the long haul, the large permanent investment and the force of strong states which gave the joint stock principle in the chartered companies a new importance and made a great difference in fact out of many obscure ones in form.

W. R. Scott suggests that the joint stock feature of the Muscovy Company, so widely copied in later charters, may have been adopted because of the familiarity of one of the founders, Sebastian Cabot, with the system in Italy. This company made huge profits from the whaling industry and some from Russian and Persian trade, but was often attacked in Parliament by people like Sir Edwin Sandys who objected on principle to joint stock enterprises. The Turkey, or Levant, Company, chartered in 1581 and em-

ploying as part of its capital the proceeds of Drake's plundering expedition around the world, abandoned the joint stock basis after about twenty years. Political attacks, Spanish privateering and high English duties on currants figure among the reasons given for adopting the regulated basis. It was at this time that some of its influential members decided to use part of the capital momentarily idle as a nucleus for the organization of the East India Company, of which the earliest minutes actually appear in a letter book of the Levant Company.

In the quite typical charter granted in 1600 to "The Governor and Company of Merchants of London trading into the East Indies" the group was given the exclusive English rights to trade in the Indian and Pacific oceans for fifteen years, with the privilege of renewal. Parliaments, ministers and kings later seized the occasions of many renewals to pare down the prerogatives contained in the charter and to exact subsidies or loans. Other English subjects could trade in those vast regions only under license from the East India Company. Land in unlimited quantities could be purchased, and on it any reasonable laws, not in conflict with those of England, could be made and enforced. Military and treaty making rights were not specifically conferred but they seem to have been assumed and were customarily exercised from the start. The company was exempt from seizure of its ships and sailors for the navy, and also from the restriction upon the export of bullion, within the limit of £30,000 in coin for each voyage. Customs duties outward were remitted for the first four voyages, and a delay in payment up to one year was allowed on later ones. Control was vested in a governor, a deputy governor and twenty-four trustees ("committees"), chosen annually by the Assembly or General Court and all under oath of allegiance to the crown.

Unlike the Dutch East India Company, founded in 1602 by the amalgamation of a number of well established smaller ventures, the English company had no permanent capital, but financed each voyage by separate subscription. Some unliquidated property was passed on at an appraised value from each voyage to the next. This arrangement was less adequate than that of the Dutch, who could set aside large sums to build forts and otherwise provide for the future—a fact which was soon to make trouble for the English company. A sum of £418,691, called the "First Joint-Stock," was subscribed in 1613 to finance the voyages of four years. Unsatisfactory as this was, a half century elapsed before the English East India Company was able to form a single, permanent, capital stock. It paid dividends of 25 percent a year and more at times, but at others it was on the verge of transforming itself into a regulated company and even of abandoning the trade altogether.

The Dutch East India Company was from the first stronger financially and the privileges conferred by its charter, though similar, were somewhat greater. For example, it had the formal right to make treaties, plant colonies, carry on war, build forts and coin money. Any Dutchman was free to become a stockholder—a provision more liberal than the general policy of the English company. The Dutch company acted in a high handed manner in the "Spice Islands," destroying the spice industry where it could not control it, capturing the ships, destroying the posts and even massacring the garrisons of its rivals. The Dutch reached Japan in 1611 and gained exclusive trade privileges there five years later. Finally in 1653 they colonized the Cape of Good Hope, the best single position for refitting and provisioning on the route to the Indies. It has been suggested that it was the extent of the Dutch company's privileges and the lax supervision from the government at home that led to bureaucratic inefficiency in the company and finally, in the eighteenth century, to a large deficit.

A greater amount of control was thrust upon the English group largely because of the different character of the mainland trade. Certain grades of Indian cotton goods competed with English silks and woolens. The English manufacturing interests clamored for protection and secured it through a series of Calico Acts, the last in 1721 forbidding the use or sale of printed, flowered or dyed calico in England. Fourteen years later other English manufacturers who had begun to imitate Indian cotton goods obtained exemption from these prohibitions. As A. P. Usher has pointed out, English protection against East India cotton goods, after the demand for them was already strong, played an important part in bringing on the industrial revolution. A trade originally based on the demand for spices turned aside to the Asiatic mainland to get the cloth which the spice growers wanted in payment, and in the end unintentionally revolutionized textile markets and processes in Europe.

The East India business was constantly

changing as Europeans imitated the Indian goods and manufacturing competition grew up; and of course the wants of the Indies were also modified by European contacts. Government was made more difficult by these shifts in the aims of the companies, especially in a place of relatively immobile institutions like the Orient. The old colonial policies were rigid enough, with their jealousy of anything which might compete with home products, but a profit motivated business group within such a system was even further removed from a broad and statesmanlike attitude toward government. International competition, in which the companies fought over both their own pecuniary interests and the political intrigues of the mother countries, did not simplify the problem. In India especially the struggle between the French and English companies confused political issues with financial greed. Dupleix, an official of the French company in India since 1720, was made governor general in 1742. He and his half-Portuguese wife, born in India and familiar with many of the dialects, had helped the decaying Mogul empire to organize against its enemies. Native troops, trained and led by Europeans, now joined Dupleix against the English. Clive copied the scheme, however, and defeated the French; but within a century the native troop problem proved to be the undoing of the British East India Company itself, and the era of the older type of chartered monopoly was definitely brought to an end.

The economic ideas of the physiocrats and Adam Smith were rooted in the controversies over the East India trade. Early in the seventeenth century (1621) Thomas Mun demolished the cruder forms of the balance of trade arguments by showing that the transfer of precious metal eastward was offset both by the low prices of East India goods and by actual cash balances from reexports. The limits beyond which exclusion and protection hurt the real interests of British business were discovered by experience in many cases, which were to furnish ammunition for the later attacks upon the whole mercantile system.

Baltic companies, trading as they did nearer home and under more familiar conditions, were less revolutionary in organization and effects. The African companies were especially notorious for their part in the slave trade, which profoundly changed conditions both in Africa and in the parts of the Americas to which the blacks were taken. The market for European goods could not be developed in tropical Africa as it was among the more civilized races of tropical Asia. European colonization, hardly attempted in Africa, failed in Asia but took root in tropical and subtropical America, where it was aided by the relatively sparse population and generally ineffective social organization. Of the various chartered companies in the West Indies, the French Compagnie de Saint-Domingue, formed in 1698, is a good example. Taking over that part of the island of Santo Domingo (Haiti) which had belonged to the short lived French Royal West India Company (1664–74) it agreed to colonize one hundred European whites and two hundred African slaves annually for fifty years. The company lasted only half that time, but founded the most important sugar colony of the eighteenth century, the trade of which was so vital to the thirteen English colonies on the mainland that it was to constitute one of the chief causes of the American Revolution.

On the American mainland and elsewhere the bewildering multiplicity of short lived French companies for trade and colonization suggests that, as earlier in the cases of Portugal and Spain, "Grand Monarchy" did not lend itself well to the prosecution of mainly economic aims. Even the English colonizing companies in the temperate zone regions of North America soon fulfilled their missions and gave way to other forms of control, either directed from the mother country or organized by the colonists themselves. The future development of these colonies was to be strongly influenced by the fact that they had been established under auspices largely economic, and that less than the usual attempt had been made to transplant the outlived political and social machinery which was hampering the transformation of Europe. Colonization presented very different problems from those of mere trade, especially as influential members of the companies settled themselves permanently in the new country.

Before the close of the seventeenth century the assault of north Europeans upon the early Portuguese and Spanish monopolies had achieved some of its aims and other aims had lost their importance. Due largely to the growth of trade and the accumulation of capital from the activities of the chartered companies, national governments had become richer, better consolidated and financially more competent. Those governments in which business men were most strongly represented forged rapidly to the front. They were able to assume tasks which

had previously been delegated to chartered companies, and these went into decline in the eighteenth century through the disappearance of the conditions under which they had made their contribution.

Chartered companies thus transformed the economic organization and wants of Europe during the sixteenth and seventeenth centuries by bringing in new goods, providing outlets for manufactures and furnishing incentives to the growth of investment capital. They also helped to colonize many temperate zone areas with Europeans and spread European influence and goods all over the world; but this very success of the companies brought them to an end. As they developed they assumed political functions which, because of their fundamentally economic aims, they were unfit to perform on any considerable scale. In the first place the rise of representative government in Europe and overseas undermined the companies. This was also a factor in the clashes of culture between the native and alien populations which later hastened the disintegration of the commercial company. The commercial company was too short sighted and inflexible in political matters; an economically developed region knows more about its own larger needs than does an alien profit seeking business group thousands of miles away.

This transformation of the world which made the old chartered companies obsolete is clearly seen in the history of late nineteenth century attempts to revive the institution. The British Royal Niger Company, chartered in 1886 under the stress of French and German competition, exercised political functions in this wild tropical region for only fourteen years before its functions were taken over by the home government and the territories administered as protectorates. The Imperial British East Africa Company of the same period was bought out and its territories converted into protectorates following a commissioner's report that five years had amply demonstrated the failure of combining trade with administration. The Belgian Congo Company of 1887 and various later concessions from the so-called Congo Free State (itself an extraordinary creation of King Leopold II out of the earlier International Association of the Congo) may be taken as a final and convincing chapter in the proof that the contemporary world condemns the granting of political functions to commercial companies. These are only scattered examples illustrating a revival of interest in the chartered company, founded on the short lived hope that it might yield territorial or trade advantages without the responsibilities or risk to national prestige involved in more direct action.

In so far as the functions of the old chartered company are found in the present day world they are performed by other agencies. Of these the colony proper is one of the chief, as it was one of the first to supersede ventures of the earlier type when national governments became well enough integrated. A second is the protectorate, the current form of which has no very close counterpart in history. Finally, there is the ordinary business corporation operating in relatively backward countries and now generally subject to their laws, whether incorporated in the country which is the scene of its operations or in the homeland of those furnishing the capital. Citizens of one country doing business in another, incorporated or not and regardless of the existence of a concession, are now more or less protected against acts of bad faith in clear violation of the recognized code of civilized nations. This situation is perhaps the most important thing to remember in comparing present conditions with conditions when the chartered company was at the height of its power.

MELVIN M. KNIGHT

See: ECONOMIC POLICY; MERCANTILISM; COLONIAL ECONOMIC POLICY; COLONIES; COLONIAL ADMINISTRATION; HANSEATIC LEAGUE; JOINT STOCK COMPANY.

Consult: Scott, W. R., *The Constitution and Finance of English, Scottish and Irish Joint-Stock Companies to 1720*, 3 vols. (Cambridge, Eng. 1910–12); Bonnassieux, L. J. P. M., *Les grandes compagnies de commerce* (Paris 1892); Foster, William, *The English Factories in India*, 13 vols. (Oxford 1906–27); Hunter, W. W., *A History of British India*, 2 vols. (London 1899–1900); Usher, A. P., *An Introduction to the Industrial History of England* (Boston 1920) ch. xi; Cheyney, E. P., *European Background of American History 1300–1600*, American Nation series, vol. i (New York 1904) chs. vii–viii; Weber, Henry, *La Compagnie Française des Indes, 1604–1875* (Paris 1904); Mims, S. L., *Colbert's West India Policy*, Yale Historical Studies, no. i (New Haven 1912); Biggar, H. P., *The Early Trading Companies of New France* (Toronto 1901); Pringsheim, Otto, *Beiträge zur wirtschaftlichen Entwickelungsgeschichte der vereinigten Niederlande im 17. und 18. Jahrhundert*, Staats- und socialwissenschaftliche Forschungen, vol. xliv (Leipsic 1890); Motley, J. L., *History of the United Netherlands*, 4 vols. (New York 1860–68); Blok, P. J., *Geschiedenis van het nederlandsche volk*, 4 vols. (2nd ed. Leyden 1912–15), tr. by O. A. Bierstadt and Ruth Putnam as *History of the People of the Netherlands*, 5 vols. (New York 1898–1912); Gillespie, J. E., *The Influence of Oversea Expansion on England to 1700*, Columbia University Studies in History, Economics and Public Law, vol. xci, no. i (New York 1920) chs. iv–vi; Botsford, J. B.,

English Society in the Eighteenth Century as Influenced from Oversea (New York 1924) chs. ii–v; Unwin, George, *Studies in Economic History*, ed. by R. H. Tawney (London 1927) p. 168–86.

CHARTISM. The Chartist movement was, on the one hand, a continuation and further development of the political agitation which led to the electoral Reform Act of 1832. On the other, it was the first political struggle of the modern proletariat moving along conscious class lines. Reform had chiefly benefited the rising urban commercial middle classes. It swept away a large number of rotten boroughs, reduced the representation of others and distributed among the growing industrial sections seats thereby liberated. There was also an extension of the county franchises, which benefited the landed interest, but the household suffrage continued to be subject to a then relatively high £10 rental qualification, while a number of ancient popular franchises were abolished in the boroughs, leading to a large amount of disfranchisement.

The laboring classes were still largely outside the pale of constitutional life. Chartism was a movement carried on by these classes to obtain political power for the achievement of economic ends. Popular discontent was growing more and more intense because of the increasing use of machinery, with consequent displacement of labor, and the early harsh operation of the Poor Law of 1834. Moreover, toward the close of the decade industry and trade began again to languish, and while wages were low food was dear.

At the opening of the first Parliament of Queen Victoria's reign in 1837 an amendment to the address, moved by Mr. Thomas Wakley, a radical stalwart of the day, and seconded by Sir William Molesworth, called for an extended franchise, election by ballot and shorter parliaments. But the cabinet refused to consider further political reforms and on a division the amendment received only 20 of 529 votes. In June, 1838, several radical members of Parliament joined the leaders of the London Working Men's Association (formed in 1836) in drawing up a manifesto known as "the People's Charter." It made six political demands, most of which had long been advocated in the House of Commons by "philosophical" and other radicals: universal (i.e. manhood) suffrage, annual parliaments, vote by ballot, the abolition of the property qualification for membership in the House of Commons, payment of members and equal electoral districts. What gave the Charter unique importance and influence was the fact that by it the political aspirations of the masses of the people were focused as never before. In addition to these political demands the Chartist movement came to stand for numerous social and economic reforms: it was on the whole anti-religious, radical in economic theory and in its views on such questions as land and tax reform.

Systematic agitation began in London and throughout the provinces and wherever the Charter was expounded organizations were formed and fighting funds raised. The movement naturally attracted most sympathy in the large industrial towns. A fervent, if eccentric and at times injudicious, leader was found in Feargus O'Connor, an Irish barrister who had once done good work for O'Connell. The leaders of the Working Men's Association—William Lovett, Henry Vincent, Henry Hetherington and others—took an active part in the crusade, being joined later by ardent idealists like Ebenezer Elliott, Ernest Jones, Thomas Cooper and the more practical James Bronterre O'Brien. O'Connor founded and edited at Leeds the *Northern Star* as a propagandist organ, and similar sheets were published in many other parts of the country.

Thomas Attwood, the Birmingham banker, proposed that a national petition be presented to Parliament and a general strike proclaimed in the event of its refusal. A national convention held in London in February, 1839, proved to be a trial of strength between the constitutional and the revolutionary groups. When the latter won the day the Birmingham contingent, largely composed of middle class politicians, withdrew. The base of operations was nevertheless removed to the Midland city for a short time and its presence there led to riots in which houses were burned. When on June 14, 1839, Attwood introduced the petition, which was said to contain a million and a quarter signatures, the House received it civilly. When on July 12 he proposed its adoption only 46 members supported the motion, with 235 against.

The first answer of the Chartist leaders to this rebuff was the proclamation of a general strike called the "sacred month." This was not carried through, but the resentment of the extremists took the form of violent demonstrations, drilling and even arming of a rude, improvised kind and an attempted rising in November at Newport. Everywhere the authorities retaliated promptly and rigorously.

For a time the movement suffered a check, but

in 1840 the National Charter Association was formed at Manchester and was soon able to boast some 400 branches with 40,000 members. The Anti-Corn Law League was then conducting its historic agitation in the same city, but attempts to organize a joint campaign came to nothing. The hard times which the laboring classes had to face early in the forties acted as fuel to flame. In August, 1842, a "sacred month" of idleness was again proclaimed and the physical force Chartists of the Manchester area, forming themselves into bands, scoured the surrounding district for a radius of fifty miles, bringing every cotton factory in Lancashire and west Yorkshire to a standstill by the simple device of extracting the boiler plugs. Many arrests were made at that time and the ringleaders were harshly punished.

Now for a time the movement again ran slowly, although each general election saw an increase of the Charter's friends in the House of Commons. The year of revolution, 1848, witnessed both the most ambitious attempt of the movement and its final failure. Encouraged by events on the continent the Chartist leaders decided to organize an imposing national demonstration on Kennington Common, to be followed by a procession to the House of Commons, there to present a petition demanding the enactment of the "six points." The great demonstration proved a fiasco; barely one tenth of the half million people expected appeared. Although the petition was formally presented it was found that only a fraction of the six million signatures claimed for it were appended and that a large proportion were duplicated and otherwise fictitious.

The double humiliation of a foiled spectacle and a faked petition dealt a mortal blow to a movement already showing signs of exhaustion. Disappointment among the rank and file and hopes for a share in the prosperity expected to result from the victory gained in 1846 for free trade and cheap corn were other factors making steadily for a definite cleavage between the moral force and physical force wings of the party. Throughout, the leaders of Chartism had lacked the unity and concentration which had carried Cobden's league to speedy success. Some had joined the cause to win support for reforms of their own. Thus Robert Owen was at heart neither a Chartist nor a politician but a humanitarian ideologist. Attwood's enthusiasm centered on the rationalization, as he regarded it, of the currency and the amelioration of the Poor Law. Even Feargus O'Connor, who contributed to the movement much of its motive power, divided his allegiance between the Charter and a utopian scheme embodied in the Chartist Cooperative Land Society, which was formed in 1845 for the purpose of getting people back to the land. Repeated winnowings left the active Chartists a party of the proletariat at a time when tried proletarian leadership was lacking.

In the end the movement broke up into a number of factions, the chief of them being O'Brien's Manchester Charter Association, which stood for peaceful agitation and cooperation with such middle class elements as might from time to time be sympathetic, and Ernest Jones' National Charter Association, which stood for a class war. Although the movement as a whole ran out into trade unionism, class collaboration and cooperative societies and ceased to exist as a separate political movement, it would be a mistake and an injustice to regard its adherents as misguided men who had spent their strength in vain. All their demands except that for annual parliaments were eventually enacted: the property qualification for election to the House of Commons was abolished in 1858; the principle of universal manhood suffrage was accepted by the acts of 1867, 1884 and 1918; and payment of members was enacted by the Finance Act of 1911. The importance of Chartism is also to be gauged by the facts that in the Chartist period were passed: the first real factory law (1833); the first real law for the protection of child and female mine labor (1842); a ten-hour day law (1847); and a law for the reduction of the newspaper tax (1836). Furthermore the movement looms as an important landmark in the history of class struggle; as such it had the approval and cooperation of such contemporaries as Marx and Engels and in fact was pervaded by proto-Marxian ideas. The attitude of most Chartist leaders toward Corn Law repeal, which they regarded either as a red herring dragged across the trail by the middle class to deceive the workingman or as an outright danger to working class interests, and toward antislavery agitation, which O'Brien generally characterized as a hypocritical swindle, is remarkably akin to later social-revolutionary views of liberal reformism. On the other hand the bitter tones of established church clergy, aristocrats and middle class leaders reflect the class opposition which set itself against Chartism. Although events discredited the violent tactics of the left wing, Chartism impressed British

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labor with the importance of capturing the political state as a step toward economic advancement and may on the whole be looked back to as one of the headwaters of all socialistic currents in contemporary England.

W. H. DAWSON

See: SUFFRAGE; LABOR LEGISLATION; PARTIES, POLITICAL; CHRISTIAN SOCIALISM.

Consult: Gammage, R. G., *History of the Chartist Movement* (Newcastle-on-Tyne 1894); Rothstein, T., *From Chartism to Labourism* (London 1929) pt. i; Hovell, M., *The Chartist Movement*, University of Manchester, Historical series, no. cxvi (London 1918); Gillespie, F. E., *Labor and Politics in England 1850–1867* (Durham, N. C. 1927); Bachmann, F., *Die Agrarreform in der Chartistenbewegung* (Bern 1928); Beer, Max, *A History of British Socialism*, 2 vols. (London 1919–20), vol. i, chs. x–xii, vol. ii, chs. i–ix; Barnes, D. G., *A History of the English Corn Laws from 1660–1846*, London School of Economics, Studies in Economics and Social History (London 1930); Slosson, P. W., *The Decline of the Chartist Movement* (New York 1916); Faulkner, H. U., *Chartism and the Churches* (New York 1916).

CHASE, SALMON PORTLAND (1808–73), American statesman. Chase's early antislavery activities, which identified him prominently with the Liberty and Free Soil parties and won for him a reputation as defender of fugitive slaves in the Ohio courts, led to his election in 1849 as United States senator from Ohio. During his term in the Senate (1849–55) he aligned himself with the Democratic party, attempting, however, to force upon it his own antislavery views, which, while condoning the *fait accompli* of slavery in the southern states, advocated uncompromising legislation by the federal government forbidding any extension of the institution into the national domain of the territories. Unsuccessful in his attacks on the Compromise of 1850 and the Kansas-Nebraska Bill of 1854 and despairing of ending proslavery domination in the Democratic party, Chase joined the newly formed Republican party in 1855. After serving two terms as Republican governor of Ohio he was again elected senator, took his seat March 4, 1861, and resigned the next day to become secretary of the treasury in Lincoln's cabinet. In the following year he reluctantly accepted the Legal Tender Act, which established the policy —much criticized at the time and since—of making "greenbacks" legal tender for public and private debts. Chase's most notable contribution as secretary of the treasury was the establishment in 1863 of the national banking system. Despite his lack of sympathy with Lincoln, Chase continued until his resignation in July, 1864, to support the war policy of the administration. In December he was appointed chief justice of the Supreme Court and later stood with the majority of that court in the decision (February 7, 1870) invalidating the Legal Tender Act in its application to prior debts, as well as in subsequent decisions [Mississippi *v.* Johnson, 4 Wall., 71 U. S. 475 (1867); Georgia *v.* Stanton, 6 Wall., 73 U. S. 50 (1867); Texas *v.* White, 7 Wall., 74 U. S. 700 (1869); and others] which upheld the Republican policy of reconstruction.

WILLIAM MACDONALD

Consult: Hart, A. B., *Salmon Portland Chase*, American Statesmen series, vol. xxviii (Boston 1899); Smith, T. C., *Parties and Slavery 1850–1859*, American Nation series, vol. xviii (New York 1906); Carson, H. L., *The History of the Supreme Court of the United States*, 2 vols. (new ed. Philadelphia 1902–04) vol. ii, p. 389–95; Dewey, D. R., *Financial History of the United States* (10th ed. New York 1928) chs. xii–xiii.

CHASSIDISM, the term used to designate the mystical religious movement which started among the Jews of eastern Europe about the middle of the eighteenth century, is derived from the Hebrew word חסיד (pious). The followers of this movement are known as Chassidim and their opponents as Mithnagdim (protestants). While in many respects Chassidism is similar to, and almost contemporaneous with, the pietistic movements within the Protestant churches, it is in no way related to these movements and springs from a series of influences quite independent of those which were operative in western Christendom.

As an intellectual movement Chassidism is merely the culmination of a mystic strain running through the whole course of Jewish religious history and revealed in the apocalyptic portions of the Bible, in the Agadah of the Talmud and Midrash and in the Kabbala of the *Zohar* and of Isaac Luria and Chayim Vital. As such it is a protest against an overemphasized rationalism and intellectualism and an attempt to satisfy the emotional needs of a religious life. Its outburst in the eighteenth century was directed chiefly against the rule of a scholasticism that had come to dominate the whole system of Jewish education and study.

Chassidism, however, was not merely an intellectual movement. The mass character it assumed can be explained only by its intimate connection with the social and economic conditions of the time. The ravages of the decade of 1648–58, occasioned by the Cossack revolt and

the Russian and Swedish invasions of Poland, had left the great mass of the Jewish population in a wretched economic condition. They suffered on the one hand from the external oppression of their non-Jewish neighbors and on the other from the ever increasing financial burdens imposed upon them by their own *kahal* elders. Their dream of national regeneration and redemption through the messianic movements of Sabbatai Zevi and Jacob Frank ended in a fiasco. The Jewish communal organizations of the time were controlled by a self-seeking rich oligarchy and an intellectual aristocracy who for the most part existed only by flattery and cringing subservience to the rich. The unlearned mass were economically overburdened and socially despised. For a people among whom religion was the central interest in life it was natural that social discontent should take expression in a religious movement. The great masses, consisting chiefly of small innkeepers in the country and of hand workers and laborers in the villages and towns, found no comfort in the Talmudic quibbling indulged in by the rabbis nor could they follow the mystic who took flight into the fantastic realms of the Kabbala and who sought relief from the troubles of this world by completely denying them. Long before the rise of Chassidism the discontent of the masses found expression through popular orators known as *maggidim*. Its organized expression, however, came through the Chassidic movement founded by Israel Baal Shem Tob.

Israel was born about the year 1700 on the border between the provinces of Podolia and Walachia in the Ukraine. He became a "helper" in the village Talmud Torah, leading the children to and from school. He began to delve into the Kabbalistic writings and at the age of thirty-six started traveling about as a wonder healer or *baal shem*. His healing of physical ailments, however, soon became insignificant in comparison with the popularity he achieved as a healer of souls and as the teacher of a new doctrine. To distinguish him from other wonder healers he was called Baal Shem Tob (the *good* master of the Name) or, in abbreviated form, the Besht.

The Besht settled in Medzhibozh in 1740 and for the remainder of his life this was the center for the large following attracted to his teaching. His work after his death was carried on chiefly by two of his disciples, Jacob Joseph Hakohen and Baer of Mezherich, also known as the Maggid of Mezherich. The former gave Chassidism its first literary work, the *Toledoth Jakob Joseph* (Korez 1780), which was both a severe indictment of the Talmudists and a faithful exposition of the teachings of the Besht. Baer was the organizing genius of the movement. He gathered around him a group of distinguished Talmudists who had become converted to the new movement and then sent them out as missionaries throughout the various Jewish communities of Poland, the Ukraine and White Russia to preach the new doctrine and organize themselves against the attacks of the Mithnagdim. By this time the Talmudists had awakened to the dangers of the new movement and combated the Chassidim as the followers of a heretical sect. Strengthened by the support of the greatest Talmudist of the time, Elijah Gaon of Vilna (1720–97), they published bans of excommunication against the Chassidim calling for their complete social and religious ostracism. The struggle became so acute that the Russian government intervened and upon information supplied by the Mithnagdim twice arrested the leader of the Lithuanian Chassidim, Shneor Zalman, on charges of political disloyalty, in 1798 and 1800. He was freed only after the authorities were fully convinced of the non-political character of the movement. Chassidism, however, never definitely assumed the character of a sect, as did, for instance, Karaism. While many differences continued to separate them from their opponents they remained and carried on their activity as an integral part of the Jewish population. With the break up of the Pale after the World War many Chassidic rabbis emigrated to the United States and were received by their Chassidim who had preceded them to this country. Because of the complete secularization of Jewish life and the chaotic condition of Jewish religious institutions in the United States, however, they have failed to become the powerful factor they once were, and to a limited extent still are, in eastern Europe.

The Besht, himself a man of the people, realized that the religious needs of the masses were not met by the leaders of the day. In place of the rabbinic stress on learning as the test of true piety he emphasized prayer and the practise of the moral virtues; in place of the emphasis on the performance of the commands of the law he insisted on the greater importance of the *kavanna*, or moral will and purpose behind the performance of these duties; in place of the current air of haughty arrogance assumed by the learned classes he practised and preached a doctrine of humility that aimed to bridge the

wide gulf between the various social strata. Finally, in contrast to the ascetic mode of living idealized by the older Kabbalists he taught a religion that abounded in ecstasy and in the joy of life. Through his pantheism and his doctrine of the interaction of the upper and lower worlds he brought the material as well as the spiritual world within the realm of the divine. God must be worshiped in all ways and through every act of daily life. Thus Chassidism was a doctrine based on simple emotions and simple virtues and as such had a particular appeal to the poorer classes. They too now found themselves considered an important element in the community and deserving of a share in this world as well as that of the kingdom to come. Chassidism proved a cohesive bond that united the disjointed elements of the lower classes, filled them with a greater degree of self-esteem and thus introduced a new creative element into Jewish life.

The Besht, moreover, as well as many Chassidic rabbis of the later period, actively participated in alleviating the intolerable condition of the masses. Realizing that "poverty only served to distract the thoughts of man from his Creator" they took the lead in the organization and collection of funds for the establishment of charitable institutions and very often utilized the authority and respect they acquired even among the non-Jewish population to intercede before landowners on behalf of tax burdened or dispossessed Jewish tenants.

With the passing of the generation of the Maggid and his disciples the period of degeneration and eventual stagnation of the Chassidic movement set in. Although it continued to spread until it gathered over half the Jews of eastern Europe under its standard it never reached either in spontaneity or in caliber of its leadership the glories of its earlier days. Chiefly responsible for this was the central position assumed by Tzaddikism. The *tzaddik*, or *rebbe*, as the spiritual leader of the Chassidim was called, was a sort of intermediary between God and His people on earth. Through his prayers and intercession the tzaddik supposedly was able to influence the divine will and thus work miracles. The whole life of the Chassid centered in the person of his tzaddik. He came to him for help or advice on matters of health, family relations, business or any other matters. In order to insure to the tzaddik perfect tranquility and freedom from material care the Chassidim contributed to his support and often devoted their last pennies to this purpose. In time the position of tzaddik assumed a dynastic character. The descendants of the earlier leaders settled in various Jewish communities and their title and the moral authority that went with it became hereditary. Often the fiercest rivalry developed between one dynasty and another. The home of the tzaddik, frequently a palatial mansion, was known as the "court" of the tzaddik. From the court he directed the affairs of his followers scattered for many miles around. In regions where the Jews were enfranchised the tzaddik was, and still is, a very important factor in the political life of the country, able to sway the votes of his followers at will.

This implicit faith in the tzaddik, the Chassidic overoptimism as to the eventual outcome of all troubles and the practise of long attendance at the court of the tzaddik tended to produce a fatalistic resignation, mental laziness and social laxity. Out of the importance which Tzaddikism attached to joy and the need for stimulating it artificially when necessary came a proclivity toward alcoholism, and with the belief in the wonder working powers of the tzaddik came a general superstitious attitude that later proved the foe of enlightenment and change.

Chassidism has, however, left a lasting imprint on Jewish life by its elevation of the common man, its break up of rigid class distinctions and the raising of the social status of women. By its accentuation of emotionalism, its direction of Jewish interest inward and above all by the central place assumed by Palestine in Chassidic life and literature it became one of the most powerful stimuli toward the development of the Jewish national movement. With its unusual development and accumulation of folk songs, folk tales, legends and parables it proved one of the sources of a national art and literature. Viewed from a rationalistic westernized standpoint Chassidism has been branded as an obscurantist, fanatical and superstitious movement that retarded the penetration of the benefits of western culture for another century. Approached, however, with a sympathetic appreciation of the life and history of east European Jewry it appears as a movement sprung from an inner necessity, deeply rooted in the stream of Jewish religious experience and as such the most far reaching and vital religious movement of the modern Jewish period.

KOPPEL S. PINSON

See: DIASPORA; JUDAISM; MESSIANISM; MYSTICISM; ZIONISM.

Consult: Dubnow, S., *Toledoth hachassiduth* (History

of Chassidism), vol. i– (Tel-Aviv 1930–), and *History of the Jews in Russia and Poland*, 3 vols., tr. from the Russian by Israel Friedlaender (Philadelphia 1916–20); Horodetzsky, S. A., *Hachassiduth vehachassidim*, with complete bibliography, 4 vols. (Berlin 1923), abr. translation by Maria Horodezky-Magasanik as *Leaders of Hassidism* (London 1928); Gulkowitsch, Lazar, *Der Hasidismus* (Leipsic 1927); Niemirower, J. J., *Chassidismus und Zaddikismus* (Bucharest 1913); Schechter, S., *Studies in Judaism, First Series* (Philadelphia 1896) p. 1–45; Teitelbaum, M., *Harab Mi-Ladi* (The rabbi of Ladi), 2 vols. (2nd ed. Warsaw 1914); Buber, Martin, *Die chassidischen Bücher* (Hellerau 1928).

CHASTITY. In primitive societies there are several factors leading to the injunction of chastity. The biological factor, the repulsion of the male by females during pregnancy and lactation, found among all animals, obtains in the form of tabus among the majority of uncultured races. Menstruation, commonly ascribed to the dreaded influence of the moon, likewise gives rise to a strict and universal tabu. To this class may also be referred the custom of exogamy and the prohibition of incest, favored by the male's wandering and the female's sedentary disposition and perhaps connected with the protection of very young females (younger sisters) in communities where mothers and elder sisters are regarded with awe by the younger males.

Chastity tabus arise also from proprietary claims. In most uncultured races women's sexual freedom is limited only by marital claims to fidelity, often laxly enforced and qualified by those of tribal brotherhood, hospitality and ritual license. Prenuptial chastity is not enjoined. The retrospective claim appears to be connected with infant betrothal, particularly in the brides of sacred chiefs. Feminine chastity, lax throughout the lower cultures, is stringently enforced where the men possess considerable purchasing power, as in pastoral societies. In these and in the higher cultures developed out of them adultery is often punished with great severity and proof of the bride's virginity is demanded.

Chastity is often enjoined also on religious grounds. The magico-religious value assigned to sexual abstinence originally belongs to the same order as that ascribed to observances, typically represented by rites of mourning, which are intended to avert the envy of supernatural beings. The Greek word ἁγνεια (chastity), originally denoting abstention from food as well as from sexual activity, had specific reference to rites of mourning and "aversion." While many primitive rites intended to stimulate generative powers entail sexual license, others relating to operations deemed dangerous, such as war, hunting, fishing, the preparation of food, the offering of sacrifices, priestly functions of intercession, are thought to demand abstention from indulgence that might excite envy. To this motive is added, in the case of warriors, hunters and fishers, a desire to protect themselves against feminine influences deemed detrimental to masculine pursuits. The hygienic advantages of chastity seldom appear to be considered. In oriental cultures asceticism was held to confer magical powers irrespectively of the practitioner's moral depravity.

In higher pastoral and oriental cultures the emphasis laid on chastity had reference chiefly to feminine continence. Rigorous ideals of that virtue are found without a suggestion of its applicability to men. Among the Greeks the conception of chastity, apart from uxorial obligations and ritual requirements, existed only as part of the ideal of moderation, applicable equally to eating and drinking. Among the Romans marital claims were thought to imply reciprocity and example.

Post-exilic Judaism was characterized by obliteration of the distinction between ritual and moral injunctions and by the extension of functional priestly obligations to all members of the religious state. Ritual continence thence came to be regarded as a virtue of general applicability, and ritual unfitness, or impurity, as sin. That tendency, counteracted by the Jewish ideal of procreativity, became emphasized among the primitive Christian sects, with whom renunciation was no longer the means of magic power but the condition of salvation. Early Christianity carried that conception to its extreme limit. In an emotional, religious atmosphere continence, owing to the power of the instinctive forces which it had to combat, became the center of moral preoccupation and sex the essence of sin. Marriage appeared to many an unworthy compromise. No writer in the early Christian centuries fails to affirm the superiority of virginity, a view confirmed by the Council of Trent. The consequences of stamping out sexual activity were accounted preferable to the propagation of mankind by sin.

Although sexual prohibitions date from the infancy of humanity chastity nowhere appears to have assumed the character of a substantive moral virtue until the development, under special conditions, of Christian ethics. From these

the moral tradition of western civilization is derived. The misapprehension which regards that tradition as the term of an evolution continuous from primitive stages contains a sufficient measure of truth to render it misleading and impairs the value of many discussions.

During the Middle Ages the influence of Christian morality was brought to bear on barbarian peoples whose conceptions corresponded to their cultural phase. Resulting compromises were on the whole characterized by evasion in practise of principles formally professed. The ruling classes seldom gave up their immemorial habits. The license was veiled, however, by an idealization which had the notable effect of developing romantic and sentimental conceptions. Christian morality was more solidly realized among the burgher classes and received a fresh impetus with their rise to power and the growth of Puritanism, which stressed their moral superiority over the nobles.

The present period shows signs of a revolt against the moral tradition and a disposition to reconsider the foundations of the ideal of chastity. Physiological science seems to indicate that complete sexual abstinence and even excessive repression are fraught with dangers scarcely less grave than sexual excess. As with other physiological functions the optimum consists in moderate activity. But sexual activity is always psychophysiological. It not only bears on the sexual instinct in the narrow sense but also on the instincts which are at the root of social affections. These and the biological sexual instinct are in many respects antagonistic. Unrestricted license is psychologically, no less than socially, incompatible with those instincts which constitute the psychical bond of the relation between men and women. Those bonds cannot be preserved without subjecting sexual activity to limitations dictated by mutual devotion and common interests.

ROBERT BRIFFAULT

See: MARRIAGE; SEX ETHICS; ASCETICISM; CELIBACY; PURITANISM; MORALS; WOMAN, POSITION IN SOCIETY; BIRTH CONTROL.

Consult: Briffault, Robert, *The Mothers*, 3 vols. (London 1927) vol. ii, p. 8–64, and vol. iii, p. 334–75; Ploss, Heinrich, and Bartels, Max and P., *Das Weib in der Natur- und Völkerkunde*, 3 vols. (11th ed. Berlin 1927) vol. ii, p. 18–37; Sumner, W. G., and Keller, A. G., *The Science of Society*, 4 vols. (New Haven 1927–28) vol. iii, p. 1674–83; Hobhouse, L. T., *Morals in Evolution* (3rd ed. London 1915) chs. iv–v; Crawley, Ernest, *Studies of Savages and Sex* (London 1929) ch. i; Malinowski, Bronislaw, *The Sexual Life of Savages in North-western Melanesia* (London 1929); Fehrle, Eugen, *Die kultische Keuschheit im Altertum*, Religionsgeschichtliche Versuche und Vorarbeiten, vol. vi (Giessen 1910); Parsons, E. W. C. (John Main), *Religious Chastity* (New York 1913); Lecky, W. E. H., *History of European Morals*, 2 vols. (3rd ed. rev., New York 1927) vol. i, p. 103–07, 316–53; Ellis, Havelock, *Studies in the Psychology of Sex*, 7 vols. (Philadelphia 1913–28) vol. vi, ch. v, and *Little Essays of Love and Virtue* (New York 1922).

CHATEAUBRIAND, FRANÇOIS AUGUSTE RENÉ, VICOMTE DE (1768–1848), French man of letters, diplomat and politician. His political writings include the *Essai historique, politique et moral sur les révolutions* (1797), the *Études historiques* (1831) and much newspaper writing and pamphleteering. His imaginative works, like the *Génie du christianisme* (1802), are also affected by his attitude toward politics and especially toward the French Revolution. There are political implications even in his characteristic romantic attitude as displayed in his novels. His exaltation of the romantic hero, misunderstood and suffering, at war with a world which refuses to measure up to his desires, is an anarchistic reading of Rousseau. Chateaubriand often despairs of everything; the legitimist is strangely doubled with the nihilist.

The *Essai . . . sur les révolutions*, written in England, where Chateaubriand was living as an émigré, is the pessimistic and somewhat confused work of a young man still influenced by the philosophy of the eighteenth century salon, and was subsequently disavowed by its author. Chateaubriand sets out to discredit the revolution by proving its futility and examines with great parade of learning twelve significant revolutions of history. He finds that they all follow courses essentially the same, and he arrives at the skeptical conclusion that, in spite of momentary benefits which it may confer, the revolutionary cycle must inevitably return to its starting point. Borrowing from the *philosophes* he repudiates Christianity, but at the same time rejects the hope of man's perfectibility through his own efforts. Chateaubriand's conversion to Roman Catholicism about 1799 made him in reality a much less complete adversary of the revolution. With a suddenly released poetic imagination and romantic fervor, which were to affect French literature and thought throughout the nineteenth century, he records in the *Génie du christianisme* his ecstasy at finding in Christianity a powerful artistic inspiration as well as evidence of the idea of progress and of

a gradual improvement in the human race. "Its steady circle widens itself with the growth of knowledge and liberty, while the Cross marks forever its fixed center." The appearance of these volumes on April 14, 1802, four days before Napoleon's announcement of the final signing of the Concordat, established the fame of the author, although it laid his work open to criticism as an "ouvrage de circonstance." The favor of the emperor was discontinued in 1807 as the result of an article written by Chateaubriand for the *Mercure* in which he attacked Napoleon's absolutism.

With the return of the Bourbons Chateaubriand ended his retirement and entered practical politics, championing in his pamphlet *De la monarchie selon la charte* (1816) a constitutional monarchy. He was still a believer in legitimacy, but a legitimacy taught by exile that its subjects have legitimate individual rights and liberties. During his political and diplomatic career under the Restoration he was in the main an advocate of liberal measures, keenly aware of the extent to which the social changes resulting from the new industrial era were undermining the supports of monarchy. Chateaubriand's faith in the Catholic church remained unshaken. In his *Études historiques* he presents his most explicit statement of the significant role which it has played in human progress. Denying on the one hand the thesis of Voltaire's *Essai . . . sur les moeurs* and on the other that of Bossuet's *Discours sur l'histoire universelle*, Chateaubriand conceives of mankind as participating actively, under divine guidance, in the working out of its own destiny.

CRANE BRINTON

Works: *Oeuvres complètes de Chateaubriand*, 12 vols. (Paris 1859–61). English translations of *Essai historique* (London 1815), *Génie du christianisme*, by Charles I. White (7th ed. Baltimore 1868), *De la monarchie* (London 1816).

Consult: Cassagne, A., *La vie politique de François de Chateaubriand* (Paris 1911); Maurras, C. M. P., "Trois idées politiques; Chateaubriand, Michelet, Ste. Beuve" in *Romantisme et révolutions* (Paris 1922); Giraud, V., *Le christianisme de Chateaubriand*, 2 vols. (Paris 1925–28); Beau de Loménie, E., *La carrière politique de Chateaubriand de 1814 à 1830*, 2 vols. (Paris 1929); Spring, H. P., *Chateaubriand at the Crossways* (New York 1924); Sée, H., "Les idées et les tendances politiques de Chateaubriand" in *Revue d'histoire littéraire de la France*, vol. xxxii (1925) 38–49.

CHATHAM, EARL OF. *See* PITT, WILLIAM.

CHAUTAUQUA is the designation for a religious, moral, social and educational movement taking its name from Chautauqua, New York, its point of origin. It grew out of an annual summer camp meeting which had been held for a number of years at Chautauqua under the auspices of the Methodist Episcopal church. In 1873 Rev. J. H. Vincent, who later became bishop, and Lewis Miller, a wealthy business man of Akron, Ohio, proposed that the camp meeting should specialize in the discussion of problems relating to Sunday School management and method. In 1874 the Sunday School Teachers' Assembly was organized; its success was marked and other evangelical denominations soon began to participate. As a result of this growth in attendance the programs became correspondingly enlarged and diversified. With the addition of lectures and formal courses on Sunday School methods, Biblical history, Biblical geography, Hebrew, Greek, sacred music, etc., the camp meeting developed into a full fledged summer school for religious education. During twenty-five years it continued to introduce new courses of study until the total number exceeded two hundred and the length of the session had been extended from twelve to fifty days. Permanent classroom buildings were erected as well as auditoriums, hotels, cottages, etc., to accommodate those who came to this watering place for rest and recreation in a wholesome moral environment. For visitors who did not care for formal study a program of popular and inspirational lectures supplemented with good music and wholesome entertainment was supplied. The daily programs included lectures by noted men and women in the fields of education, politics, religion, industry, literature, music and science. These latter features soon became the popular conception of Chautauqua, attracting people in larger numbers from neighboring states. During a single season as many as 150,000 are reported to have been in residence for periods of varying length, exclusive of those coming for a single day. The institution, which now may be considered to be on a permanent basis, is financed primarily by the daily and seasonal gate receipts plus the profits accruing from the hotels, stores and other concessions on the ground.

Within a dozen years following the organization of the first assembly at Chautauqua Lake no less than fifty independent summer camp meetings calling themselves Chautauquas were scattered from coast to coast. Although many lasted only for a short while, some have become

almost as famous as the mother institution. Among the most successful are those at Winona Lake, Indiana; Lakeside, Ohio; Boulder, Colorado; Bay View, Michigan; Franklin, Ohio; and Ocean Grove, New Jersey. While no two of these are alike in detail, they share the general function of combining recreation with entertainment, inspiration and education of a popular brand. In some, such as Winona Lake and Ocean Grove, the summer program consists largely of an almost continuous succession of religious conventions, while others stress educational, inspirational or musical features.

A second and more familiar form at the present time is the traveling Chautauqua, initiated in 1904 as a commercial venture and built upon the circuit plan. During the summer months three to seven-day programs are given in circus tents for towns of from 500 to 10,000 population. The "talent," i.e. lecturers, musicians and other performers, moves from town to town in the circuit. Because of relatively short distances between stands and long term contracts which could be made with the "talent" the plan proved economically successful and numerous traveling Chautauquas were established. The usual daily program consists of a lecture together with musical, dramatic or other entertainment at both afternoon and evening sessions. A central theme, such as community improvement, public health, international relations, civic pride, education, usually dominates the program.

This type of Chautauqua rapidly grew in public favor. In 1912 there were in six midwestern states alone almost 600 such Chautauquas. The movement reached its height in 1921, at which time approximately 12,000 American and Canadian communities were thus served. It has been estimated that approximately 5,000,000 people were reached. Since 1921 there has been a steady decline in the number of communities sponsoring these gatherings. Small Chautauquas have tended to disappear, much of the business being concentrated in the hands of three large traveling organizations, the Redpath, Swarthmore and Community Chautauquas. In 1930 it is estimated that there is less than 10 percent as many towns with an annual Chautauqua as there was in 1921. Approximately 75 percent of these towns have less than 1500 population, being mostly inland rural centers. Among the reasons for this decrease is the competition of the automobile, the cinema and the radio.

The early practise of presenting lecturers who dealt with controversial topics has gradually been supplanted. In recent years community leaders, on whom the Chautauqua management leans for support, have even intervened to prevent the appearance of a lecturer who they feared might express views antagonistic to their economic interests. As a result inspirational lecturing has been more and more substituted. Since the war the Chautauquas have tended to provide a type of Broadway drama and jazz music which in an earlier period would have met the severe moral reproof of the rural consumer. There has been a marked tendency to give the public what it presumably desires as long as such a policy proves profitable. The recent decline in business has as yet brought no marked improvement in the quality of the product. Despite the fact that this has not been the best which might have been offered, it has been superior to other entertainment available in rural communities.

Several by-products have sprung from the Chautauqua movement, each with its own social value. One is the summer school movement, now participated in by most resident colleges and universities and largely modeled after the successful experiment at Chautauqua. The Chautauqua summer school was also one of the two sources of the modern correspondence school. Dr. William Rainey Harper, a young professor in this school, demonstrated the practicability of this method of instruction in order to continue the educational work begun in the summer. A third by-product was the Chautauqua Literary and Scientific Circle, founded in 1878 and constituting a network of local affiliated groups throughout the United States, which undertook under the guidance of Chautauqua teachers a definite program of reading and study of a general cultural nature with the Bible as a basis. This development has been copied in various foreign countries and has proved particularly successful in England.

JOHN S. NOFFSINGER

See: EDUCATION; ADULT EDUCATION; RELIGIOUS EDUCATION; REVIVALS, RELIGIOUS; RURAL SOCIETY; FAIRS; LIBRARIES; MUSEUMS AND EXHIBITIONS; CORRESPONDENCE SCHOOLS; AUTOMOBILE; RADIO; MOTION PICTURES.

Consult: Hurlbut, J. L., *The Story of Chautauqua* (New York 1921); Bliven, B., "Mother, Home and Heaven" in the *New Republic*, vol. xxxvii (1923–24) 172–75; Pearson, P. M., "The Chautauqua Movement" in American Academy of Political and Social Sciences, *Annals*, vol. xl (1912) 211–16; Vincent, J. H., "Chautauqua—A Popular University" in *Contemporary Review*, vol. li (1887) 725–35; Thompson, C. D., "Is the Chautauqua a Free Platform?" in the *New Republic*, vol. xli (1924–25) 86–88.

CHAUVINISM is the excited demand for the limitless and violent expansion of the state. The term came into circulation in France where it referred to a much wounded follower of Napoleon, whose idolatrous admiration for the emperor served as the prototype of all blind enthusiasm for national military glory. In England more frequent use has been made of the term "jingoism" which, derived probably from the "by Jingo!" of a popular song, came into currency in 1877 in a wave of frenzy against Russia. The phenomenon common to both terms was sufficiently manifest in early political systems, but it has become peculiarly conspicuous in the conflicts among modern nation states, where huge populations are sentimentally bound to the fortunes of their political unit. In this context it is an inflammable blend of patriotism, nationalism, imperialism and militarism and reaches its height during the critical days of an international crisis.

Since chauvinism is a crowd phenomenon in the technical sense of the term it belongs to the sphere of collective behavior where reflection is at a minimum and where the emotional processes are rampant. Indeed, political life in general derives its vitality from the displacement of private motives upon public symbols, and this process is particularly prominent in the war crisis. When the community is confronted by threats and provocations there is a concurrent regression among the individual members toward powerful primitive impulses. Chauvinistic boasts, threats, exhortations and adulations are part of the process by which the aroused impulses of the community become concentrated around and displaced upon the symbol of the state and the courses of action presumed to be essential. The heightened tension level of the community is thus given some measure of coherent organization. Chauvinism extends the individual self to a national field of action and facilitates the mobilization of the community for instant attack and defense.

The particular motives which interplay in chauvinism are exposed especially in the course of the intensive scrutiny of the individual by psychopathological methods. Hate, love, self-punishment and a host of nuanced motives are brought into action. Chauvinistic sentiment abounds in the use of intangible symbols like "national honor," and every channel of communication adds to the reverberation produced by every demonstration of excitement. The heightening of the tension continues until, in the overt instance, there occurs that plunge into action which is followed by the "peacefulness of being at war."

HAROLD D. LASSWELL

See: PATRIOTISM; NATIONALISM; MILITARISM; IMPERIALISM; PROPAGANDA; AGITATION; COLLECTIVE BEHAVIOR.

Consult: Stratton, G. M., *Social Psychology of International Conduct* (New York 1929); Scott, J. F., *Five Weeks* (New York 1927); Hobson, J. A., *The Psychology of Jingoism* (London 1901); Lasswell, H. D., *Propaganda Technique in the World War* (London 1927).

CHAVCHAVADZE, ILIA (1837–1907), Georgian publicist and poet. In 1863 he founded the *Sakartvelos Moambe* (Narrator of Georgia), which represented the populist-realistic school in literature and western liberalism in politics. Later he established and edited the newspaper *Iveria* (1877) in which for thirty years he discussed in a humane and liberal spirit the current social and political problems of Georgia.

At the outset of his public career Chavchavadze associated himself with the movement for the abolition of serfdom. In the press and in separately printed novels and poems he pointed to the danger of the widening gulf between the landowning nobility and the peasant serfs, deploring the deadening influence of serfdom. With the emancipation of the peasants he became a judicial mediator between peasants and landowners (1864–68) and later judge of one of the lower courts (1868–74). At this time he advocated reestablishment of the "broken bridge," that is, the collaboration of the classes. From the Russian government he demanded the introduction of local self-government (*zemstvo*) adapted to the customs and usages of Georgia.

Chavchavadze is no less important as a literary figure and folklorist. He carried on a successful struggle against the conventional themes, style and vocabulary of the romantic period. Most of his novels and poems dealt realistically with social problems and were written in a language close to the living Georgian tongue. In his periodical publications he printed many local ballads, songs and customs found and transcribed by him and his followers. The champion of a political and cultural national renaissance and of liberal agrarian reforms, Chavchavadze came to be regarded as the "prophet" of his people.

V. NOSADZÉ

Consult: A series of articles in Russian in *Etnograficheskoe Obozrenie*, vol. XX (1908) no. 1–2.

CHAYKOVSKY, NIKOLAY VASSILIEVICH (1850–1926), Russian populist socialist. As a student in the University of St. Petersburg he helped to organize an informal association of young people, "the Chaykovsky circle," which subsequently played an important part in the revolutionary movement. Its members were humanitarian socialists and at first confined their activity to peaceful propaganda. When under pressure of government persecution the association became increasingly violent in its methods, Chaykovsky parted from his former friends and joined Malikov, who preached the religion of "God in man," true regeneration through the development of man's godlike traits. In 1875 Chaykovsky led a group of followers in the establishment of an agricultural communistic settlement in Kansas. The experiment lasted only two years. Chaykovsky returned to Europe and in 1880 settled in London, where he acquired a considerable reputation in English and Russian circles. He renewed his interest in the revolutionary movement, helped to win for it the sympathy of foreign public opinion, collected funds for the relief of political prisoners and assisted in the work of an organization which published a non-party revolutionary newspaper distributed in Russia. For a time Chaykovsky shared the views of the anarchist Kropotkin but later he became a member of the London group of the Russian Socialist Revolutionary party.

In 1907 Chaykovsky reentered Russia under an assumed name, was arrested and tried on a charge of revolutionary conspiracy, but was acquitted for lack of evidence. He remained in Russia and devoted his entire energy to the cooperative movement. A few years before the outbreak of the 1917 revolution he took a hand in politics and became prominently associated with the Laborite group and later the Laborite People's Socialist party. With the advent of the Bolsheviks he joined the anti-Soviet group, the Union for the Regeneration of Russia, and in the autumn of 1918 went to Archangelsk to lend the prestige of his name to the counter-Bolshevik movement in the north. He became the head of the provisional government of the northern region, and in 1919 went to Paris to solicit more active aid from the Entente powers. In 1920, still convinced of the possibility of saving the White forces in the south, he went to Ekaterinodar, offering his assistance to General Denikin in the reorganization of his government. Chaykovsky died in Paris, a few months after his seventy-fifth birthday had been publicly celebrated.

V. MIAKOTIN

Consult: *N. V. Chaykovsky*, ed. by A. A. Titov, 2 vols. (Paris 1929), in Russian.

CHECK. The check (English usage, cheque) comes within the general class of bills of exchange and is defined by the Negotiable Instruments Law as a "bill of exchange drawn on a bank payable on demand." According to the definition as expanded through legal interpretation a check is an unconditional order in writing addressed by a person (the drawer) to a bank, signed by the drawer, requiring the bank to which it is addressed to pay a sum certain in money on demand to a person named or to his order or to bearer.

The check is distinguished from other bills of exchange primarily in that it is drawn on a bank and purportedly against a deposit. It does not serve as an assignment of the deposit, however, and the bank's unqualified liability for immediate payment in legal tender money is to the drawer, not to the holder. Some of the states of the United States have provided that banks may pay checks by means of drafts or reserve deposits unless the drawer specifies otherwise. Only certification, a distinctively American procedure not widely used now, can transfer the bank's contract from the depositor to the holder of the check. Legally, however, the check is an implied promise to pay on the part of the drawer and the bank is required to honor it if properly drawn and presented and if covered by a deposit. Upon this attribute and upon its consequent ability to replace paper money, over which it has the advantage of greater safety, convenience and accounting utility, the rapid development of the use of "deposit currency" in modern times is based.

Although checks were probably used in Palermo, Italy, as early as 1416 A.D. and in England in the latter part of the seventeenth century their elevation to first rank as a medium of exchange in commercially advanced nations came in the course of the nineteenth century. The development proceeded irregularly in different countries as a result of differences in banking facilities and service, density of population, general education and intelligence of the people and the attitude of the government as evidenced in its fiscal policy and legal code. Confidence in its safety and certainty, essential to the spread of the use of the check, has been

increased by devices such as limited or "zur Verrechnung" endorsement or crossing, which, however, restrict negotiability, and by special penal codes aimed at preventing check frauds. Stamp taxes in general retard the development, although England, which with the United States is the leader in the use of checks, maintains such a tax. It is estimated that checks effect probably 90 percent of the transactions in these two countries. They are also important factors in Canada and Germany. In the last named country, however, as in Holland and Switzerland, the function of the check is partially performed by a well organized *Giro* system under which sums of money are transferred from account to account by non-negotiable orders. In France, despite governmental encouragement, the check remains of minor, if increasing, importance. In nearly all other countries its use is negligible.

WALTER E. SPAHR

See: NEGOTIABLE INSTRUMENTS; BANKING, COMMERCIAL; CLEARING HOUSES; CURRENCY.

Consult: Conant, C. A., "Development of the Check" in *Bankers' Magazine*, vol. lxxxiii (1911) 580–85; Kinley, David, *The Use of Credit Instruments in Payments in the United States*, United States, 61st Cong., 2nd Sess., Senate Document no. 399 (1910); Spahr, W. E., *The Clearing and Collection of Checks* (New York 1926); Hannaford, C. F., *Cheques* (London 1923); Constantinoff, P., *La chèque et son rôle économique* (Dijon 1928); Brady, John E., *The Law of Bank Checks* (2nd ed. New York 1926); *The Negotiable Instruments Law Annotated*, ed. by J. D. Brannan (4th ed. Cincinnati 1926).

CHECKS AND BALANCES. The advantage of "checks and balances" between different organs of government was first emphasized in the theory of so-called "mixed government" elaborated by Polybius (*Histories* VI, 3–10) and revived by Machiavelli (*Discorsi . . . sopra la prima decade de Tito Livio*). According to this theory a government of any of the "pure" types —monarchy, aristocracy or democracy—must inevitably degenerate into the perverted form of that type: monarchy into despotism, aristocracy into oligarchy, democracy into mob rule. To avoid such perversion the government must at the outset be given a "mixed" form, that is, it must include organs belonging to each of the simple types. The aristocratic and democratic organs will then check the degeneration of the monarchical organ, the monarchical and democratic organs will prevent the aristocratic organ from becoming oligarchic and the aristocratic and monarchical organs will supply a guaranty against mob rule. In this form the theory was essentially one of balance between the two principal social classes, with a monarchical element to mediate between them. It was accepted in essentials by Calvin (*Institutes of the Christian Religion*, bk. iv, ch. xx, par. 8) and inherited by the leaders of early Massachusetts. In the eighteenth century it was revived and elaborated by John Adams.

During the religious wars in France and the contest between crown and Parliament in seventeenth century England new use was found for a doctrine of checks and balances. The political philosophy of the Middle Ages held that the king was bound by "fundamental" law. It had been pointed out by Buchanan that if the king was free, as the absolutists contended, to make his own interpretations of this law it could supply no effective limitation on his power. It was therefore argued that a special organ of government was necessary to enforce fundamental law against the king or to share with him the power of interpreting it. Such an organ was seen by Calvin, Buchanan and the French Huguenot writers in the representative assemblies, or estates of the realm. Royal power so limited came in England to be called "mixed monarchy," of which the essential feature was that the power of the crown was checked and balanced by Parliament. This view culminated in the theory of Locke. Locke's starting point is still the opposition between a king, claiming to be absolute, and the representatives of the people, but in his generalized statement of the problem the opposition comes to be one between legislative and executive powers. This notion of a balance between different departments of government rather than between particular historical institutions or social classes was elaborated by Montesquieu, from whom it passed to the framers of the American constitutions. Montesquieu's concern was to discover an organization of government which would be most favorable to the security of the individual. This he thought could best be attained under a constitutional system which subdivided and distributed governmental powers among a number of different organs so checked and balanced against one another that an attempt by any one of them against individual rights would fail through want of the necessary cooperation by the others.

The popularity in the American colonies of the doctrine of checks and balances resulted in part from colonial experience. The advantage which accrued to colonial legislatures from their

power of withholding the salary of royal governors illustrated the value of a legislative check on the executive. At the close of the Revolutionary War the distrust of legislative power engendered by radical legislation led to a desire for both an executive and a judicial check on the legislature. The philosophy of checks and balances is stated by Madison in *The Federalist*. His argument is that, power being "of an encroaching nature," different organs of government can be kept within their constitutional limits only if checks against them are placed in the hands of rival organs. To the argument that such an arrangement violates the principle of separation of powers Madison answered that that principle requires no more than that the whole power of one department of government must not be "exercised by the same hands which possess the whole power of another department."

In the federal constitution John Adams was able to detect eight different sets of checks and balances (letter to John Taylor in *The Works of John Adams*, vol. vi, p. 467–68). Some of these have proved ineffective. Only those have been operative which provide that neither of two governmental organs deriving from independent sources can complete a legally valid result without the concurrence of the other. The possibility of a deadlock in such instances has often been realized, most frequently perhaps in the relations between the president and Senate concerning treaties and appointments. Deadlocks have also occasionally arisen between the two houses and between the president and Congress in matters of legislation.

The system of checks and balances has been adopted in American state and local, as well as national, government, and the philosophy underlying it has become part of the political creed accepted without question by most Americans. Recent American students of political science have, however, questioned whether government by checks and balances leaves final power in the hands of the people. It has been pointed out that "the actual operation of these checks and balances . . . has resulted in irritation and bickering between the departments. . . . The executive is the most conspicuous single official. He is elected upon a platform of pledges for legislation. He seeks to redeem those pledges by promoting the introduction of bills and pushing them through the legislature. The legislature feels hostile toward the executive for attempting to coerce its action. The executive loses patience with the legislature for not redeeming the pledges of the executive to the electorate. . . . The result is that each of the departments of government fails to work in harmony with the others. Each tends to retire to its own constitutional sphere and there spend considerable time in doing what it pleases, regardless of the other departments, and from time to time blocking and hampering them. In this way the least progress is made with the important business of legislation and the functioning of the executive and the judicial departments" (Kales, p. 10–12). At the same time "in consequence of the division of political power into so many small fragments, the ordinary citizen does not take interest enough in any one of them, and leaves the control of public affairs too exclusively in the hands of the professional politicians" (Lowell, p. 58).

The theory of checks and balances proceeds on the assumption inherited from a period of absolute government that the welfare of the people is best promoted if government is hindered from functioning and friction generated among its parts. Such a theory assumes that government is fundamentally an evil and that the most important thing is to keep it out of mischief, even at the cost of rendering it expensive and ineffective. The opposite view—that government is a beneficial agency of social order, whose paralysis is a public misfortune—has led to indictments of the theory of checks and balances like that voiced by Woodrow Wilson: "The trouble with the theory is that government is not a machine, but a living thing. . . . No living thing can have its organs offset against each other as checks, and live. On the contrary, its life is dependent upon their coöperation, their ready response to the commands of instinct or intelligence, their amicable community of purpose. . . . There can be no successful government . . . without the intimate, almost instructive, coördination of the organs of life and action" (p. 56–57). Such criticism has not, however, led to any important practical effort to remedy the disadvantages resulting from the system of checks and balances, except in the field of municipal government, where efficiency and centralization of responsibility have been sought through the city manager plan.

JOHN DICKINSON

See: STATE; NATURAL LAW; SEPARATION OF POWERS; CONSTITUTIONS; GOVERNMENT; EXECUTIVE; LEGISLATION; JUDICIARY; ADMINISTRATION, PUBLIC; BUREAUCRACY; DELEGATION OF POWERS; JUDICIAL REVIEW; POWER, POLITICAL; PARTIES, POLITICAL.

Consult: Montesquieu, C. L. de S., *De l'esprit des lois*

(2nd ed. by Paul Janet, Paris 1892), tr. by T. Nugent, rev. by J. V. Prichard (New York 1900) bk. xi, ch. vi; Mellis, Paul de, *Le principe de la séparation des pouvoirs d'après l'abbé de Mably* (Toulouse 1907); Walsh, C. M., *The Political Science of John Adams* (London 1915) p. 37–73; *The Federalist*, 2 vols. (New York 1788) nos. 46–47; Lowell, A. L., *Essays on Government* (Boston 1889); Wilson, W., *Constitutional Government in the United States* (New York 1908); Kales, A. M., *Unpopular Government in the United States* (Chicago 1914).

CHEKA. *See* POLITICAL POLICE.

CHEMICAL INDUSTRIES. This term covers a varied group of industries, each impossible of exact definition and delimitation but significant as outstanding witnesses to the scope of the chemical phase of the industrial revolution. From the laboratory of the modern chemist has emerged a steady and increasing stream of new products and new methods of manufacture. Some have resulted in minute changes in old processes; some have created entire new industries and transformed or destroyed old ones; to an even greater extent chemical processes have penetrated into corner after corner of the industrial organization, bringing with them new standards and new methods of industrial and economic control. Over an increasing area the research laboratory has become the nerve center of production, the creator and critic of methods, products and policies, an indispensable intelligence service and commercial board of strategy.

The area of industrial enterprise thus affected by the chemical revolution is constantly growing. Hence a wide divergence of opinion and an enormous variation in usage exist as to the specific industries which are properly called chemical industries. Economists and other laymen uninformed on chemical matters are likely to be rather skeptical of the wide scope which the chemical technologist is wont to claim for the group. They would undoubtedly think of the old gunpowder industry as a chemical industry and scoff at the idea that the manufacture of glass or paper has a worthier claim to the title, even though the mixing of the ingredients in the powder industry involves no chemical interaction whatsoever while the making of glass and paper is a chemical operation in almost every detail. The term chemical industries has become too inclusive to be useful, simply because chemical technique and control are sweeping now suddenly, now gradually, but always progressively through industrial practise.

There is, however, considerable illustrative value in a brief survey of the types of industry in which chemical operations are of dominant importance, those which use chiefly chemical engineering processes under the direction of trained chemists. The list will of course vary from period to period and country to country. For the United States at the present time it would certainly include the following major groups: metallurgical industries, iron smelting and the extraction of the non-ferrous, noble and rarer metals from their ores; fuel industries, the production of coke, artificial gas and charcoal, wood distillation, petroleum refining; heavy chemical industries, the manufacture of acids, alkalies, salts, fertilizers, electro-chemical products, cleansing and scouring materials; other inorganic chemical industries making glasses and enamels, ceramics, abrasives, refractories, lime, sand-lime brick, cement, industrial gases, printing and writing inks, matches; organic chemical industries including the manufacture of intermediates and dyes, explosives, perfumes, medicines and drugs, photographic materials, oils, fats, waxes, sugars and starches, accelerators and other chemicals for use in industrial processes, various alcohols and other solvents, paper, artificial silks such as rayon, oilcloth, linoleum, artificial leather, synthetic plastics, tanning materials, rosin and turpentine; and finally the colloid chemical industries producing glue and gelatin, gums and resins, paints and varnishes, tanned leather and rubber. In addition one might enumerate, but less easily classify, an even larger number of important chemical processes. It is clear that few significant generalizations can be made about the economic structure of such a heterogeneous group of manufactures, for each will have its specific history and problems. The effects of this increasing dominance of chemical processes in our industrial system can, however, be analyzed, and the study should throw considerable light on the nature of the modern industrial mechanisms.

The major part of this development has occurred since 1880; before that time chemical industries were largely extractive in character and their problems relatively simple. The subsequent growth has been rapid and world wide. Throughout the first three quarters of the nineteenth century the English alkali industry was the largest chemical industry in the world; then beginning about 1865 German chemical developments became of increasing importance, especially through the rapid expansion and organ-

ization of the dyestuffs and potash industries. In the United States the Eastman Kodak, the Aluminum and the Standard Oil companies came to the fore as representatives of this new revolution. Certain indicia of the rapidity of this development are available. Since all chemical agents or tools are either acids or alkalies the volume of production of such fundamental chemicals as sulphuric acid and soda ash furnishes a very good indication of the rate of adoption of chemical processing in industry. The figures are striking. In the United States, for example, the production of sulphuric acid, although begun as early as 1793 at the Harrison works in Philadelphia, had grown by 1875 to only 150,000 tons (50° Bé basis). But thereafter it trebled every ten years, amounting to more than 4,000,000 tons in 1914 and almost 7,500,000 tons in 1927. Similarly, before 1880 there was virtually no soda industry at all in the United States, the value of all soda products of domestic manufacture being less than $700,000 and of imports about $6,000,000. In 1927 over $110,000,000 worth of soda products was consumed.

The origin of this new chemical knowledge and the methods of its application to industry furnish an outstanding example of the close relationship between modern science and modern economic organization. Individual chemical industries, sometimes successively but more often simultaneously, present three phases of development: the extractive, the synthetic and the creative. Whenever a chemical want is felt, man first tries to find a means of satisfaction directly appropriable in the natural universe about him. If he does not succeed sufficiently in that search he imitates the natural process, and ultimately, if further pressed, he creates a wholly new article. More frequently, however, these phases are all present at the same time or occur in no particular sequence. The chemists, pursuing strictly scientific ends, experiment with, and catalogue, the properties of every conceivable kind of substance. A relatively minor chemical invention has often helped to bring about economic phenomena of major importance. Thus the cyanide processes for the extraction of gold from its ores, invented in the early nineties, probably increased the available supply of the monetary metal more than had the discovery of any gold field.

The synthetic triumphs of the chemist have been most spectacular of all. Leblanc's production of artificial soda from salt; German and English rivalry to be the first to substitute coal tar for madder as a source of alizarin; Bayer's success, after twenty years of research, in making the coal mines of Germany replace millions of acres of agricultural land in India as the source of indigo; Haber's process for capturing atmospheric nitrogen to make synthetic ammonia, invented just in time to render a belligerent Germany independent of Chilean saltpeter for her explosives and fertilizers—these are familiar stories.

The connection between each discovery and the advances of science is more often overlooked: such facts as that Leblanc was a pupil of Lavoisier, that Graebe was an assistant in the laboratory of Bayer or, similarly, that Perkins was an assistant of Hoffman and was bent on solving another scientific problem when he discovered the first coal tar dye, mauve, in 1856. For the most part it has not been the commercial and industrial but the university and scientific laboratories that have revealed new modes of synthesis. On the other hand, most of the discoveries of university research are in themselves of little use to industry. Many of them can never be commercially developed; many must wait years for utilization.

The increasing penetration of chemical processes into industry has forced the industrialist to seek for some less haphazard and more predictable method of utilizing the results of scientific discovery. Through the multiplication of industrial research laboratories he can in some measure direct the course of experimentation or at least be prepared to take immediate advantage of every new increase in knowledge. So we have the phenomenon of the highly organized, fully equipped chemical laboratory with its staff of young and eminent scientists taking its place as part of the business structure.

This introduction of the laboratory into the industrial system effects far more than an alliance of industry with science. It is one of the most important means by which the expert, the engineer, the technician, is coming to share a position of control in modern society. The lure of profits may suggest the ends and the goals of applied research, but the chemist points out the boundaries of the path to be followed.

The reach of this control is immeasurably greater than the scope of the authority of any one technician or group of technicians, whose actual influence may be very limited. For the very nature of the processes forces upon business and industry certain new characteristics. Specifica-

tion and standardization of processes successively call for, and are enforced by, the increasing penetration of chemical methods. Standardization paves the way for large scale production, the result also of several other features of all chemical industries. Most chemical operations must be carried on more or less continuously over long periods of time; hence the chemical industry is typically a continuous industry, and the problems of management involved lead frequently to large production units. Another important factor contributing to the many financial consolidations is the problem of patent relationships. Where combination has not proved feasible a degree of common action has been achieved through the establishment of research institutes working for a whole industry.

Chemical industries are, moreover, typically joint cost industries; frequently they develop through attempts to utilize by-products; always they involve problems of waste and possible salvage. There has been throughout a marked tendency toward both a vertical and a horizontal integration. In Germany the I. G. Farbenindustrie, in England the Imperial Chemical Industries, Ltd., in Italy the Montecatini Società per l'Industria Mineraria e Agricola, even before the war controlled the major portion of the output of heavy and organic chemical products of their respective countries. In the United States such companies as E. I. du Pont de Nemours, Inc., unite the production of an amazing range of chemical products. Since the war the tendency to cartellization and the use of licensing agreements has been accelerated by the economic dismemberment of Europe and the multiplying of tariff boundaries.

The chemical industries as a group, diverse as they are, thus present certain common problems of control. Other industries are more completely monopolistic, but in none are the potentialities of monopoly control greater. Not only does the growth of munitions industries and of all the other chemical industries which can now be so easily turned to the production of munitions augment the danger of new wars ever more horrible; the very complication of chemical processes makes a breakdown of the whole industrial system more likely and more catastrophic. The interpenetration of chemical processes in all industry is cumulative in its effect, and the more closely the business system becomes geared to such a series of products and methods, the more far spreading are the effects of crisis or expansion. This is something more than the complication of the business system. Fantastic as the picture of a single engineer bringing destruction to the whole of a city such as New York may be, it is true that the chemical engineer possesses a knowledge of unrealized and unknown power for good or ill. Many of the potentialities for good cluster about the fact that chemistry has created a new check on the workings of industry. Chemical methods may be complicated, they are always exact; here lies the possibility of a degree of public regulation of quality of product never before achieved. Only the first steps in such regulation have been taken and their extension involves an increasing complication of the social machinery. To harness, before it runs amuck, the power immanent and imminent in this new chemical knowledge is one of the major tasks of modern social statecraft.

THEODORE J. KREPS

See: MUNITIONS INDUSTRIES; DYES; MEDICAL MATERIALS INDUSTRIES; IRON AND STEEL INDUSTRY; POTASH; NITRATES; FERTILIZER INDUSTRY; INDUSTRIAL ALCOHOL; OIL; RUBBER; HEAVY CHEMICALS; INDUSTRIALISM; STANDARDIZATION; COMBINATIONS, INDUSTRIAL; CARTEL; RATIONALIZATION; CONTINUOUS INDUSTRY; INDUSTRIAL HAZARDS; GOVERNMENT REGULATION OF INDUSTRY; WARFARE; SCIENCE; EXPERT; ENGINEERING; ECONOMIC ORGANIZATION.

Consult: League of Nations, International Economic Conference, *The Chemical Industry*, C.E.I. 10 (Geneva 1927); Schultze, E. P. S. H., *Die Entwicklung der chemischen Industrie in Deutschland seit dem Jahre 1875* (Halle 1907); Marcus, Alfred, *Die grossen Chemiekonzerne* (Leipsic 1929); Ungewitter, Claus, *Ausgewählte Kapitel aus der chemisch-industriellen Wirtschaftspolitik 1877–1927* (Berlin 1927); Löffl, V. K., *Die chemische Industrie Frankreichs* (Stuttgart 1917); Baud, P., *Les industries chimiques régionales de la France* (Paris 1920); Duisberg, Curt, *Die Arbeiterschaft der chemischen Grossindustrie* (Berlin 1921); Matagrin, A., *L'industrie des produits chimiques et ses travailleurs* (Paris 1925); Hanslian, Rudolf, *Der chemische Krieg* (2nd ed. Berlin 1927); Slosson, E. E., *Creative Chemistry* (New York 1919); Arrhenius, S. A., *Chemistry in Modern Life*, tr. from the Norwegian and rev. by C. S. Leonard (New York 1925); *Chemistry in Industry*, ed. by Harrison E. Howe, 2 vols. (New York 1924–25). Consult also bibliographies of related articles.

CHEMICAL WARFARE. *See* WARFARE.

CHENG CH'IAO (Yü-chung) (1104–62), Chinese scholar. Although one of the most critical of Chinese historians his importance to native scholarship has only recently been recognized, the eighteenth century historian Chang Hsüeh-ch'eng being the first modern writer to indicate his true significance. Living in an age devoted to

philosophic speculation Cheng Ch'iao advocated a return to factual scholarship. Recently discovered biographies in gazetteers of Fukien province throw new light on the scope and method of his investigations. Unfortunately only a fragment of his works has survived, of which the *T'ung Chih*, (General history), completed in 1161, is an example. In this work he expounded his idea of the scope of historical research. It should embrace the study of language, population, geography, the sciences, arts and social institutions. He insisted upon the continuity of history as opposed to the contemporary dynastic histories. The section dealing with the history of social institutions approaches in method of treatment the work of modern historians.

Cheng Ch'iao believed that knowledge should be gained by personal experience wherever possible and proposed that the natural sciences should be studied by means of actual specimens or, lacking these, by charts and illustrated drawings. He was the first Chinese to emphasize the importance of specialization in the sciences and the need for organization and classification of materials. These aims he also carried over into his study of ancient literature. In advocating the study of the *Odes* primarily in terms of their ancient rhythm and social and historical background Cheng Ch'iao injected a new principle into Chinese historical criticism which was not, however, fully carried out until the seventeenth century. He pointed out the late authorship of the preface to the *Odes* and of the inscriptions on the famous Stone Drums, attributing the latter to the third instead of the ninth century B.C.

ARTHUR W. HUMMEL

Consult: Chang Hsin-Hai, "Some Types of Chinese Historical Thought" in *Chinese Social and Political Review*, vol. xiii (1929) 321–40.

CHÉNON, ÉMILE (1857–1927), French jurist and historian. For over forty years Chénon taught the history of French law, exercising a profound influence on French jurists. He was a convinced Catholic and his religious inclinations determined the range of his work. A mediaevalist attracted particularly to the thirteenth century, he was led to innumerable archaeological and antiquarian investigations into local history. He studied especially the history of institutions in his native province, Berry, as in *Histoire de Sainte Sévère-en-Berry* (Paris 1888–89), *Les jours de Berry au parlement de Paris de 1255 à 1328* (Paris 1921) and *Histoire de la paroisse de Vic-sur-Aubois et du prieuré de Bois l'Abbé en Bas-Berry* (Paris 1922). His studies of provincial history, which were both searching and extensive, illuminated the national development of French institutions; this is especially true of his clarification of the old French customary laws which are of particular importance in French jurisprudence. Indeed, Chénon regretted the influence of the Roman law in France. His greatest work, which he did not live to complete, was the projected general history of French law, *Histoire générale du droit français public et privé, des origines à 1815* (vol. i, Paris 1926; pt. i of vol. ii ed. by Olivier-Martin, Paris 1929).

Chénon participated directly in the religious life of France and from 1902 to 1905, before its condemnation by Rome, was active in the democratic movement called the Sillon (furrow). Of the numerous works in which he expressed his religious ideas the most significant is *Le rôle social de l'église* (Paris 1921).

OLIVIER-MARTIN

CHERBULIEZ, ANTOINE ÉLISÉE (1797–1869), Swiss economist and political scientist. He was born in Geneva, where his family had settled after their emigration from France following the revocation of the Edict of Nantes. Cherbuliez was at first a lawyer and attracted some attention as author of the *Dissertation sur les causes naturelles du droit positif* (Geneva 1826). In 1831 he became a judge of the Civil Tribunal and four years later succeeded Rossi as professor of public law and political economy at the University of Geneva. He was elected a member of the Constituent Assembly and later of the Grand Council but after the fall of the Conservative Republican party in 1848 resigned all his offices and moved to Paris. Although he became a naturalized French citizen in 1850 he returned to Switzerland three years later as professor of political economy at the University of Lausanne and filled the corresponding chair at the University of Zurich from 1855 to 1869.

Cherbuliez was one of the most illustrious classical economists writing in the French language. The monumental exposition of his economic theories is the *Précis de la science économique*. Although the work was well written and more easily understood than that of John Stuart Mill it was not widely read and had little effect upon the course of French thought. Cherbuliez

wrote voluminously for the *Bibliothèque universelle*, *Journal des économistes* and *Dictionnaire d'économie politique*. His contributions cover money and banking, transportation, socialism, charity, theory of the entrepreneur, taxation, economic history and the history of economic thought.

Cherbuliez always remained an obdurate conservative and an irreconcilable opponent of mob rule, which he fought energetically in his native country and in France after the Revolution of 1848. In spite of his adherence to the school of thought which favored reduction of state activities to the minimum and in spite of his single tax doctrines Cherbuliez defended inheritance and private property, not on theoretical grounds but because he considered their advantages much superior to their disadvantages.

LOUIS VIGOUROUX

Important works: *Précis de la science économique et de ses principales applications*, 2 vols. (Paris 1862); *Riche ou pauvre* (Paris 1840, 2nd ed. Paris 1841); *Le socialisme c'est la barbarie* (Paris 1848); *De la démocratie en Suisse*, 2 vols. (Paris 1843).

CHERBURY, LORD HERBERT OF. *See* HERBERT, EDWARD.

CHERKASSKY, VLADIMIR ALEKSANDROVICH, PRINCE (1824–78), Russian statesman. He studied law at the University of Moscow and at an early age became interested in the problem of peasant emancipation. In 1847 he organized an informal group of his neighbors, the landed gentry of the province of Tula, to work out a program for the liberation of the peasants by the individual landlords, but the following year an order from the czar put an end to the activity of the group. Later in Moscow he became intimate with the Slavophiles, with whom he shared the view that the liberated peasants should be granted adequate land holdings, but against whom he urged the merits of individual rather than communal ownership of land. When the government of Alexander II began to prepare for peasant emancipation, Cherkassky submitted a number of lengthy memoranda on the subject. In the Tula official committee for the study of emancipation proposals he led in the attack on the conservative majority, which desired to restrict the scope of the reform and to reduce land grants to insignificant proportions. In 1859 he was appointed to the drafting board of the central commission charged with the analysis of suggestions made by the provincial committees and with preparation of the final draft of emancipation legislation. In this office he, together with Milyutin and Samarin, advocated an increase in the peasant land allotments and the provision of credit aid by the government to facilitate payments by the peasants. Cherkassky prepared for the commission the more important reports on the size and composition of peasant allotments and on rural self-government. Upon the promulgation of the reform laws in 1861 he served as the official mediator between peasants and nobles in his home district. During the Polish insurrection of 1863, when the government began the emancipation of peasants in Poland, Milutin was put in charge of the reform and secured the assistance of Cherkassky. Due to their combined efforts the reform in Poland was more liberal than in central Russia; the peasants received their land free from charges in favor of former owners.

In 1870 Cherkassky, as mayor of Moscow, was responsible for a municipal petition to Alexander II, urging a continuation of the liberal reforms, and was forced to resign when the petition was rejected. During the Russo-Turkish War of 1877 he was appointed head of the civil administration of liberated Bulgaria and was instrumental in instituting there a system of relatively democratic and autonomous local government.

A. A. KIESEWETTER

Consult: Trubetskaya, O., *Kn. V. A. Cherkassky i ego uchastie v razreshenii krestianskago voprosa* (Prince Cherkassky and his part in the solution of the peasant problem), 2 pts. (Moscow 1901–04); Furst, W. A., "Tscherkasski, der Reorganisator Polens und Bulgariens" in *Deutsche Rundschau*, vol. XV (1878) 253–68 and 440–54.

CHERNYSHEVSKY, NIKOLAY GAVRILOVICH (1828–89), Russian publicist. Chernyshevsky, whose father was a clergyman, attended the theological seminary of his native Saratov and later entered the University of St. Petersburg, from the historico-philological faculty of which he graduated in 1850. He taught Russian literature for the next three years at the secondary school in Saratov and for several months at the Second Cadet School in St. Petersburg. Wishing to obtain a university appointment he defended in 1855 a thesis on "the aesthetic relations between art and life," which was welcomed as the manifesto of "publicistic literary criticism" championed earlier by Belinsky. Following Feuerbach, Chernyshevsky identified the beautiful and the real, distinguish-

ing beauty from mere perfection of form; he declared that art is a representation, explanation and evaluation of life and severely condemned the theory of "art for art's sake." Although he passed the examinations with distinction, he failed to receive the degree or the appointment because his views appeared blasphemous and revolutionary to the minister of education.

After 1853 Chernyshevsky was on the staff of the foremost radical monthly, *Sovremennik* (The contemporary), edited by the poet Nekrasov. He had early exhibited an unusual clarity and independence of thought and an extraordinary aptitude for languages; to these qualities he now added an amazing capacity for work. Each issue of the *Sovremennik* carried over fifty pages of his original contributions; among them were important monographs on Lessing and his age and on the Gogol period of Russian literature as well as many shorter pieces of literary criticism, characterized by a profound, sometimes prophetic, insight. At the close of the year 1857 he turned over the literary editorship to young Dobrolubov, in whom he detected great critical acumen, and devoted himself to economic and political problems, becoming the outstanding leader of the radical intelligentsia.

Although he was influenced by the rational socialism of the French utopians, particularly Fourier, and by the utilitarian ethics he remained an independent and original thinker. He recognized the importance of economic factors and of social stratification and anticipated Karl Marx on several important points. In the extensive additions to his translation of J. S. Mill's *Principles of Political Economy* and in other works he contributed original discussions of the social value of large scale production and division of labor, of the effects of technical progress, of the antagonisms between land, capital and labor and their effect on production, of concentration of wealth and proletarianization of the masses, of the Malthusian law of population in different economic systems. He envisaged the desirable economic order somewhat in the spirit of Proudhon and Louis Blanc as a system of voluntary associations of producers assisted by the government. In several articles on peasant emancipation he advocated the preservation of the village community as a bulwark against "the scourge of proletarianism"; to this extent he was the father of Russian populism. He refuted many of the stock objections to communal land holding which were brought forward much later, but he never shared the Slavophile delusion that the village community was an indigenous institution peculiar to the Slavs. In an article on the "anthropological principle in philosophy" he championed the naturalistic materialism of Feuerbach and Büchner as the only philosophy compatible with socialist humanitarian sympathies.

Chernyshevsky exerted an impressive influence, and thus with the beginning of the reactionary period in 1862 he was subjected to a series of unusually severe government persecutions which were based on trumped up charges. After being imprisoned for two years in a fortress he served a sentence of seven years of hard labor and for twelve more years lived in exile in the far north of Siberia. In the fortress he wrote a novel *Chto delat?* (*What Is to Be Done?*; translated into many European languages, English translations New York 1886 and Boston 1886) which inspired two generations of Russian youth. Devoid of literary merit but imbued with the spirit of noble humanitarianism, this half utopian novel preached an idealized version of utilitarianism and the establishment of producers' cooperatives. Much later Chernyshevsky published an article on "the theory of the beneficial effects of the struggle for existence," in which he castigated social Darwinism as a piece of bourgeois apologetics. At the end of his life he translated twelve volumes of Weber's universal history and appended to them independent essays on historical and related subjects. Despite the fact that for a long time after his imprisonment the censorship forbade even the mention of his name, his reputation in Russia remains undiminished even to the present day.

I. V. DIONEO-SHKLOVSKY

Works: A ten-volume collection was edited by his son (St. Petersburg 1906). Since 1917 a number of hitherto unpublished writings appeared in scattered publications in Russia; the most important of them is the diary for 1848–53 (Moscow 1928). The more important translations of Chernyshevsky's works are: *L'économie politique jugée par la science*, tr. by A. Tvertinov and C. de Paepe (Brussels 1874); *Osservazioni critiche su talune dottrine di G. Stuart Mill* (*Lavoro e capitale considerati come elementi della produzione*), Biblioteca dell' economista, 3rd ser., vol. ix, pt. i (Turin 1886); *La possession communale du sol*, tr. with a biographical notice by E. Laran-Tamarkine (Paris 1903); *Lettres sans adresse* (*sur l'abolition du servage en Russie*) (Liége 1874).

Consult: Plekhanov, G. V., *N. G. Tschernischewsky* (Stuttgart 1894); Steklov, Yu., *N. Tschernyschewsky: ein Lebensbild* (Stuttgart 1913). A bibliography of Russian works about Chernyshevsky is available in the Granat encyclopaedia, vol. XLV, pt. iii (Moscow 1929) p. 805–06.

CHEVALIER, MICHEL (1806–79), French economist. The economic doctrines and program formulated by Chevalier when in the period following his graduation from the École Polytechnique he was editing the Saint-Simonian review, the *Globe*, remained, despite his early break with Enfantin and the other extreme doctrinaires of the Menilmontant "family," the foundation of his later work. He returns to them in his *Lettres sur l'Amérique du Nord* (2 vols., Paris 1836) and his *Histoire et description des voies de communication aux États-Unis* (2 vols., Paris 1840–41), which on the basis of his two-years travel in the United States idealize the civilization of the young country as the embodiment of Saint-Simonian ideals. His lectures (published as *Cours d'économie politique*, 3 vols., Paris 1842–44; 2nd ed. 1855–66) at the Collège de France, where he was appointed professor of political economy in 1840, are an elaboration, with a broadened, more experienced viewpoint, of the same themes. One of his last works, *Introduction aux rapports du jury international de l'Exposition Universelle de 1867* (Paris 1868), is but another reiteration in condensed form of his consistent economic credo.

Chevalier, both as a theorist and in the realm of practical statecraft, was the outstanding champion of industrialism in France. Productive power with a resultant accumulation of capital represented to him the surest guaranty of the welfare of society. Disclaiming sympathy with materialistic philosophy he extolled the machine rather as the liberator from oppressive drudgery and identified social progress with the expanding capacity of the human intelligence to dominate the material environment. Liberty he conceived of in terms of society as a whole rather than of the individual or the class; equality, as an equality of opportunity to advance in a chosen career. In place of class struggle instigated from below he favored alleviation of poverty from above and by increased production and accumulation of capital the gradual elevation of the less fortunate classes. The basis of his repudiation of the program of Louis Blanc and the advocates of the "ateliers nationaux"—which cost him, temporarily, his chair at the Collège de France —is set forth most clearly in his *La question des travailleurs* (Paris 1848) and *Lettres sur l'organisation du travail* (Paris 1848).

To the fostering of a highly industrialized society the state should devote its maximum energy, discontinuing, as a prelude to a new era of international peace, its military and naval activities. As essential factors in this process of industrialization Chevalier advocated: first, a tremendous increase in the media of communication—railroads, highways, canals, isthmuses, tunnels, public works of all kinds; second, an expansion of banking facilities and credit with removal of unjustified restrictions; and, finally, the development of an adequate educational system emphasizing especially professional and technical training. From the beginning of his career Chevalier foresaw the great civilizing role of the railroads in breaking down departmental and national barriers. In various official capacities he was instrumental in forwarding their spread throughout France. His internationalism expressed itself also in his free trade campaign, which beginning in 1852 culminated in the famous Anglo-French commercial treaty of 1860 negotiated by Chevalier and Richard Cobden. He was prominently identified with the international expositions of 1862 and 1867 and in 1869 was elected president of the International League for Peace. His belief that international exchange would be most effectively conducted under a system of monometallism is set forth in *Monnaie* (Paris 1860).

ROGER PICARD

Consult: Labracherie, P., *Michel Chevalier et ses idées économiques* (Paris 1929), including bibliography, p. 164–68; Weill, G., *L'école saint-simonienne, son histoire, son influence jusqu'à nos jours* (Paris 1896); Courtois, A., "Notice sur la vie et les travaux de Michel Chevalier" in *Journal des économistes*, vol. xlv (1889) 455–76; Bastiat, F., *Cobden et le ligue* (Paris 1845); Wallon, M., *Les saint-simoniens et les chemins de fer* (Paris 1908).

CHEYSSON, ÉMILE (1836–1910), French social economist and reformer. He was born at Nîmes and, like many other French economists and sociologists, began his education in the exact sciences at the École Polytechnique. Until 1867 he was a successful engineer in the service of the government. In that year he met Frédéric Le Play, who had charge of the organization of the Exposition Universelle in Paris, and soon became his disciple. Cheysson contributed nothing new to sociology or economics, but he exercised an enormous influence in the field of social legislation. He shared Le Play's strong religious and paternalistic attitude and like him he stressed the importance of statistical studies and detailed monographs concerning the families of working men. Although he saw very clearly the necessity for social reform his point of view was basically that of the liberal indi-

vidualistic school. He feared that governmental intervention might weaken the individual's initiative, and this explains his emphasis upon organizations for social welfare rather than upon legislation. He was instrumental in organizing more than twenty societies of municipal, regional and national scope, of which the more important are the Musée Social, the Alliance d'Hygiène Sociale and the Société d'Économie Sociale.

MOSES J. ARONSON

Works: The more important of Cheysson's writings are contained in *Oeuvres choisies*, 2 vols. (Paris 1911), with a complete biography and bibliography. See particularly "Mon testament social," vol. ii, p. 1–17.

Consult: Colson, Clément, "Notice sur la vie et les travaux de M. Émile Cheysson" in Académie des Sciences Morales et Politiques, *Séances et travaux*, vol. clxxix (1913) 153–87.

CHICHERIN, BORIS NIKOLAYEVICH (1828–1904), Russian political and social philosopher. He was professor of constitutional and administrative law at the University of Moscow until 1868, when he retired to his country estate. For nearly half a century he was the most important representative of Hegelian philosophy in Russia. In his works on Russian administrative and legal history, on the history of European political theory, on political science and philosophy, he attempted not only to give concrete body to Hegelian schemata but also to refine and develop them. Thus he substituted a fourfold scheme for the dialectic trend of Hegel: the thesis is opposed by two antitheses which are not completely resolved in the synthesis. Also, to Chicherin the highest stage of the dialectic process was not the "absolute spirit" (religion and art) of Hegel, but the "objective spirit," the ethos, the "ethical realm of the free will." That the influence of Kant was superimposed on Hegelianism is even more clearly shown in Chicherin's social ethics. "The community achieves its purpose and value only through the individual. . . . Institutions exist for the individuals and not individuals for institutions." The same ethical individualism is reflected in Chicherin's complete separation of law from morals, in his defense of unconditional individual property, in his strong opposition to any intervention by the state for the protection of the weaker members of society. Politically he was an old fashioned liberal and paved the way for the Russian Constitutional Democratic party (*Kadet*), although he did not live to see it formally organized. His intellectual influence upon the party did not prevent it, however, from shifting gradually to a position of positive neoliberalism. Chicherin was not successful in his self-appointed task of combining the ethical objectivism of Hegel with the Kantian autonomy of practical reason. He overlooked the significance of Hegel's "concrete whole" when in following the atomistic mode of thinking he attempted to substitute for it the notion of the abstract universality of the law.

GEORGES GURVITCH

Important Works: *Oblastniya uchrezhdeniya Rossii v 17 veke* (Provincial administration of Russia in the 17th century) (Moscow 1856); *Opiti po istorii russkago prava* (Essays in the history of Russian law) (Moscow 1858); *Istoriya politicheskikh ucheny* (History of political doctrines), 5 vols. (vols. i–iv Moscow 1868–77, vol. v Moscow 1902); *Kurs gosudarstvennoy nauki* (Course in political science), 3 vols. (Moscow 1894–98); *Sobstvennost i gosudarstvo* (Property and the state), 2 vols. (Moscow 1882–83); *Filosofia prava* (Philosophy of law) (Moscow 1900).

Consult: *Encyclopaedia* of Brockhaus and Efron (in Russian), vol. xxxviii (1903) 887–901; Gurvitch, G., "Die zwei grössten russischen Rechtsphilosophen: Boris Tchitcherin und Wladimir Ssolowjeff" in *Philosophie und Recht*, vol. ii (1922–23) 80–102.

CHILD, JOSIAH, BARONET (1630–99), British merchant. He was born in London, the second son of Richard Child, merchant. Having amassed a large fortune Child became a director and later governor of the East India Company, whose affairs he conducted over a long and stormy period in a despotic and not overscrupulous manner. His great wealth and capacity made him a dominating personality in the finance of the second half of the seventeenth century.

His *New Discourse of Trade*, the most important of his works, had several stages before it reached final form. The first draft was his *Brief Observations Concerning Trade and Interest of Money* (London 1668), followed the same year by *A short Addition to the "Observations Concerning Trade."* In the year 1669–70 he wrote ten additional chapters and the complete work was issued as *A Discourse about Trade* (London 1690). In 1693 the same work with little variation except an introduction of twenty pages, "The Publisher to the Reader," and the name of Child on the title page, appeared as *A New Discourse of Trade* (new ed. London 1775). Child's fifteen reasons for the prosperity of Holland contain many suggestive ideas, although his argument that a low rate of interest is the cause of national prosperity cannot be sustained. He

advocated freedom of trade (except in the East Indian trade), poor law reform, negotiable bills, better education, etc.

Child was essentially a man of action. Because he was the wealthiest Englishman of his time and the most prominent figure in finance and foreign trade, the ideas in his book are interesting as evidence of contemporary business life and opinion. Few seventeenth century writers who had practical knowledge of big business published their views about trade, and his opinions naturally attracted great attention. We read that the brokers on 'Change watched his smile or his frown on arrival to mark prices up or down. But his numerous works are hardly a connected argument upon any aspect of theory or of any germinal significance or originality.

HENRY HIGGS

Consult: Scroggs, E. S., "Bibliography of Sir Josiah Child" in British Library of Political Science, *Bulletin*, no. xiv (1921) 15–17; Helander, Sven, in *Weltwirtschaftliches Archiv*, vol. xix (1923) 327–29; Macaulay, T. B., *The History of England from the Accession of James the Second*, ed. by C. H. Firth, 6 vols. (London 1913–15) vol. v, p. 2096–2103; Scott, W. R., *The Constitution and Finance of English, Scottish and Irish Joint-Stock Companies to 1720*, 3 vols. (Cambridge, Eng. 1910–12) vol. i, p. 319–23, vol. ii, p. 140–60.

CHILD, LYDIA MARIA (1802–80), American author and reformer. She is best known for her enthusiastic and spirited efforts toward the abolition of slavery, although she interested herself also in the status of women, the treatment of the Indians, the advance of temperance, the peace movement and the history of the development of religious ideas. Her early historical novels and her writings in the *Juvenile Miscellany* (1826–34), a periodical which she edited, gained a considerable public, much of which she lost upon the publication of *An Appeal in Behalf of that Class of Americans called Africans* (Boston 1833). Mrs. Child continued, however, to use her gifted pen in educating the North concerning the evils of slavery. Her *Anti-Slavery Catechism* (Newburyport 1836) and *The Evils of Slavery and the Cure of Slavery* (Newburyport 1836) slowly overcame the hostility roused by her first work on the subject and regained for her a body of readers. Probably the most influential of her writings, although at the same time one of the most ill considered, was a letter to John Brown, which was printed along with the correspondence with Governor Wise and Mrs. Mason of Virginia evoked by it, and ran to some 300,000 copies. By her writing and by her personal influence on her husband, David Lee Child, and on Charles Sumner, Henry Wilson and Governor Andrew, she earned Whittier's tribute that no man or woman had rendered more substantial service to the cause of freedom.

ELIZABETH DONNAN

Consult: Biographical sketch by J. G. Whittier in L. M. Child's *Letters* (Boston 1883); Higginson, Thomas W., *Contemporaries* (Boston 1899) p. 108–41.

CHILD

CHILD WELFARE ..... NEVA R. DEARDORFF
CHILD HYGIENE ..... COURTENAY DINWIDDIE
CHILD AND INFANT MORTALITY ..... ROBERT M. WOODBURY
CHILD PSYCHOLOGY ..... ARNOLD GESELL
CHILD GUIDANCE ..... BERNARD GLUECK
CHILD MARRIAGE
General ..... RUTH BENEDICT
United States ..... FRED S. HALL
DEPENDENT CHILDREN ..... HENRY W. THURSTON
NEGLECTED CHILDREN ..... C. C. CARSTENS
DELINQUENT CHILDREN ..... PHILIP KLEIN
INSTITUTIONS FOR THE CARE OF CHILDREN ..... MARTHA P. FALCONER
CHILD LABOR ..... RAYMOND G. FULLER
CHILD WELFARE LEGISLATION ..... ELSIE GLÜCK

CHILD WELFARE is a term which connotes the general well-being of the child. In all ages this has depended principally on the social valuation of children and the care accorded to them. At the present time the child is considered an important social unit and is held to be entitled to all that makes for healthy living—sufficient recreation, schooling adapted to his natural learning methods, intelligent home care and the right to develop his abilities to their fullest extent. These may be assured to the more privileged child by his own parents, but children

of less fortunate or less responsible parents and children who are orphaned or have been deprived of their natural guardians may have to depend for them, at least to some degree, on the organized child helping services of the community.

In addition to the many types of family situation which necessitate outside aid there are many other reasons for the existence of child helping services. Among the more obvious are patriotic interest in the conservation of human resources, fear of crime growing out of child neglect, obedience to religious injunction, pity in the presence of helpless suffering, the need to satisfy thwarted parental feelings, desire to extend the activities of a political, religious or fraternal organization, and interest in the scientific study of physical and mental growth or in the building of a more efficient social order. John Dewey formulated what is perhaps the most socially minded type of motivation for child welfare activities when he said that "what the best and wisest parent wants for his own child, that must the community want for all its children."

Child welfare activities are of many types. In some instances financial assistance is extended to the parent to enable him to continue the care of his own children, usually with some measure of supervision. In other instances aid is rendered directly to the child by providing him with foster care in institutions or families either for short or for extended periods. The activities include also professional services such as those offered by child health clinics and infant welfare stations; care of dependent, handicapped or delinquent children; safeguarding of child workers and of the child's interests before the law; adjustment of problem children; and attempts to provide children with recreation and specialized educational facilities. Research, including both medical and social surveys, has been of inestimable value to the development of all these activities.

The amount of attention given to the various aspects of a child's well-being reflects the ideals and social pressures in any given society. With subsistence precarious, food and shelter are boons; in an intensely religious age, religious instruction is of first importance; in an age of technology, scientific education assumes large proportions; in complex environments, the insuring of physical health and a stable mental adjustment are accounted among the most essential services to children. Very recently the multiplication of studies and services dealing with fractional aspects of the child's personality has found a corrective in the Gestalt psychology, which emphasizes the need of continuously taking into account all aspects of the child's well-being and dealing with "the whole child," not some isolated phase of his development.

The quality of the care accorded to children among primitive peoples is very difficult to determine. Earlier popular writers were inclined to enlarge upon such practises as child sacrifice, infanticide and child slavery among primitive and semicivilized tribes. Evidence collected by more sympathetic students was likely to be prejudiced in the opposite direction. Infanticide, however, and similar practises need not necessarily be regarded as evidence of continuing parental attitudes of selfishness and indifference. To tribes frequently on the march or those whose food supply is scanty children are a burden, and measures for limiting the increase in population may be stringent. But among races in a higher state of civilization or under less severe economic pressure children are often greatly prized for their economic and prestige value as possessions. Almost everywhere some children are wanted because they assure to the mother security in her position as a wife, and to the father the maintenance of rites for the dead and continuance of the ancestral line.

With regard to the child's position among primitive peoples, emphasis is usually given to the complete subservience of the child to the adult—the necessity of his fitting into a rigid social scheme and deferring unquestioningly to the rule of the elders, at the risk of severe punishment or death. On the other hand, it is pointed out that not a well defined plan of discipline but momentary irritation may be the ordinary cause of his chastisement, and that sometimes for the immature child there are no tabus. He is of such slight consequence that his acts do not matter. Indeed, one of the characteristics of treatment of the young, according to Miller (*The Child in Primitive Society*, New York 1928), is the failure to regard them as completely human. The child runs about unnoticed "like a little dog," often has no name until the age of initiation or perhaps has a generic title not differentiating him from material objects.

Initiation means the individualization of the child, frequently his naming and the determining of his animal totem. The severity of the rites is a preparation for the later hardships of the

hunt and of war, while the passing on of the tribal traditions, with their references sometimes to a still more ancient and now unintelligible tribal past, marks him as an adult trusted to conform to the folkways of his group. The boy's education is commonly instruction in fishing, hunting, swimming and the enduring of cold and pain; also in performing his part in the economic activities of the tribe. The girl learns to plant and weave and is often burdened with the care of younger children, when these are not merely left to fend for themselves. Child labor, as Chamberlain points out (*The Child and Childhood in Folk Thought*, New York 1896), reaches far back into primitive society, for these child nurses and young workers were often kept severely to their tasks. Frequently, however, there is ample opportunity for play, and this may take elaborate forms. It is usually in imitation of grown up activities but sometimes, under supervision by the elders, it takes the form of competitive games designed to strengthen endurance.

When normal care for the child within his own family is not possible, the expedients followed by early societies vary from promptly killing the child to providing him with better care and education than would otherwise have been his lot. Imitations of family relationships are set up in many ways, such as adoption, godparenthood, foster parenthood and legal guardianship. Adoption, which has an important place among the customs of primitive peoples, is provided for as a well defined contractual relation under the Babylonian Code of Hammurabi. Wardship under the Roman law was very seriously regarded.

Throughout the long period preceding the development of modern science two of the strongest forces among the medley of those which shaped the behavior of communities and families toward children were those of mutual aid and charity. From very early times, through the Middle Ages and even down to the present, individual families in trouble have been relieved through the practise of mutual aid, which among simple peoples is the rule. The practise of charity, one of the roots of modern child welfare, also reaches far back into history, particularly in the form of concern for orphans. Greece in the age of Plato provided funds for soldiers' orphans and free medical service for poor children. The famous *pueri alimentarii* in Rome at the period of the empire was a special semi-governmental service for the charitable maintenance of the children of indigent citizens. The early Christian church set up parochial services which provided for assistance and care of children, and throughout the Middle Ages the church organization continued to be the principal agency through which charity, including aid to children, was dispensed. Japanese history records that charitable interest in the care and protection of children was present a thousand years ago.

From the emergence of civilization in Babylonia, Egypt, Greece and Italy to the beginning of the modern period in England there were in general three great classes of society: agricultural populations working either as slaves, serfs or tenants, with the children usually sharing the meager life of their families; guildsmen, both artisans and merchants, with their children or those adopted by, or indentured to, them following in their footsteps; and the ruling and professional classes, who often enjoyed a life of some cultivation but were so lacking in scientific knowledge that the lives and health of their children were often precarious. In general each of these groups gave its children such care and education as seemed necessary to enable them to maintain themselves in the social group into which they were born. The prevalence of the caste system among the Hindus and to a less extent among the early Egyptians strongly conditioned the status of children among these peoples, and even in Athens and Rome formal education beyond the learning of a trade was largely confined to children of the ruling classes.

There is little in classical or earlier literature that deals with the everyday life of the child. Such education as existed, particularly where, as in Athens, women occupied a socially inferior position, was available mainly to boys. The Athenian schools gave training in music, gymnastics and mathematics with the purpose of furthering a harmonious development of body and mind, and Greek youths were encouraged to perfect themselves physically through sports and games. The scheme of education elaborated by Plato allowed for differences in training according to the child's future place in the state, but this was a purely theoretic program. Both Sparta and Rome regarded the child as material for citizenship, to be trained primarily for future service to the state. Roman law gave the father or head of the household practically unlimited authority, *patria potestas*, over all children of the family group. He could abandon them to exposure, imprison or kill them or sell them for

slaves beyond the Roman borders. This power, though virtually unchecked by law, was in practise curtailed by religious considerations, family affection, public opinion and the power of the Roman censor. Roman education in the latter years of the empire became highly formalized, and the rise of scholasticism in the Middle Ages still further removed education from concern with everyday life. The attitude of scholasticism in holding the child to be a miniature adult, an attitude found equally among some of the most primitive savage tribes, was inimical not only to the progress of education but to any attempt to understand the real nature of the child and to evolve methods adapted to promote his welfare.

The intellectual awakening that came with the Renaissance resulted by the time of Francis Bacon in clear intimations of the value of scientific knowledge in the search for human welfare. Among the earliest applications of scientific theory to child study were the writings of Comenius on education. His idea that the processes of education could be pleasurable and not a torture to children was in itself an epochal change in thought. Hermann Francke at Halle stands out not only as an advanced educationalist but also as the founder of educational-charitable institutions. In America, Benjamin Franklin likewise aimed at doing something more than feeding and sheltering children when in 1751 he opened the Academy and Charitable School in the Province of Pennsylvania, now the University of Pennsylvania.

With the spread of scientific and humanist ideas, the latter half of the eighteenth century saw profound social changes which inaugurated the era of democracy. With it came the acceptance of a belief in the rights of man and in the equal right of all children to education, health and happiness. Rousseau, with deep and contagious emotionalism, expressed his profound sympathy with the mass of people and with children in books which strongly influenced the development of child welfare. His *Émile* has been called the "Children's Charter." It marks the first complete modern expression of the ideas that human life and happiness are largely made or marred in childhood, and that there are scientific ways and means to be applied in the management of children. Rousseau held that the unhampered development of his nature, his powers, his inclinations was due every child. The educational methods advocated by Rousseau are still under debate, but his appreciation of the dignity and worth of each child's life has been a dynamic influence in child welfare work. Among those who did most to realize Rousseau's theories were Pestalozzi, Herbart and Froebel. In England, Robert Owen effected some notable advances in educational method in his New Lanark experiments, begun in 1800.

Against the background of this new humanitarianism, with its acceptance of equalitarian ideas and its advances in educational theory, stand out boldly the exploitation and neglect of children and the many confusions and abuses which resulted from the rapid growth of industry and urban centers in the nineteenth century. No social standards applicable to the factory system existed to safeguard working children. They were brought into the factory at a very early age, required to work almost unlimited hours and sometimes made to "live in," sleeping as well as working at the factory. Even the paternalism that made the apprentice under the guild system almost a part of the family unit was lacking. Dependent children lived frequently in almshouses under conditions usually depressing and often degrading and were sometimes apprenticed in gangs to the factory owner, with no further thought to their protection. The method called "baby farming," by which large numbers of children were boarded with a careless custodian, resulted in a tragically high death rate, as did also institutional care of babies.

The program of modern philanthropy, which had its roots in the ancient practise of charity, developed not only out of the challenge of these conditions but also from a recognition of the contribution which modern medical progress and methods of scientific research could make to human welfare. For its financial support the new philanthropy could turn to the rapidly accumulating wealth in Europe and America, which could both pay taxes for public services and endow private funds; and the reservoir of spontaneous human generosity which earlier showed itself in mutual aid could be drawn upon for the democratic financing of welfare activities. Humanitarian agitation evoked by the intolerable conditions found in the factories, slums and sweatshops of Europe and the United States led to early monumental surveys of social conditions and to legislation designed to regulate these evils.

The improvement of the treatment of children in conflict with the law has been an important aspect of the development of child welfare during the last century. The law early took cog-

nizance of the child in the matter of guardianship, property rights and discipline but was slow to protect him adequately against cruelty, neglect or exploitation by industry and to differentiate between the child offender and the adult criminal. While children under seven were recognized as not endowed with adult powers of discrimination and hence not liable for their acts and children between seven and fourteen were presumed to be without criminal intent, those over this age were subject to the same criminal jurisdiction as adults. Early efforts to help these children took the form of confining them after conviction apart from adult criminals. Probation was also used to some extent in place of commitment to an institution. Later came the establishment of the special courts to hear children's cases which are now found in the majority of states in the United States. There is still some doubt in many places as to the exact status of the child offender before the law, but in general his treatment is now based on the desire not to punish him but to aid him in overcoming his handicaps of personality and social environment.

The desire to protect children from cruelty and neglect led to the organization of societies for this purpose, empowered by the legislatures to cooperate with the police. Illegitimacy laws have been revised to give a greater measure of protection to children born out of wedlock; and the contractual powers of the child have been limited, with restrictions on child marriages.

Child labor agitation has gradually set up legal restrictions on the employment of minors, until at present the legislative battleground for compulsory school attendance has moved up to the ages of fourteen to sixteen. England is accordingly undertaking to raise the school leaving age for the whole nation to fifteen as a measure of unemployment relief. In the United States continuation school requirements, by creating in employers a reluctance to hire children, even those having working papers, have indirectly tended to make grammar school graduates more inclined to continue their regular education. Trade school courses are being more closely related to methods actually used in industry through the cooperation of labor leaders, employers and educators. Juvenile placement work within schools or through public exchanges is coming to be recognized as necessary to keep children out of blind alley jobs and prevent the high rate of turnover usual among young workers.

Many types of child health activities have made progress in recent years. Among the most conspicuous are the various aspects of infant welfare that have received attention in the effort to lower the infant death rate. The death rate from tuberculosis, which formerly had a high incidence in childhood and youth, has also been greatly lowered through the antituberculosis campaign, by means of preventoria, fresh air schools, nutrition camps and general educational activities. During the last few years the diphtheria death rate among children has been sharply reduced through private and public efforts, by means of health demonstrations, traveling clinics and the like. Nutrition work and the provision of school lunches have also made progress. Behavior clinics for preschool children, visiting teacher work with problem children in the schools, child guidance and mental hygiene demonstration work, with psychiatric clinics for children of all ages, indicate a new awareness of the need to provide for the child's adjustment difficulties as well as for his physical welfare. They are in the nature of preventive measures to reduce mental disease and to limit juvenile delinquency, which is so frequently the forerunner of crime. Not only the subnormal and the handicapped but gifted children too are now being studied and special classes organized for them with curricula sufficiently full and varied to meet their needs.

For the normal child organized and well adapted recreation is thought to be the best preventive of maladjustment. Home recreation, with all the family participating, is being definitely promoted by the Playground and Recreation Association of America, as are settlement classes, supervised public playgrounds and backyard gardens. Such organizations as the Boy and Girl Scouts, Camp Fire Girls, Pioneer Youth and other youth organizations stressing athletic activity are all positive forces tending to prevent juvenile delinquency and to promote physical health and a well rounded adjustment of the personality. Improved methods in education have also done much to give the child his full chance. Nursery schools for very young children have developed, supplementing the earlier kindergarten, and experimental schools of many types have been established for children of all ages. Progressive education is making headway toward "the child-centered school," while innovations in educational methods are reaching even to the universities.

The movement for dealing with child dependency on the basis of the family unit has had a wide acceptance. Its most striking developments are the family allowance method of wage payment, in use in European countries, and the spread of mother's pension legislation, now in effect in nearly all states of the United States. The promotion of home recreation and the movement for parental education are other aspects of the endeavors to maintain the home. Where the child's own family has been broken up an attempt is made to place him in a boarding home rather than in an institution, and this practise has been extended wherever feasible even to problem children, cardiacs, cripples and small infants.

Child welfare work originally concerned itself primarily with two large age groups, infants and young children, with attention also to children who were employed. Recently the tendency has been toward a finer discrimination of age groups with special services for each. Among the services for infant children are prenatal clinics, maternity welfare work and well baby clinics. The child of preschool age has of late years claimed special attention from educators, psychiatrists and physicians. Nursing schools, habit clinics, mental testing and detailed studies of various aspects of behavior for very young children have been developed. Educators after decades of theorizing about the nature of the child have now set themselves to study his actual behavior, as a basis for new educational experiments. The gang age, when various important social patterns are first developed and discipline becomes a problem, had until lately been neglected as one of the more undistinguished periods of childhood. Recently a number of studies have centered attention on these years, and recreational programs suitable for the gang age are being developed. The critical years of adolescence had also been accorded only a tiny fraction of the study given to childhood in general, but now their many subtle problems are becoming a focus for research by sociologists, psychologists and religious workers.

There are many organizations both governmental and private concerned directly with children, whose activities touch child welfare at many points, as well as other agencies dealing with special fields, such as probation or mental hygiene. The organized social welfare activities of the various churches, such as neighborhood houses, homes for wayward girls, religious youth groups and the student in industry movement, have affected children and young people in many ways.

The federal Children's Bureau carries out an extensive program of research and education. It cooperated with the states in their administration of the Sheppard-Towner Act and has made many studies of infant mortality, nutrition, time required by mothers for baby care, children's protective laws, child labor and international progress in child health and protection. It also publishes charts, record forms, diet programs and other well baby material. It has effectively aided the temporary commissions which a majority of the states have set up in recent years to study their laws relating to children.

A growing number of states have bureaus or departments of child welfare differing from the federal bureau in that their functions are not so much research as enforcement and supervision. Institutions for delinquent or handicapped children, the administration of child labor and illegitimacy laws, and the care of dependent children may be under their charge or supervision. In a few states there are county boards of child welfare in charge of local administration, with supervision and maintenance of standards remaining the function of the state boards.

National voluntary organizations concerned with child welfare have shown rapid growth in recent years. The Consumers' League, the National Child Labor Committee and the local societies for the Prevention of Cruelty to Children have worked for protective legislation. The Child Welfare League of America, which is a federation of child caring agencies, the Child Study Association, the National Child Welfare Association, the American Child Health Association, the child guidance demonstration committee of the Commonwealth Fund and many other organizations, local and national, are furthering the application of scientific knowledge to the individual child. The National Congress of Parents and Teachers, with a membership of thousands of local parent-teacher associations throughout the country, is using in some of its local groups the best modern methods of adult education. The Progressive Educational Association makes available the findings of the newer experimental schools in applied child psychology.

The Children's Foundation of Valparaiso, Indiana, has set a high standard in publication. The Iowa Child Welfare Research Station at the University of Iowa has since 1917 carried on an extensive program of research and publica-

tion. The Institute of Child Welfare at the University of Minnesota is conducting an elaborate and practical program of home education in social hygiene for parents and children, with detailed recording methods. The Child Development Institute at Teachers' College, Columbia University, is initiating research on the behavior of children of preschool age. The Children's Foundation of Michigan, organized in 1929, the Brush Foundation in Cleveland, the Institute of Child Welfare at the University of California and St. George's School for Child Study at the University of Toronto are among other organizations of the kind. The White House Conference on Child Health and Protection of 1930, following earlier similar conferences, was designed to evaluate progress and to set up new standards of social activity for the benefit of the child.

Under the League of Nations a Child Welfare Committee conducts research and compiles national laws relating to children. It has studied such topics as the repatriation of foreign children, infant mortality, the family allowance system, child marriage and child labor laws. Recently it extended its program to consider delinquency, illegitimacy and the influence of motion pictures. At various times since 1883 international congresses have been held dealing with the welfare and protection of children. In 1928 a congress was held in Paris under the auspices of the League of Red Cross Societies, the International Infant Welfare Union, the International Child Welfare Association and the Union Internationale de Secours aux Enfants. This last organization was started in 1920 as the "Save the Children Fund," and by the end of 1927 had distributed £4,000,000 for the care of destitute mothers, infants and children in many countries. As an outgrowth of a pan-American congress held in 1924 the American International Institute for the Protection of Children was founded at Montevideo to organize national child welfare activities in the western hemisphere. The sixth Pan-American Child Welfare Congress met in 1930.

The World War, with its great depletion of human resources, turned the attention of most European countries to the urgency of reducing the infant death rate. The increased number of working mothers caused many countries to adopt, if they had not already done so, a system of financial assistance to women at the time of confinement, in addition to a fixed amount of time off from work. Mothers were also encouraged by nursing premiums or the provision of free lunches to nurse their babies; and the need for better midwifery received much attention, particularly in England. Convalescent homes and nursery schools have also had a widespread development. In France, Italy, Japan, Poland and some other countries, as a result of the extensive employment of working mothers, the law requires employers to set aside a room for nursing mothers where they may care for their infants at certain times of the day.

The German constitution of 1919 is a charter of children's rights, under which extensive welfare activities have been carried on. The state and local Jugendämter, or juvenile boards, have very broad powers, supervising mothers' consultation centers, boarding out and guardianship of illegitimate children. There is in Germany a total of 2,300,000 children dependent on public or private charity. In Norway child welfare councils in each municipality replace the courts in jurisdiction over children below the age of sixteen; and the child welfare boards in Sweden and local councils of guardians in Denmark carry on similar activities. Norway and Sweden also have advanced laws on the subject of illegitimacy and aid to unmarried mothers. Austria has left the financing of infant welfare work largely to private funds or local government resources. Much educational work has been carried on there through traveling health centers. Czechoslovakia, which has had a rising tuberculosis death rate, is now well supplied with convalescent homes. Inspection of children by school doctors is the rule, a health measure which is becoming widespread in Europe and Australia. Social insurance in Russia covers all workers, but mothers who are brain workers are allowed less time off before and after confinement than those doing heavy physical work. The Soviet Republic is working to extend children's health services and sanitaria in Russia, and free school lunches have been instituted. Many model homes for children have been established. A national mental hygiene service is now open to persons of all ages, although its extension is hampered by a shortage of training schools for psychiatric workers. Young Social Aid Brothers and Sisters guard against the exploitation of child workers in small industries. Italy is taking active measures to reduce maternal mortality and carrying on extensive research to that end. Instruction in the care of babies is given in normal schools.

The Australian states and New Zealand have an excellent system of children's courts for dealing with juvenile delinquents. Baby clinics and health services have been widely developed, and medical examination of school children, while not required in all states, is fairly general. The boarding out of dependent children has been well developed. In New Zealand since 1926 the children's courts have had very broad powers, including aid to unmarried mothers which extends, when necessary, to helping them find employment. There is a federal child welfare service under the Education Department which makes investigations in connection with mothers' pensions and supervises placement of dependent children, as well as taking charge of work for the handicapped. Japan has had school physicians in all primary schools of cities of 5000 or more since 1896. Stringency of funds, however, has prevented much progress in reducing maternal mortality; and child labor is still a serious problem.

Problems of child welfare are closely related to almost all the major concerns of mankind. The improvement of social organization, the adjustment of class and race relationships, the efficiency of government and all its agencies, the stabilization of international relations, the need for greater scientific knowledge, are only a few of the social problems which have important implications for the welfare of children. To make the utmost use of all that science and a world at peace can offer is implied in any thorough program of child welfare.

NEVA R. DEARDORFF

CHILD HYGIENE. The term child hygiene is used to describe the consciously planned promotion of the health of children from the prenatal period through adolescence as well as of the mother's health during the prenatal period and the child's early infancy. The development of child hygiene has been a matter of slow evolution. It began with attempts to put an end to infanticide and the grossest cruelty. Efforts to save the child's soul followed, with very slight and often misguided attention to his body. Now the objectives of child health programs include not only the prevention and cure of disease but vigorous and healthful development for all children.

Infant mortality, even down to the nineteenth century, was startlingly high. A writer in a French medical journal of 1780 stated that at that time half of the children born in France died before the end of their second year, and all available information indicates that this statement is an accurate picture of conditions then prevailing in most European countries. Wholesale wastage of child life was until comparatively recent times ordinarily accepted as an inescapable edict of Providence.

There is little evidence of any knowledge of child hygiene in early civilizations. The methods of the Spartans, who from approximately the eighth century B.C. exposed babies judged to be unfit and gave rigid physical training to children allowed to survive, were despite their crude severity and inadequacy the most effective known at that time and for centuries thereafter. In the second century A.D. Soranus of Ephesus, who might be called the first obstetrician and pediatrician, laid down in a medical book for mothers a number of sound principles of child hygiene. He emphasized the importance of breast feeding, gave directions as to frequency of nursing and warned against feeding at irregular intervals. Oribasius (325–403 A.D.) supplemented Soranus' teaching with instructions for the care of older children, commenting upon the need for regularity in meals, exercise, bathing, sleeping and other details of personal hygiene. Such teachings, however, received scant attention; in 1782 William Black of London in a historical sketch of medicine lamented the "carnage among the young of the human species" and the infrequency of any special attention to infantile diseases. "Up to this century," he said, "the management of these tender creatures in sickness was left to ignorant old nurses and rude quackery."

An Englishman, John Bunnell Davis (1780–1824), stands out most distinctly as the founder of modern child hygiene. In a small book, *A Cursory Inquiry into some of the Principal Causes of Mortality among Children, with a View to Assist in Ameliorating the State of the Rising Generation in Health, Morals and Happiness* (London 1817), he showed a real understanding of the causes of infant mortality and of the measures necessary to reduce it. He established the first public dispensary and organized a corps of home visitors, thus laying the foundation for modern systems of public health nursing for children.

Another important step was taken in France in the middle of the nineteenth century. In 1854 M. Morel, as mayor of Villiers le Duc, had unobtrusively initiated a baby saving program which resulted in the reduction of the village

infant mortality from 300 to 200 per 1000 live births. This campaign lapsed but forty years later his son, who became mayor, revived it with an astonishingly thorough plan. This program included the reporting of all pregnancies, efforts to see that every mother nursed her baby for at least a year and provision of a wet nurse if she could not do so, weighing every baby once a fortnight and reporting the illness of every young child within twenty-four hours; it also provided the services of a physician at least once a week and a community herd to supply clean milk to nursing mothers and children. From 1893 to 1903 the infant mortality of Villiers le Duc is reported to have stood at zero.

In 1889 a very simple consultation center for mothers and children was established in New York by Dr. Henry Koplik. In 1890 a similar center was founded at Barcelona, Spain, by Dr. Francisco Vidal Solares, a Cuban physician; and in the same year Dr. A. Herrgott established at Nancy the Oeuvre de la Maternité, which had wide influence in other countries. School medical inspection, although of a very elementary sort, had its origin in Paris as early as 1834. The sharply declining birth rate of France gave impetus to all these movements for the conservation of child life.

Toward the end of the nineteenth century, under such leaders as M. Morel and Dr. Pierre Budin of France, Benjamin Broadbent of England and Dr. L. Emmett Holt and his associates in the United States, there developed a more scientific attitude to replace the crude evolution of hygiene technique through the trial and error method. This new attitude, which was especially evident in the handling of child health problems, had a highly stimulating effect on pediatric practise and on the enlistment of public support for child health measures.

During the first decade of the twentieth century much progress was made in infant welfare, particularly in England, Germany and the United States; New Zealand was in the vanguard in the popularization of public health programs for infants and children. During the war health work for children, as a conservation measure, developed rapidly, especially in the field of consultation centers for mothers and infants as well as for older children. England took a far reaching step at that time (1918) through the extension of grants in aid to private and public agencies for maternal, infant and child welfare work. Somewhat similar legislation was adopted by the United States in 1921 through the passage of the Sheppard-Towner Act.

It was during this decade that attention was first concentrated upon scientific feeding and care of infants. To previous knowledge of the importance of breast feeding and of the necessity for scrupulous protection of milk and its scientific modification were added newer dietetic findings. These included such things as the value of vegetables in the early diets of children and the effects of a well regulated dietary for the mother during pregnancy. For growing children of all ages laboratory experiments in recent years have shown clearly the value of the so-called protective foods, such as milk, butter fats, citrus fruits, tomatoes and green vegetables, as well as whole cereals and other elements necessary for a well balanced diet.

Another subject of considerable research has been the effect of sunlight and of artificial irradiation on growing children, and their value in allowing the body to make the best use of certain growth foods, especially those essential to bone growth, not only through the direct action of sunlight upon the body but also through the vitamin value which has been stored up in foods. The use of ultraviolet light for therapeutic treatment of diseases, other than rickets and some forms of tuberculosis, is still in the experimental stage, and it has been found that neither sunlight nor artificial irradiation lessens the need for milk and certain foods which supply food calcium or for other essential food elements.

The control of communicable diseases constitutes still another field of research. The recent proof that diphtheria may be controlled as completely as smallpox through immunization has afforded an invaluable protection for children of preschool age, a period when diphtheria mortality has been highest. Immunization against typhoid fever is accepted as an essential protection where sanitation is inadequate, and immunization against scarlet fever gives hope of success. Thus emphasis in the control of communicable diseases has shifted from quarantine, which of course is always necessary, to active immunization wherever possible in dealing with the more serious diseases of childhood.

In the protection of motherhood convincing evidence was secured relating to the effects of education and health supervision of the mother during pregnancy, and of aseptic, skilful obstetrics, with a minimum of instrumental inter-

ference, in preventing deaths of both mother and infant. It soon became evident that there was a need for improvement in educational program methods and personnel in order to make effective for large numbers of children the knowledge and technique which had been acquired by research technicians and pediatricians. The activities of specialists in various fields were often unrelated or without coordination. In most countries medical supervision of school children had been extended rapidly without much attention to thoroughness of examination, follow up procedure or the educational use of findings. Until recently teaching of health subjects in the schools was often academic and sterile, without any vital relationship to the child's own social status and habits. Because of insufficient study and health supervision the preschool age was termed the "neglected age" of childhood.

Modern workers have recognized these obvious weaknesses, and the chief characteristics of a modern and progressive child health program are inclusiveness, thorough integration of various special health services, emphasis on prevention and a carefully planned educational program. The usual protective work of the health department in controlling communicable diseases, in sanitation and in safeguarding water and food supplies is supplemented by positive efforts to see that health examinations, immunization and advisory health services are available for children of all ages. The old abstract teaching of physiology and hygiene in the schools is being modernized by programs, devices and exhibits to stimulate children in building up wholesome daily habits. Health teaching is coordinated closely with such subjects as physical education, home economics, biology, civics, history and art.

As special services are introduced into a health program they must be closely correlated around common objectives, so that all activities may be parts of a well integrated whole. The need for an accurate judgment of comparative values and a nice balancing of program elements is illustrated by the problem of undernutrition. At the beginning of the twentieth century an alarmist view held that the prevalence of undernutrition was primarily if not exclusively an evidence of insufficient food, due to widespread poverty. It is now known that although poverty constitutes a menace to child health in many ways, malnutrition may be prevalent in the homes of the wealthy as well as among the poor, as a result of faulty selection of foods, insufficient rest, the aftermath of localized or general infections or other causes. Thus the question of preventing undernutrition is seen to be as comprehensive as the whole range of child health effort. The modern school health program also illustrates the desirability of unified services and cooperation of personnel. For instance, the results of school medical examinations should aid the family physician or the clinic in the correction of defects, help public health nurses and parents to safeguard the child's health and to improve home conditions, and lay a foundation for the classroom teacher's guidance of the child into satisfactory health habits.

The newer discoveries in mental hygiene have given added emphasis to the knowledge that the effect of unwholesome surroundings, physical abnormalities and personal maladjustments are subtle but powerful and may crop up in unexpected ways. A well rounded health program, therefore, takes into account all of these personal and environmental factors, physical or mental. Physicians, especially pediatricians, and other public health workers now increasingly realize the need for cooperation.

Since the progress of medical knowledge has pointed the way to preventive health measures, authorities on child health now agree that emphasis is shifting from the mere protection from disease and correction of defects to the actual building up to the highest possible level of the child's health, vigor and general enjoyment of his physical and mental powers. This requires a working knowledge of the whole realm of healthful living on the part of both parents and children, as well as preventive supervision by physician, teacher and nurse. It presupposes that what is taught the individual must be practically related to his previous knowledge, experience and conditions of life. Hence a demand has arisen that the information intended to guide parents and children be simplified in order that by means of public health education it may be made common property. To popularize such information among parents and children and to carry on educational publicity in the field of health many lay organizations have been founded. The increased understanding of community health needs as a result of their work prepares the way for the government to assume further responsibility in health matters.

The machinery for putting child health programs into effect has varied widely in different countries, as have the objectives of these programs and the emphasis given to their constitu-

ent parts. Nevertheless there have been certain trends in the establishment of administrative machinery which are common to the child health movement throughout the world. These are exemplified in health legislation and the organization and work of bureaus of child hygiene and both public and private educational agencies.

Legislation affecting child health may be national, provincial, state or local. In addition to general public health legislation, which affects the health not only of mothers and children but of the whole population, there have been numerous laws passed dealing specifically with problems of maternal or child hygiene. These laws may be classed as regulatory, as creating governmental agencies or as providing for subsidies.

Regulatory legislation covers a wide range of subjects, including particularly the reporting of infant births and deaths, the training and qualifications of midwives and maternity nurses, compulsory prophylactic treatment of the eyes at birth to prevent *ophthalmia neonatorum*, reporting of any inflammatory condition of the eyes of the newborn as well as provisions regarding the sanitation of school buildings and the licensing, inspecting and regulating of maternity and children's homes and agencies for placing out children in private homes. It may also include the requirement of health examinations before the issuing of employment certificates to working children.

Legislation for creating governmental agencies usually provides for bureaus of child hygiene, either separately or as divisions of health departments, for purposes of general education in maternal and child health problems and for the supervision of agencies and workers in the field. As corollaries to such laws are the appropriations, usually annual, for the support of the bureaus. The administration of the regulatory laws is often left to separate bureaus. There are also allied laws establishing schools or institutions for the blind, the epileptic, cripples and other groups of children physically handicapped.

Governmental subsidies have been one of the newer methods of stimulating local activities in the field of maternal and child health. Such subsidies may be made with or without the proviso that they must be matched by local appropriations. In Germany, France, England, Italy, Russia, Hungary, Austria and Spain subsidies have been provided by law for mothers both before and after confinement.

Legislation prohibiting grossly injurious conditions of labor for women and children and measures providing mothers' pensions to maintain the child in the home should also be noted here as potential forces for safeguarding children from accident and disease.

Child hygiene bureaus have been established by law in some countries, with power to promote child health programs under either governmental or private auspices within their jurisdiction. In general, both national and provincial bureaus are concerned primarily with initiating, supervising and encouraging local work, while local bureaus are charged with the actual administration of community child health projects.

For several decades there have been, in most large countries, private organizations, either national or local, for the purpose of promoting the health education of the public, doing pioneer experimentation in fields not yet covered by official agencies and bringing effective support to the better type of governmental bureaus in securing appropriations and extending their work. National and district conferences on maternity and child health have been organized more frequently by private than by governmental agencies.

The most common forms of administrative and educational machinery for child health are regular health conferences for mothers, infants and older children, routine examinations of school children, public health nursing in the home, children's hospitals and, especially in European countries, convalescent homes, fresh air camps, preventoria, traveling health conferences and clinics, dental clinics and psychiatric or child guidance clinics for the elimination of personality maladjustments, the provision for a director of all health teaching in schools, exhibits for the information of the public or of professional groups, and institutes or special courses for giving up to date training in child health to pediatricians, teachers, nurses and parents.

To supplement these administrative and educational facilities a wide variety of devices for stimulating public interest has been used in various countries. These have ranged from Morel's attempt to stimulate better infant care in Villiers le Duc by promising to pay a small sum to each baby on its first birthday to the plan widely used in the United States of awarding stars, medals or honorary titles to school children for the observation of sound health habits or the correction of correctible defects or both.

The infant mortality rate of a country or

region is commonly used to judge the results of its child health work, not because it is a sufficiently comprehensive index but because it is the most sensitive readily available. The infant mortality rates of England and Wales (the earliest valid rates obtainable), while almost static from 1851 to 1899, dropped sharply from 163 infant deaths per 1000 live births in 1899 to 70 in 1926. The coincidence of this decline with the inauguration of child hygiene and general health measures is striking. Similar correlations between increased child hygiene activities and downward trends in the death rates of both infants and older children have been widely observed.

The general decline in child mortality which has taken place in most European countries and the United States since 1890 has been aided by improvements in economic conditions and public sanitary measures, particularly those relating to the control of milk and water supplies, as well as in general health supervision. Studies of child mortality in communities with effective child hygiene programs have shown lower death rates for children who were supervised than the average for unsupervised children of the same age. The reductions have been primarily in deaths from diarrhea, enteritis and the acute infections of childhood and to a smaller degree in deaths from the less acute respiratory diseases.

In the meantime there has been no general lowering of maternal deaths nor of neonatal infant deaths from such causes as congenital malformations or debility, premature birth or injuries at birth. A decrease in mortality from these causes has, however, been sometimes effected through the intensive effort of individual hospitals and health services, careful supervision of mothers during pregnancy, skilful aseptic deliveries and postpartum care of high quality.

The question has been raised whether the saving in infant life that has been brought about has not had a tendency to preserve the unfit; but the weight of evidence is decidedly to the contrary. It appears rather that in addition to reduced mortality another result of protective measures has been to save normal children from those diseases whose effects are likely to prove injurious in later years. But since child hygiene is no longer simply a matter of preventing disease and premature death, research workers are now faced with the task of devising satisfactory criteria for judging positive gains in the health of individual children.

COURTENAY DINWIDDIE

CHILD AND INFANT MORTALITY. The rate of child and infant mortality is an especially sensitive index of social and economic conditions. Infant mortality rates, especially, vary with such factors as economic status, family income, housing, mothers' employment and positive programs for the conservation of child life. Although the rate of child and infant mortality has in recent years steadily declined, it is still high in comparison with the mortality of adult years. Although child mortality and infant mortality may involve factors different for the two periods, the social cost of high infant and child mortality rates differs only quantitatively and similar means are effective in the reduction of both.

The general mortality rate is measured by relating deaths to the average population exposed to the risk of dying. For the age group under five, accordingly, the mortality rate is found by dividing the deaths under five by the estimated population under five in the same area for the same period. Since population figures are available only for census years, it is customary to use in the denominator estimates of population calculated to the midpoint of the year to which the deaths relate. There are several sources of error in computing such rates. Since the numerator of the rate fraction is based on deaths which are registered as having occurred during the period (usually the calendar year), errors due to omissions of registration may affect the rate. Nevertheless, in countries where the custom of registration is general, where burial in cemeteries is the rule and where a permit issued only after registration is required for burial, such omissions are not numerous enough to affect the figures materially. There are, however, specific sources of error for child and infant mortality rates. Estimates of population for ages under five based upon census enumerations may depart appreciably from the true figures, since the number of live births and the number of children who die vary considerably from year to year. In calculations of infant death rates this source of error is so important that such rates are commonly calculated by dividing the deaths under one year by the number of live births, instead of by the estimated infant population. This comparison with births, however, requires accurate birth statistics if the basis is to be correct. In general, birth registration is less complete than the registration of deaths.

Statistics of births for the United States birth

TABLE I

MORTALITY RATES BY SEX AND AGE DURING THE FIRST FIVE YEARS OF LIFE IN SELECTED COUNTRIES

COUNTRY AND PERIOD		MALES					FEMALES				
		0–1 YEAR	1–2 YEARS	2–3 YEARS	3–4 YEARS	4–5 YEARS	0–1 YEAR	1–2 YEARS	2–3 YEARS	3–4 YEARS	4–5 YEARS
Australia	1901–10	95.10	17.80	6.75	4.39	3.49	79.53	16.65	6.29	4.11	3.24
Denmark	1906–10	120.67	16.62	6.79	4.48	3.17	97.71	15.99	6.29	4.41	3.19
England	1901–10	144.34	40.39	15.95	10.02	7.40	117.43	37.64	15.26	10.05	7.48
France	1898–1903	163.26	33.88	18.91	11.91	8.59	136.49	31.66	17.54	11.57	8.67
Germany	1901–10	202.34	39.88	14.92	9.47	6.91	170.48	38.47	14.63	9.25	6.84
Holland	1900–09	140.46	35.55	16.65	9.16	6.54	117.69	34.22	15.71	8.20	5.95
India	1901–10	289.98	91.20	65.70	48.30	36.00	284.60	86.20	61.60	45.10	33.70
Italy	1901–10	167.71	70.40	30.80	17.43	11.72	152.11	71.36	31.85	17.89	12.43
Japan	1898–1903	156.86	36.86	25.91	17.00	11.19	140.92	35.98	26.02	17.32	11.68
Norway	1901–10	81.45	18.36	8.62	6.35	5.16	66.79	16.76	9.03	6.18	4.91
Sweden	1901–10	92.55	22.77	10.90	7.87	6.10	75.98	21.21	10.72	7.35	6.14
Switzerland	1901–10	138.40	21.98	9.78	6.52	5.17	112.58	21.61	9.45	6.25	4.82
United States (white)	1901–10	127.38	30.19	13.75	8.80	6.47	105.51	27.43	12.61	8.28	6.10

Source: United States, Bureau of the Census, *United States Life Tables, 1890, 1901, 1910 and 1901–1910*, prepared by J. W. Glover (Washington 1921) p. 204–07.

registration area have been published only since 1915, when the area included ten states and the District of Columbia and covered about 31 percent of the population. Estimates of omissions in birth registration for 1919, when it was possible to utilize the census as a basis for comparison, indicate an average percentage of omission of about 8.0 for the birth registration area. In other countries the percentage of omissions is in most cases low because registration of births has been in effect for much longer periods, as for example in England since 1837 (voluntary) and 1872 (compulsory), and greater stress is laid upon complete registration. In comparing infant mortality rates between countries and at different periods, allowance must be made for the effect of differences in the completeness of registration.

The rate of mortality in childhood shows a steep downward curve. It commences at a high figure at birth, falls very rapidly through the first month and the first year of life and continues to fall in succeeding years, though less and less rapidly, until the lowest death rate is reached at about twelve or thirteen years, after which the rate rises steadily with increasing age. Not until advanced old age does the mortality equal that of the first year of life. In the United States in 1925 the mortality rate under five years was 19.7 per 1000 for the death registration states of 1920. Under one year the mortality was 75.3, while for the years from one through four the rate averaged only 6.3. For the five-year period five through nine the rate drops about one half, while the years ten through fourteen are the healthiest of the whole life span, with a mortality of about 2 per 1000. Because the excessive mortality of early childhood decreases rapidly in succeeding years, it is the earlier years, particularly those under five, to which students of vital statistics have given most attention.

Table I presents mortality rates by sex and age for thirteen of the principal countries during the period 1901–10 or for the nearest corresponding period. It indicates certain striking differences, for example, between India with infant mortality rates 289.98 and 284.60 for male and female infants respectively and rates of 36 and 33.7 for the four-year olds, and Norway with infant mortality rates of 81.45 and 66.79 and rates for four-year olds of 5.16 and 4.91 respectively.

Dr. Louis I. Dublin, one of the few authorities on vital statistics who have made an intensive study of child mortality, has pointed out some interesting facts with regard to its causes. Diseases peculiar to early infancy, such as congenital debility and premature birth, are not a factor after the first year. During the second year nutritional diseases are the chief cause of death, with respiratory diseases coming next; epidemic diseases are more serious than in the first year, and fatal accidents, including burns, increase in number. In the third year the epidemic diseases, diphtheria, whooping

cough, measles and scarlet fever, replace nutritional diseases as the prime cause and are responsible for a quarter of the deaths; respiratory diseases follow in importance; and there are more accidents.

During the fourth year epidemic diseases account for about a third of the total mortality, respiratory and digestive diseases decrease and vehicular accidents take a larger toll. In the fifth year there is a slight increase in typhoid, and practically the first onset of appendicitis appears. Organic heart disease and nephritis, possibly from the sequelae of epidemic diseases, become factors.

TABLE II

CAUSES OF DEATH OF CHILDREN 1 TO 4 YEARS OF AGE, INCLUSIVE, FOR 1925, IN UNITED STATES DEATH REGISTRATION STATES OF 1920

CAUSE OF DEATH	DEATHS PER 1000
All causes	6.3
Epidemic, endemic and infectious diseases	2.0*
Diseases of the respiratory system	1.3
Diseases of the digestive system	1.4
External causes	0.7
Ill defined	0.1
All other	0.7

* Includes rates for measles—0.2, scarlet fever—0.1, whooping cough—0.3, diphtheria—0.4, tuberculosis—0.3, and all other epidemic, endemic and infectious diseases—0.7.

Source: Compiled from United States, Bureau of the Census, *Mortality Statistics: 1925* (Washington 1927) pt. i.

During the five to nine-year period, heart disease and typhoid fever increase; bronchopneumonia is more prevalent than lobar; and whereas tuberculosis among younger children is largely of the meningitis type, during this period the pulmonary type leads. There are more falls and drownings, and automobile accidents in ever mounting number take the heaviest toll at this age. Hitherto diphtheria has been an outstanding cause of death in the five to nine-year period, but preventive work is rapidly reducing its frequency.

In the later years of childhood the causes of mortality increase, thus approximating the situation in adult life. In the healthiest years, ten through fourteen, tuberculosis chiefly of the pulmonary type is the greatest danger; the typhoid and appendicitis rates rise; and pneumonia is then at a minimum. Acute infections are less serious than organic heart disease, articular rheumatism and diabetes. In addition to drowning and automobile accidents, there are more fatalities due to the use of firearms and the like.

The separate recording of mortality of children from one to five years has been responsible in part for a recognition of the seriousness for this period of epidemic and communicable diseases, not only in their primary degree as causes of death but in the causal relation between them and a series of pathological conditions appearing in later life as a result of organic and hangover infections.

Recent medical progress gives promise of virtual control of the epidemic children's diseases, with a great reduction in the death rate from these diseases and their sequelae. In the case of diphtheria and scarlet fever it is possible to determine by simple tests whether or not a person is susceptible to the disease, and to produce effective immunity. Treatment by antitoxin, if promptly applied, greatly reduces the danger of death in both diseases. Increasing success in combating tuberculosis has vitally affected the mortality rate in the five to nine-year period, in which it has been the chief cause of death. Progress in wiping out the diseases which are especially hazardous to children depends in part on increased medical knowledge, general health education, particularly that of parents, and public health measures, which in reducing the general death rate have a beneficial effect in lowering child mortality, not only directly but through lessened danger of infection. One minor but serious cause of child mortality, namely death from accident, has steadily increased to continually greater hazards despite extensive efforts for safety education. School health examinations, when accompanied by efficient follow up work, help to safeguard children of school age and to minimize the spread of infections to other children. Recently health campaigns have canvassed the needs of the preschool child for the purpose of adequate protection. A comparison of the average rate of mortality in the United States death registration area as shown in Table II with the rates for the period 1901–10 shown in Table I exhibits as marked an improvement in mortality for these years as for the first year.

Infant mortality has been much more widely studied than child mortality in general because of its exceedingly high rate in all countries relative to the mortality rate of adult life and later childhood, because of its association with questions of maternity welfare and because statistically it presents certain unique problems, being subject to sources of error which make necessary the use of a different basis of reckon-

ing. More complete data are available with regard to the causative factors of infant mortality than for child mortality in general.

The preponderating causes of mortality during the first year, as indicated by Table III, are conditions present at birth itself or those resulting from injuries at birth; next in order of importance are the gastric and intestinal disorders related to difficulties in feeding, the respiratory diseases and the communicable diseases. A comparison of the data for 1915 and for 1926 shows some significant shifts in cause.

TABLE III

INFANT MORTALITY BY CAUSES OF DEATH, 1915 AND 1926, IN UNITED STATES BIRTH REGISTRATION AREA OF 1915 *

CAUSE OF DEATH	1915		1926	
All causes	99.6		74.7	
Gastric and intestinal diseases	24.6		9.6	
Respiratory diseases	16.6		13.6	
Malformations	6.4		6.9	
Early infancy	34.4		28.9	
Premature births		18.5		18.0
Congenital debility		11.7		5.5
Injuries at birth		4.1		5.4
Other communicable diseases	7.6		7.7	
Measles		0.7		1.4
Scarlet fever		0.1		0.1
Whooping cough		1.9		2.1
Diphtheria		0.6		0.2
Influenza		0.6		2.0
Dysentery		0.2		0.1
Erysipelas		0.6		0.5
Tetanus		0.1		—
Tuberculosis (all forms)		1.6		0.7
Syphilis		1.3		0.6
External causes	1.0		0.9	
Diseases ill defined and unknown	0.7		0.6	
All other diseases	8.3		6.4	

* Exclusive of Rhode Island.

Source: Compiled from United States, Bureau of the Census, *Birth, Stillbirth, and Infant Mortality Statistics* for 1915 and 1926 (Washington 1917 and 1929).

In addition to the general reduction in rate from 99.6 to 74.7 there is a three fifths diminution in the deaths from gastric and intestinal causes, involving a shift from second to third place as a causative factor. Another important reduction is in deaths from congenital debility, under the grouping of diseases of early infancy. Congenital debility undoubtedly includes many deaths really due to feeding troubles. The combination of reduction in this group with that in the gastro-intestinal group indicates that feeding troubles are not only one of the chief causes of infant mortality but one of the most preventable, since their origin is in lack of cleanliness and in negligence or in ignorance of the proper methods of infant feeding. This conclusion is borne out by the fact, not indicated in the table, that such deaths are far more prevalent in the summer months, while deaths from respiratory diseases occur most frequently, as might be expected, during the winter months. Congenital debility, properly so classified, has as a rule been one of the causes least responsive to efforts for infant welfare. Syphilis and alcoholism in the mother or her own constitutional defects, and injuries to the foetus before birth are among its chief causes. Prenatal care for the mother offers the best possibility of lessening the incidence of the so-called "wasting diseases." The rates from injuries at birth increased between the comparative dates by nearly one third. This is especially interesting when considered in connection with the high maternal mortality rate in the United States.

A study has been made by the United States Children's Bureau of the factors affecting infant mortality in eight cities in selected years between 1911 and 1915. The findings of this study offer some of the most detailed evidence available as to the causes of infant mortality. In considering the rates emphasis is to be placed upon the relative rates of mortality among the different groups rather than upon the absolute figures.

The study shows a correlation between the health of the mothers and the circumstances and types of births and the rate of mortality of the children. Among infants whose mothers died during the first year after confinement the rate was 450, or four times that (109.2) among infants whose mothers survived, probably a result partly of weaker constitutions and partly of the necessity for artificial feeding or foster care. Infants whose mothers were or had been tubercular had a mortality of 271, or two and one half times the rate (102) among other infants, again possibly due to a generally weaker inheritance, to the contraction of tuberculosis by contact with the mother or to the necessity for artificial feeding because of the weakened condition or death of the mother. Male infants had a rate about one fourth higher than that of female infants, an excess which appears not only in causes peculiar to early infancy, where the greater size of the male infant may be a factor, but also in practically every cause of death, indicating a generally lower vi-

tality for male infants. The mortality of twins and triplets was 363, or three and one half times that of single born infants. Prematurely born infants were subject to a very heavy death rate, more than six times as high as among those born at term. An unusually large proportion of twins and triplets were premature. Infants whose mothers were delivered by means of instruments had a mortality of 120.3, considerably higher than 102.1, the rate for other infants.

The mortality among artificially fed infants, averaged month by month during the first year, was from three to four times as high as among those who were breast fed. The excess of deaths was especially noticeable during the first six or seven months, gradually falling toward the end of the year. Although in many cases the artificially fed infants were handicapped by inheritance of weak constitutions, as in the case of the prematurely born, the twins and triplets and those whose mothers died, yet the excess mortality among the artificially fed was found to be equally great among infants not affected by these factors, among the single full term infants whose mothers survived the year. The analysis indicated that artificial feeding was directly correlated with higher mortality and that, during the first six months of life, the earlier the artificial feeding began the higher was the mortality among the artificially fed infants.

The factor of the mother's age in infant mortality rates, as ascertained by this study, is shown by the following figures:

Age of Mother	Rate
Under 18	160.3
18–19	128.9
20–24	109.5
25–29	101.4
30–34	104.7
35–39	126.5
40–44	131.3
Over 45	250.0 *

* Based on less than 100 cases.

It appeared that the infants of mothers between 25 and 30 have the best chances of survival and that, contrary to popular opinion, the infants born to mothers from 35 to 40 years of age have a better chance than those of mothers of 18 and 19 years.

Order of birth also was found to affect the child's chance of life. First births had a slightly higher mortality rate than second (104.7 as compared with 95.7); after the second birth the rate of mortality increased slowly for the third and fourth, and then more rapidly to 146.8 for the ninth, and 181.5 for the tenth and later births.

The spacing of births was revealed as a decidedly important factor. The mortality among children who followed preceding children after an interval of one year was 146.7 as compared with 98.6, 86.5 and 84.9 among children for whom the interval was two, three and four or more years. Artificial feeding, with the concomitant danger to survival, was markedly more prevalent among children born within one year of the preceding birth. The interval before the succeeding pregnancy also affected the infant's chances for survival, and over two and a half times as many infants whose mothers became pregnant again within the year died, as compared with the average for infants during the same months of life.

A marked correlation was found between the infant mortality rate and the economic status of the family, as shown by the father's earnings (Table IV) and by the income from the father's earnings per capita for the members of the family. The lower the father's earnings and the lower the per capita income the higher were the infant mortality rates. The correlation was particularly marked between low earnings of the father and death from gastro-intestinal causes and epidemic and communicable diseases. Although a smaller proportion of the infants of the low earnings groups was artificially fed the mortality rates of those who were artificially fed were unusually high, suggesting that this type of feeding in the low income families was fraught with increased hazards of infection or serious digestive disturbances.

The influence of the mother's employment upon infant mortality is marked. Employment away from home appeared, in the Children's Bureau studies, to be associated with heavy infant mortality rates. Infants whose mothers were employed away from home during pregnancy had a mortality rate of 176.1 as compared with 114.6 for those whose mothers were employed at home, and with 98.0 for those whose mothers were not employed. Employment away from home during the child's first year of life was associated with a mortality two and one half times as high as that among infants whose mothers were not employed. This group overlaps in large part with groups in which the fathers had low earnings. Both low family in-

TABLE IV

INFANT MORTALITY RATES, BY CAUSE OF DEATH AND EARNINGS OF FATHER*

EARNINGS OF FATHER	INFANT MORTALITY RATES						NEONATAL MORTALITY RATES†
	ALL CAUSES	GASTRIC AND INTESTINAL DISEASES	RESPIRATORY DISEASES	EARLY INFANCY DISEASES	EPID. AND COMMUN. DISEASES	ALL OTHER CAUSES	
Total	110.0	32.3	19.2	35.9	6.8	15.7	44.4
Under $450	166.9	60.6	33.4	43.8	12.3	16.9	55.8
$450 to $549	125.6	44.9	23.3	35.4	6.4	15.6	46.0
$550 to $649	116.6	36.5	18.9	37.5	9.3	14.4	43.3
$650 to $849	107.5	27.1	19.6	37.4	5.5	17.8	46.5
$850 to $1,049	82.8	19.7	13.5	30.2	4.2	15.2	38.0
$1,050 to $1,249	64.0	8.6	7.9	25.9	3.6	18.0	33.1
$1,250 and over	59.1	8.0	6.2	32.4	2.2	10.2	38.2
No earnings	210.9	86.3	47.9	41.5	16.0	19.2	60.7
Not reported	139.7	41.1	16.4	49.3	16.4	16.4	41.1

* Based on the study of infant mortality in seven American cities.
† Deaths under 1 month per 1000 live births.
Source: United States, Children's Bureau, *Causal Factors in Infant Mortality*, Publication no. 142 (Washington 1925) p. 148.

come and employment of the mother away from home, which often necessitates artificial feeding, were contributing causes to the high infant mortality rate.

Race and nationality also are important factors in the survival of the infant. Table v shows the infant mortality rate in relation to the color and country of birth of the mother. These

TABLE V

INFANT MORTALITY RATES, BY COLOR AND BY COUNTRY OF BIRTH OF MOTHER, IN UNITED STATES BIRTH REGISTRATION AREA, 1925

COLOR AND COUNTRY OF BIRTH OF MOTHER	INFANT MORTALITY RATE
Total	71.7
White	68.3
Native born	64.9
Foreign born	76.8
Austria, Hungary	82.8
Canada	80.8
Denmark, Sweden, Norway	55.6
England, Scotland, Wales	61.2
Ireland	73.9
Germany	62.9
Italy	69.9
Poland	93.6
Russia	55.4
Other foreign countries	94.6
Negro	112.0
Other colored	95.6

Source: United States, Bureau of the Census, *Birth, Stillbirth, and Infant Mortality Statistics: 1925*, vol. xi, pt. ii (Washington 1929) p. 60.

figures would have been more instructive if each of the groups were further analyzed as to earnings of father and employment of mother.

It will be seen that infants of white mothers have a mortality only two thirds as high as have those of colored mothers. While infants of native mothers stand a better chance than those of foreign born, infants with Russian, Scandinavian, English or German mothers have a lower mortality, in the order named, than infants of native mothers. An analysis by race and nationality in the groups studied by the Children's Bureau indicated that differences in mortality rates by nationality were not due merely to differences in economic status or in types of feeding; in many cases the effects of differences in economic status and in prevalence of artificial feeding tended to offset each other. The Jewish group had a mortality rate strikingly lower than all other groups, including the native born; and this held good even in the presence of many other complicating factors usually contributing to a high death rate.

The mortality rates are slightly higher in urban areas than in rural districts, the rates for the birth registration area in 1926 being 74.2 for cities and 72.4 for rural districts.

Illegitimacy is another circumstance making for a very high infant mortality rate in all countries. Statistics for England and Wales (1920) show the effects of the handicaps associated with illegitimacy. In that year infant mortality rates for the illegitimates were 171.2 (male) and 140.4 (female), as compared with rates for legitimate children of 86.0 and 65.8 for males and females respectively. Here we have again as possible contributory factors the high percentage among illegitimate infants of artificial feeding and institutional or foster care; a low income or no income from the father; the likelihood of the mother's employment away

TABLE VI

INFANT MORTALITY RATES FOR SELECTED COUNTRIES

COUNTRY	1884–93	1915	1920	1921	1922	1923	1924	1925	1926	1927
Australia	—	68	69	66	53	61	57	53	54	54
Austria	249	218	157	154	156	141	127	119	123*	124*
Belgium	163	—	110	122	114	100	95	100	104	—
Bulgaria	—	—	146	158	155	165	150	152	127	—
Canada†	—	—	100	88	87	88	79	79	102	94
Chile	—	254	263	278	240	283	266	258	251	226
Czechoslovakia	—	—	178	173	—	147*	148*	146*	154*	157*
Denmark	134	95	91	77	85	83	84	80	84	83
Egypt	—	—	137	133	140	143	150	155	146	152
England and Wales	146	110	80	83	77	69	75	75	70	70
Finland	149	110	97	95	99	92	107	85	86	97
France**	167	142	99	115	85	96	85	89	—	—
Germany	—	168	131	134	130	132	109	105	102	97
Guatemala	—	130	81	76	92	79	81	99	104	89
Hungary	—	—	193	193	198	184	193	168	167	185
Irish Free State	—	85	78	73	69	66	72	68	74	71
Italy	190	147	127	129	126	128	126	119	127	120
Japan	—	160	166	168	166	163	156	142	137	142
Latvia	—	—	128	93	91	88	101	107	88	96
Lithuania	—	—	—	—	—	—	170	179	146	151
The Netherlands	175	—	83	85	77	66	61	58	61	59
New Zealand	—	50	51	48	42	44	40	40	40	39
Northern Ireland	—	107	94	87	77	76	85	86	85	78
Norway	95	68	58	54	55	50	50	50	48	51
Salvador	—	—	147	141	124	118	150	139	155	118
Scotland	122	126	92	90	101	79	98	91	83	89
Spain	192	152	165	147	145	148	140	—	—	—
Sweden	107	76	63	64	62	56	60	56	—	—
Switzerland	—	90	84	74	70	61	62	58	57	57
United States‡	—	100	86	76	76	77	71	72	73	65
Uruguay	—	111	117	107	94	104	108	115	93	106

* Provisional figures.
† Exclusive of Quebec for 1921–25.
** Omitting from calculation deaths of infants occurring before registration (within 3 days of birth).
‡ The United States birth registration area expanded from 10 states in 1915 to 44 states in 1928.

Source: The figures for 1884–93 are compiled from Mayr, Georg von, *Statistik und Gesellschaftslehre*, 3 vols. (Freiburg und Tübingen 1895–1917) vol. ii, p. 275. The other figures are taken from the statistical yearbooks of Australia, Austria, Belgium, Bulgaria, Chile, Denmark, Finland, Hungary, Italy, Japan, New Zealand, Norway, Spain, Sweden and Switzerland; annual reports of the Registrar General of England and Wales; *Bulletin de la statistique générale de la France*, vols. ix, x and xiii; *Statistik des deutschen Reichs*, nos. 276 and 307; *Bijdragen tot de statistiek van Nederland*; *Statistics of the Dominion of New Zealand*, 1920; annual reports of the Registrar General of Scotland; *El movimiento del estado civil y la mortalidad de la República Oriental del Uruguay*; *Annuaire international de statistique*; annual reports of the Registrar General of Northern Ireland and of the Irish Free State; Norges Offisielle Statistik, *Sundhetstilstanden og medicinalforholdene*; and Institut International de Statistique, Office Permanent, *Aperçu de la démographie des divers pays du monde.*

from home; and the comparatively low age of mothers.

The listing of various factors resulting in high or low death rates does not in itself give an explanation of the basic causes to which infant mortality is due. Many factors are present in each case; hence for any group as a whole the various influences overlap and are intricately related and interdependent. Thus while infant mortality varies with age of mothers, a higher infant mortality being associated with mothers at either extreme of the age group, complicating data of many kinds must be considered: racial factors, number of first births, intervals between births, numbers of premature and of plural births, health of mothers, extent of artificial feeding, economic status. Elaborate and careful calculations, therefore, are required in order to discover what element in the situation is decisive in any given group.

Concomitant with world wide advances in public health measures, infant mortality rates have been very greatly reduced during the past forty or fifty years. Comparison of the figures given in Table VI for the period between 1884 and 1893 with those for 1915 shows a remarkable decrease in all countries represented. The decrease has continued in the post-war period with only minor fluctuations.

ROBERT M. WOODBURY

CHILD PSYCHOLOGY. If this term were broadly construed to comprehend all knowledge and doctrine pertaining to the mental life of children the history of child psychology would parallel that of human culture. Even before man could formally write out his reflections on child nature he entertained notions and attitudes which constituted a primitive form of child psychology—a mixture of fact, inference, ignorance, philosophy, mores and sentiment. Modern child psychology has taken shape only within recent decades, and even today it has by no means escaped all of the imperfections of primitive psychologizing. With the employment of scientific method, however, errors are being steadily reduced and the manifold problems of child development are approached in a new spirit of rationalism.

The present widespread investigation of the child mind is itself a significant social symptom. It represents an increasing disposition to attribute even the phenomena of human behavior to natural rather than to miraculous causes. This rationalistic temper is dissolving the rigidities of dogmatic theology and of dogmatic ethics which so powerfully influenced the psychological attitude toward children from the time of St. Augustine to that of Jonathan Edwards—and of Charles Dickens. Pre-scientific interpretations of the mind of the child imputed to him a will separate from his general psychology, an almost demoniacal self-will born with his original sin and in no sense the natural product of individual development.

The newer interpretations of the child emphasize the unity of personality and are based upon biological concepts of growth and of organism. The child is regarded as part of the order of nature as well as of society, obedient in his behavior to laws ascertainable by methods of orderly observation, measurement and experimentation. Child psychology, even in its present undeveloped stage, has already opened up large areas of predictability and control in the domain of human behavior.

In its early modern development child psychology was closely identified with the history of elementary education, which had itself been profoundly affected by the industrial revolution. Comenius (1592–1670) in his *School of Infancy* (1633) and *Orbis pictus* (1658) and Locke (1632–1704) in his *Some Thoughts Concerning Education* (1693) foreshadowed the psychological approach upon problems of pedagogy which were elaborately treated by Rousseau, Pestalozzi, Froebel and Herbart. Although these educational reformers were in no sense technical psychologists their writings did much to humanize the care and discipline of children and to psychologize the educational process. They greatly advanced the genetic or developmental point of view, a remarkable achievement for a pre-Darwinian and almost a pre-biological age. Froebel drew upon horticulture and crystallography for some of his insights; Pestalozzi kept a diary of his newborn son; Herbart developed a semi-mechanistic associational psychology. The present day interest in the psychology of the preschool child was anticipated in three suggestively diverse directions—by Dietrich Tiedemann, a philosopher, in *Untersuchungen über den Menschen* (1777–78); by Robert Owen, a social reformer; by Madame Necker de Saussure, feminist, in *L'éducation progressive* (1828–32); and by Susannah Wesley (1669–1742), also something of a feminist, whose letters to her famous son John present an amazing picture of parental doctrine in the eighteenth century. Owen wrote glowingly on the perfectibility of the human infant and founded the first nursery school in the British Isles (New Lanark, 1800) as well as the first in the United States (New Harmony, 1826). The child study movements of the eighties and the nineties in the United States illustrated that mirroring of social settings and social strivings which has frequently characterized child psychology. There is a similar reflection in the nursery school movement both in England and in the United States. The relationship can also be observed in contemporary Russia, where it is asserted that the complex science of "pedology," first brought forth in America by G. Stanley Hall, finds a larger realization under favorable social conditions. The reciprocal relations between child psychology and ideologies constitute a persisting critical problem for the social sciences.

No one person can be counted the founder of child psychology; its scientific sources are international. Wilhelm Preyer, a physiologist, wrote in 1882 *Die Seele des Kindes* (5th ed. Leipsic 1900; tr. by H. W. Brown, 2 vols., New York 1888–89), a book intrinsically and historically of basic importance. G. Stanley Hall has claim to special mention because the child study movement of the late nineteenth century was predominantly an American movement of which he was the leader. He attempted, moreover, in his voluminous writings to set forth the ontogenesis and phylogenesis of the mind with the wide

purview of Darwin. In his volumes on *Adolescence* (2 vols., New York 1904) and in numerous other penetrating and suggestive studies he made substantial and germinal contributions to the study of mental development. Among leaders and early contributors in other countries may be listed Bernard Pérez and J. G. Compayré in France, Paola Lombroso in Italy, James Sully in England and Ivan Sikorsky in Russia.

In its early period child psychology was largely descriptive and utilized simple, informal methods of observation. With the growth of technique in related fields of study, controlled and quantitative methods have come increasingly into use. The scientific literature has expanded with striking rapidity. Three trends are distinguishable in the development of recent investigations: the experimental, the psychometric and the psychobiological.

Experimental psychology, the first laboratory for which was founded by Wundt in 1879, has been chiefly concerned with the adult mind and has been bound up with introspection. But with the new realization that the understanding of this adult mind depends upon a genetic analysis of its early development the methods of the experimental laboratory have been carried to the lowest age levels. The techniques of physiology and of animal psychology are being adapted to the study of learning and conditioning in infancy. Both behaviorism, which is closely allied to physiology, and Gestalt psychology have an experimental interest in child behavior.

The nursery school movement in America has promoted child research as well as preschool and parental education. Such schools are functioning as university laboratories for the conduct of controlled observation. This observation is becoming more and more experimental in centers like those in Iowa, Minnesota and California in the United States, and in Geneva and Moscow abroad. Controlled studies of early social behavior have begun to figure prominently. The research clinic at Yale has made experimental use of the cinema for the normative study of developmental changes in the behavior patterns of the infant.

Psychometry, or the measurement of individual differences, is associated with the names of Galton, Cattell, Thorndike and Binet. The Binet measuring scale of intelligence has had a prodigious development in America and has with a host of related mental and educational tests created volumes of data for the study of the individual child and the group. Despite its errors and shortcomings the mental test movement has created a new technology of great social import. Psychometry has been most successful in the gradation and classification of differences of intellectual capacity, but it has not dealt effectively with the important factors of emotion, motivation and personality. Intelligence norms have had their widest application in the study of children of school age, but they are being rapidly applied to preschool children. Procedures for the developmental diagnosis of infants are being defined.

Individual or clinical child psychology may be regarded as a special development in the field of mental measurement. It represents an effort to use the techniques of psychology to appraise the abilities and developmental potentialities of both normal and deviating individuals and is becoming a supplement to clinical psychiatry in the fields of child guidance and of mental hygiene.

Psychobiology is a compound which reflects the current trend toward a monistic or organismic outlook upon scientific problems. In the sweep of this trend child psychology tends to lose a sharply defined identity and to merge with the investigations of the fundamental sciences. The traditional concept of a self-subsisting mind accommodates itself to concepts which integrate "psycho" and "soma"—concepts like function, stimulus and response, behavior, emergence, Gestalt, gradient, growth. Hence it is that the scope and content of child psychology are being profoundly affected by a wide ramification into the subsoil of psychobiology. The term "child development" has become a rival if not a substitute for "child psychology." It is a protean but useful term and surely symptomatic of the current trend of science.

The problems of child development involve such varied scientific fields as biochemistry, developmental anatomy, nutrition, anthropometry, anthropology, psychiatry, pediatrics and genetic, experimental, comparative and clinical psychology. Child development is fundamentally a branch of human biology—a focal field for psychobiological and medical knowledge converging upon the central problem of early human growth. This is of course a widely inclusive field of inquiry, but it is a legitimate one because the phenomena of growth are subject to general and unifying laws which can be formulated only by coordinated contributions from several scientific domains. Growth is itself a unifying concept which removes undue distinctions between mind and body, between

heredity and environment, between health and disease and also between separate scientific disciplines.

This psychobiological concept of growth has important consequences for social welfare. It extends the scope of child psychology beyond traditional and academic limits and greatly augments the possibilities of safeguarding individual development from birth. In its special applied phases child psychology has become a distinctive feature of modern social organization, for it is being deliberately used as a scientific tool in the rational solution of age old problems of infant training, childhood education, the prevention and control of delinquency, the foster placement of dependents, the guidance of parents, the regulation of child adoption, the diagnosis of the defective and deviate, the management of the problem child, the care of the handicapped and maladjusted and the discovery and direction of superior abilities. Great and increasing numbers of children are now psychologically examined each year in public schools, in child guidance clinics, in institutions for the care of children and in child research centers. Although the available "psychotechnology" is imperfect and incomplete it is being used on an impressive and significant scale.

With the progress of psychobiological science this technology will steadily improve and the early span of human growth will come more fully under social control. Such control has been well established both in principle and in fact by the protection of the physical welfare of the newborn infant. But this is only the beginning of a policy of health supervision which must come to embrace mental as well as bodily welfare and to pay conservational heed to the preschool years of mental life. From the standpoint of developmental psychology the infant has a mind and a personality subject to the laws of growth. The scientific understanding of these psychobiological laws will lead increasingly to a constructive and preventive supervision of human infancy.

The protection of the infant's health widens to include his mental hygiene. The pressure of the great problems of mental defect and instability, of crime and malbehavior, demands a psychological science of childhood which in close association with the medical sciences can undertake a more conscious and systematic form of developmental supervision. The promotion of optimum growth, mental as well as physical, thus becomes a concept of public health and of social control justified by advancing scientific knowledge.

The more unconscious and subtle effects of child psychology are perhaps more basic for social organization than the obviously humanitarian. The human infant by reason of his unique position in this organization is a focus surcharged with social issues and social implications. Although he is a biological fragment of nature he is also meshed in a web of human relationships. The interaction between his organic make up and these social influences is the crucial problem of child psychology or of child development. For this reason the system of child psychology which any culture achieves is an index of that culture. And conversely the scientific study of the process of mental growth in infant and child becomes a touchstone for the deeper comprehension of the process of social organization itself. Accordingly child psychology belongs at once to the natural and to the social sciences.

ARNOLD GESELL

CHILD GUIDANCE. This term has acquired a specific connotation as applying to the branch of the mental hygiene movement which is concerned with the personality and conduct disorders of childhood and which takes account of the complex interactions between the child and his environment and seeks to help him gain a workable orientation to his world. Child guidance offers a method for the scientific study and treatment of children who through their attitudes and behavior in the home, the school or the community exhibit difficulty in achieving a satisfactory adjustment to the demands of everyday life.

There are many manifestations of personal maladjustment in children. In younger children especially these are for the most part certain unhealthy habits, such as thumb sucking, nail biting, enuresis, masturbation, eccentric bodily movements, food whims and so forth. Maladjustments may appear in undesirable personality traits—oversensitiveness, obstinacy, tendency moods, seclusiveness, constant quarreling, laziness, lack of interest or ambition, exaggerated timidity, restlessness or general nervousness. Other manifestations may take the form of antisocial tendencies such as lying, stealing, truancy, destructiveness, temper tantrums, suspiciousness, rebellion against authority, unhealthy sex interests or practises and the like. Occasionally it is found that problem children suffer from defi-

nite mental disorders. While the child guidance clinic sometimes deals with such cases, as well as with those of feebleminded and defective children, its work is properly only with children capable of a more or less normal adjustment.

Although the behavior problems of childhood and youth have long challenged the resourcefulness of child protective agencies, early efforts to deal with these problems lacked scientific direction. The child guidance movement, based on scientific principles of child study and adjustment, reaches back in its origins to the founding of the National Committee for Mental Hygiene in 1909; and its growth is contemporaneous with the development of interest in mental hygiene which followed.

Since the founding of the National Committee more and more attention has been devoted to the mentally ill. Not only has psychiatric treatment for maladjusted adults gained widespread support but there has been a shift of emphasis in both research and practise to the earliest years of life. This change may be traced to the growing acceptance of the validity of the genetic and dynamic concepts in psychology, which received its strongest impetus from the contributions of Sigmund Freud. Careful study of the developmental processes in the maladjusted adult furnished increasing proof that the roots of his difficulties lay in early infancy and childhood. A realization of the decisive character of these early years when attitudes are acquired which will affect the individual in later life opened the way for the application of the findings of psychiatry to the needs of the maladjusted child.

The first practical demonstration of a coordinated effort for child guidance was made by Dr. William Healy and his associates, who established in 1909 a juvenile psychopathic institute in connection with the juvenile court of Chicago. Dr. Healy's work in Chicago and later in Boston furnished much of the stimulus and justification for the present day child guidance movement. As early as 1896 a psychological clinic for children had been founded in Philadelphia, and although for a time it had few imitators, in 1912 the movement for organizing psychological clinics got under way and progressed so rapidly that by 1914 there were more than a hundred in the United States, functioning in connection with medical schools, hospitals for nervous diseases, state institutions, schools and courts. Many clinics which at first emphasized only mental testing gradually took over and applied to the study of the child the findings of psychiatry as these were developed. But the first well organized effort to promote child guidance clinics dates from 1921, when the Commonwealth Fund, as part of its program for the prevention of delinquency, inaugurated a five-year plan for the establishment of demonstration clinics in a number of cities throughout the country, the training of personnel and the provision of visiting teacher service in certain public schools. In 1927 there were, according to the *Directory of Psychiatric Clinics for Children in the United States* published by the Commonwealth Fund, nearly 500 clinics distributed through a majority of the states. In these clinics, which provided regular service for the study and treatment of juvenile behavior problems, over 40,000 children were treated during the year.

As every problem in child guidance is a problem of the "setting" or "situation" of the individual child it can be dealt with adequately only by taking into account all the relevant elements. It is of little remedial value to label a child thief, truant or coward if he steals, runs away from school or is easily intimidated, for behind these simple categories lurks a complexity of phenomena which can be understood only after a thorough study of the individual child and of the social and psychological setting of which he is part. Hence in actual practise child guidance is a question of team work, requiring the service of physician, psychiatrist, psychologist and social case worker.

Problem children are brought to the clinic by parents, teachers, probation officers, church workers and various social agencies. In each case the data obtainable from a thorough investigation are first secured, after which the child is given a careful medical examination, a detailed developmental, psychological and educational survey and an intensive psychiatric test. In its work with problem children the clinic utilizes all available scientific techniques and aims to furnish continuous, constructive treatment until the needed adjustment is achieved. In this process of adjustment, which often involves the remaking of the environment, the social worker is of key importance. One of the services most frequently required is that of obtaining vocational guidance for the older child.

In Europe there is little of the continuing treatment and clinical supervision of non-institutionalized problem children which has become established in the United States. In Great Britain the 1923 Home Office report recommended the establishment of observation homes

for psychological treatment in connection with the juvenile courts. The Tavistock Square Clinic in London now renders psychiatric services when called upon by the court. In Berlin nerve specialists connected with the juvenile courts make thorough examinations at the request of the judges, and the Jugendamt gives probationary supervision. In Austria there are psychiatric clinics attached to the juvenile courts. These courts have jurisdiction not only over delinquents but over dependent and neglected children as well. The Austrian school system keeps a record of the child's health and development, his habits, emotional reactions and, later, vocational preferences. Although these records are kept throughout the entire school course they are based only on the statements of school physicians and teachers and are used merely to supply data for vocational guidance. The central Office of Vocational Guidance in Vienna has a psychotechnician as liaison officer with Professor Bühler's Institute of Psychology, to which maladjusted children can be referred. Finally, the public *Hilfschulen*, or special schools, make provision for problem children. Russia has begun to establish a nation wide mental hygiene service with clinical facilities available to both children and adults.

In South America, also, there are beginnings of a child guidance movement. Colombia has recently instituted the requirement that all delinquent children be given a medical and psychological examination by a doctor who acts as adviser to the juvenile court judge. In Brazil and in Argentina recent legislation provides for the assistance of doctor-psychologists in connection with the juvenile courts.

The therapeutic and educative influence of the child guidance movement usually extends beyond the individual child to the parent, the school and even the agents of law enforcement. Child guidance is contributing much to the content and method of the educational process and is making itself felt in a better understanding of personality and conduct values in family life. The movement aims also to extend its influence to the playground, the workshop and the community itself, with a view to eliminating the obstacles to healthy development. In its broader educational aspects the child guidance clinic has come to be a community enterprise, concerned not only with the maladjusted child and the individuals immediately surrounding him but with the wider application of principles of mental hygiene by various social groups. In some cases interest in child guidance has been directly responsible for new legislation and for the adoption of new standards of social practise. As a part of the larger mental hygiene movement child guidance has deeply affected the general field of social work, and the curricula of the various schools of social work are giving more and more attention to personality problems, both normal and pathological. A similar influence is becoming evident in the rapidly growing parent-teacher movement and in the popular interest in child study.

It is impossible to estimate how much individual and social maladjustment and suffering are being prevented by clinical work in child guidance. The aim of the child guidance movement is to make available to all children the mental hygiene principles and technique which have come to light as a result of the clinical work with maladjusted children. If every child upon entering school could have the benefit of such a thoroughgoing personality study as is at present available for those children who have already become maladjusted, much of the later work of reconstruction and rehabilitation could be avoided. With the broadening of its field to include a greater emphasis on educational and preventive work the child guidance movement is beginning to be not merely a service for maladjusted children but, as its name in the larger sense implies, a means of guiding all children to a stable life adjustment on the basis of the fullest utilization of their powers.

BERNARD GLUECK

CHILD MARRIAGE. *General.* Child marriage, in its narrower sense, means prepubertal marriage, although it is used also with reference to early marriages in complex societies where economic rather than sexual difficulties are involved. In any discussion of child marriage it is necessary to distinguish three aspects: betrothal, sex relations and the establishment of a home as an independent economic and social unit. In our own civilization these three aspects of marriage form an intimately associated complex, and we have come unconsciously to regard them as essential features of child marriage. Consideration of the subject has therefore been confused. Thus regions where the custom of child betrothal is prevalent are often regarded as areas of child marriage, although the betrothal is often an economic interfamilial contract having nothing to do with prepubertal sex relations or the establishment of an independent home. Again,

the aspect of prepubertal sex relations may be emphasized and child marriage condemned because of its deleterious physical effects. But while prepubertal sex relations and the institution of child marriage are found together, in many cultures they are not at all connected. Institutionalized infant marriage is often accompanied by strict observance of childhood chastity. Indeed, physical consequences of prepubertal intercourse must be studied quite apart from child marriage, for the institutionalization of premarital sex relations among children is very much more common than that of prepubertal marriage. In regions of central Africa where marriage does not take place until after adolescence, sex play is encouraged among children and no notice is taken of a girl's relations even with older men until she is adolescent. While the third aspect of child marriage, the establishment of an economically and socially independent home, is generally stressed in discussions of child marriage in America and western Europe, the problem is as a matter of fact usually non-existent. Since the economic unit of most societies is larger than our isolated family group (the "house group" includes a number of what we call "families," grouped by relationship bonds traced through the women or the men) the economic position of a couple as part of a larger unit is much the same after marriage as it was before. To emphasize in a study of such societies the economic reasons for which child marriage is condemned in our own civilization is to distort the problem.

The only sexually important feature of child marriage is of course that of prepubertal sex relations, which may consist of either sex play of pre-adolescent age mates or intercourse of mature men with girl children. Either of these may be institutionalized in connection with or apart from child marriage and neither is an essential concomitant of it. The first has been most fully described by Malinowski in his study of the Trobriands of northwestern Melanesia (*The Sexual Life of Savages*, ch. iii), among whom dalliance, beginning almost as soon as babies start to play together, is encouraged by the elders. It may well be doubted, however, whether this fundamentally affects the sex cycle of either girl or boy; neither here nor in the regions of central Africa (Johnston, Harry H., *British Central Africa*, p. 408, note i), where the same custom prevails, is there any reliable information as to the age of potency in boys. The case is different with intercourse between girl children and mature men, a practise which is not frequently found in the New World but recurs in almost every great area of the Old. It may, as among the Arawa of southern New Britain, be associated with marriage; or among many tribes of British Central Africa, as we have mentioned, it may be a premarital requirement, marriage being postponed until puberty. Among the Akamba in British East Africa a girl is not thought desirable in marriage until she has conceived (Eliot, C. N. E., *The East Africa Protectorate*, p. 125).

Infant betrothal, sometimes confused with child marriage, often serves actually to tabu premature intercourse. In the Admiralty Islands in northwestern Melanesia the betrothed girl, often very young, must cover herself with mats in any encounter with any male of the whole kin group of her fiancé. Among the Yoruba of west Africa (Ellis, A. B., *The Yoruba-Speaking Peoples of the Slave Coast of West Africa*, p. 154) the virginity of the bride is of importance only if she has been betrothed in childhood, in which case tokens of virginity must be produced even though the marriage does not take place until she is adolescent. Among the Ibibios of southern Nigeria (Talbot, D. A., *Women's Mysteries of a Primitive People*, p. 88) the distinction between infant marriage and prepubertal sex relations is even more pronounced. While infant marriage is not uncommon, and the bride is taken to her husband's home, intercourse before her maturity is forbidden, and if its occurrence is proved the family can claim her back without returning the dowry.

It is often very difficult to determine from the available material the relation of child marriage to prepubertal sex relations. In Australia, for instance, child betrothal is universal and the mother of a wife to be is called mother-in-law even before the birth of the promised child who will later be the bride; similar forms of address are employed toward all her kin group. Prepubertal sex relations, however, are rarely mentioned. Spencer and Gillen (*The Native Tribes of Central Australia*, p. 92) give the age of consummation of marriage at between fourteen and fifteen, but Malinowski (*The Family among Australian Aborigines*, p. 257) concludes after a survey of all the material that the usual age is between ten and twelve.

India is of course the country where child marriage is most striking. Child betrothal is here universal with the exception of some native tribes least touched by Hindu influence. According to

the religious code it is a sin on the part of the father if his daughter is not married in childhood. There is, however, a wide range in the date of consummation of marriage. In the western provinces especially it is essential that there be two ceremonies separated by an interval of from three to eleven years as determined by the girl's parents. The custom of early consummation of marriage is most widespread in the eastern provinces, particularly in Bengal, where the canonical rites of Hindu marriage require girls of the highest castes to commence married life at nine years of age.

In India, as is generally true of primitive peoples also, the problem of pre-adolescent establishment of an independent home does not arise. The husband is customarily a mature member of the community, and the child bride is taken into his household without her being assigned any serious responsibilities. As we have seen, even in cases of early marriage between age mates in primitive tribes the responsibilities of the married couple are not materially changed because of their relation to the larger house group.

In western civilization, on the other hand, marriage means setting up an independent family. In order to assume the economic burden of a family the husband must be master of some trade or at least able to qualify for a job in competition with men. The complexity of modern civilization has therefore made child marriage a special social liability. But this is a problem rising out of special social conditions and special traditions as to what is involved in marriage, as we imply in every discussion of the different ages that constitute "early marriage" in different economic classes of our own society.

If in connection with the establishment of a home child marriage is a social matter having different implications according to the customs and conditions with which it is associated, this is equally true in its relation to the status of women in any society. Women may have high status in societies in which infant betrothal and prepubertal intercourse are practised; on the other hand, adult marriage may be the rule where women have exceptionally low status. There is no necessary connection. In tribes as far apart as the Iroquois and the Masai of east Africa marriage did not take place until both parties were about thirty years of age. This, however, was not indicative of the high status of woman since her position was high among the Iroquois and low among the Masai. Although marriage was in both cases postponed because of its incompatibility with warfare, the idea was differently developed in the two regions. Among the Iroquois relations with a woman weakened a man's war magic and were therefore eschewed by warriors. Among the Masai it was the responsibilities of a householder that were avoided, and until a man had passed the age from which warriors were recruited he lived in a bachelors' kraal and had free access to the kraal of the unmarried women.

Only in our own civilization has this connection between postponement of marriage and the improvement of the status of women been emphasized. As with other aspects of child marriage, this one is a function not of prepubertal marriage or even of "early" marriage per se, but of special social conditions which in their totality in a special culture have made the association inevitable.

RUTH BENEDICT

United States. In the United States the term child marriage refers usually to marriages in which one or both of the participants are under the age of sixteen, and according to available statistics applies almost entirely to girls. Such statistics are for the most part incomplete due to falsification in order to evade legal age minima. The census of 1920 recorded 12,834 married girls of fifteen years of age and 5554 below that age. There were also 825 widowed or divorced girls fifteen years of age or younger.

Child marriage occurs more frequently in rural than in urban regions and is particularly conspicuous in isolated sections such as are found in the southern Appalachian mountains. It is most common, however, among Negro girls and among those of foreign birth, especially Italian. Many of the native white girls who figure in child marriage statistics are mentally deficient or delinquent, but many others are of apparently normal equipment, sometimes belonging to families of established, middle class background. Their marriages are often hastily contracted, usually without parental consent. Some parents, however, consent to child marriage because sex relations have taken place; in such cases some insist upon marriage under threat of criminal action against the boy or man concerned.

A scientific study of the outcome of child marriages would present many difficulties and has never been attempted. But social workers

have recorded so many cases in which the marriage of young girls has been marked by general domestic discord often ending in annulment, divorce, desertion or separation that a presumption is created against the practise. Such medical or biological testimony as is available indicates that as a rule maternity imposes a physical strain upon girls under sixteen which they are not fitted to bear. Nor are they better qualified for the difficult task of caring for children in an advanced civilization. Statistical evidence on these points is inferential, for in existing studies separate figures for mothers under sixteen years of age are meager and thus far unanalyzed, but extremely youthful motherhood seems to be unfavorable to survival both of the mother and of the child. Similar conclusions regarding infant mortality were reached from a study of the 1911 census of England and Wales, some evidence being offered, however, that such a situation was due rather to the inexperience of very young mothers than to any physical causes.

On January 1, 1928, in twelve states there were laws permitting twelve-year old girls to marry, provided their parents consented. In ten states and the District of Columbia the minimum age was fourteen years, in seven it was fifteen, in eighteen it was sixteen and in New Hampshire alone it was eighteen. Where the legal minimum age is highest exceptions are usually allowed, the most frequent reason for such discrimination being expectancy of motherhood. The law prevailing in most states that girls unless gainfully employed must attend school until the age of sixteen is generally not enforced in cases of married girls. Falsification undermines the enforcement of legal age requirements and a few marriage license issuers have demanded evidence more reliable than the affidavits of contracting parties. In 1927 New York state created a precedent by requiring documentary evidence of age from all applicants for marriage licenses who seem to be less than twenty-one.

FRED S. HALL

DEPENDENT CHILDREN. The term dependent child is commonly applied to a child who is dependent upon others than his own parents. A distinction is made in both legal status and common usage between neglected children, whose parents treat them cruelly or deprive them of adequate care, and dependent children, who have lost either one or both parents or whose parents are unable to provide them with the necessary minimum of food, clothing and shelter.

With rare exceptions the social problem of child dependency is linked with that of poverty. In many cases the causes are more immediate and direct: the death of parents, the breaking up of homes by desertion, separation or divorce, the imprisonment of the father or the inability of the unmarried mother to support her child. In many of these instances slipshod management, undesirable living conditions, drunkenness and the physical and mental incapacity of parents to care for children are more dominant factors than the economic status of the family. In others child dependency is directly caused by poverty resulting from such factors as unemployment, sickness or low earning power. The various types of social insurance in effect in many European countries and to a lesser extent such measures as workmen's compensation insurance in the United States help to regularize the family income and hence to keep children from becoming dependent. In general, every improvement in the social and economic status of the great masses of population has its reverberations in the extent and type of child dependency. Activities designed to maintain the home and advances in the field of child care are preventives. As war is one of the chief causes for child dependency on a large scale, all efforts designed to restrict it have a direct effect on the problem.

Such broad programs aim at the removal of the causes of child dependency. Where child dependency presents itself for immediate adjustment, however, temporary or in some cases permanent substitutes for parental care must be planned.

The most common form of supplementary care for dependent children in their own homes is the allowance given to mothers through state or national aid. Organizations for children's aid and family case work also contribute, though in extremely small proportions, to the support of dependent children in their homes. Temporary or permanent care may be given in an institution or in a private home; the latter may be either a free or a boarding home. Costs of such care are borne sometimes by public funds, sometimes by private charities or by both. In the United States the institutions are usually of a sectarian character; approximately one tenth are under public auspices.

Among the various peoples recognition of the problem of dependent children and the concept

of the minimum provisions necessary to them have varied widely from time to time. For any but nomad peoples there can be only two substitutes for parental care—some other family home, corresponding with what we now call the foster home, or some larger group, the institution. The records of ancient civilizations show little organized effort along these lines. Provisions for adoption in the Hammurabic code were evidently framed more for the protection of the new parent than of the child. In Greece and Rome there undoubtedly existed individual adoption in cases where the parents had died, as well as in cases where children were rescued from the widespread practise of infant exposure. In Athens some provision was made for children whose fathers had fallen in battle. In contrast, the conscious Jewish tradition of providing for dependent children dates back to several centuries B.C. The synagogue was, and to a great extent still is, for the Jew, the center not only of religious but of social and philanthropic activities. These activities include support of the poor, education of their children and community responsibility for orphans. Many of the communal customs regarding marriage had as their basis the preservation of the family unit.

The spirit of regard for the dependent child, implicit in many passages of the Old Testament and the Talmud, was confirmed and reinforced in the teachings of Jesus. The definition of religion in the *Epistle of James* includes the duty of visiting the fatherless and the widowed. As the early Christians formed congregations they seem to have added to their individual efforts the simply organized help of deacons, who distributed collections from members of the congregation to those in need. This help also included the payment to widows of a sum of money to enable them to care for their children at home and the device of paying widows to care for orphans. In some instances two or more widows were paid to come together in a larger dwelling and to take several orphans for care. These practises may be taken as the precursors of the mother's pension, of the system of boarding out and of the institution for dependent children. During the following centuries small groups under the influence of church and synagogue, however mistaken their methods may have been, constituted persistent germinal units for organized care of dependent children. During the Middle Ages there developed throughout most of western Europe various extra-parish forms of care. These included the establishment of hospitals and provision for the care of dependent children in monasteries, orphan asylums and foundling hospitals.

So long as the feudal unit of economic and civil life prevailed in western Europe the status of an individual in the self-sufficing manorial community was such as to give the dependent child some recognized right to support within the economic group. Where the church parish coincided in area with the manor, as it often did, church charity could all the more easily furnish what support the child lacked under the custom of the particular manor.

When the self-sufficing feudal life in England began to disintegrate, after the middle of the fourteenth century, the individual no longer had a claim upon the manorial group. The number of wandering, begging and destitute persons had become so great by the time of Elizabeth that the previous statutes culminated in the 43rd Statute of Elizabeth in 1601. In this statute England recognized for the first time the duty of the political or civil state to make some provision out of taxes for the care of all persons, including children, whom family care, church charity or private generosity still left destitute.

This statute provided for the earliest variety of foster family care for dependent children through the simple adaptation of the indenture foster home of the guilds, already used by parents who wanted their children to become artisans. Such apprenticeship and indenturing was under the direction of justices of the peace of the English parish. By this device the dependent child, if not too young, could begin to pay at once for his own keep and before the end of his indenture period, at the age of from eighteen to twenty-four, could also pay back the principal and compound interest on any deficit incurred by his employer.

The earliest public institutional care for dependent children in England was provided in the workhouse, an existing institution for adults founded through private initiative. Into the mixed public workhouse, sometimes called poorhouse or almshouse, there were gathered not only children and the aged and more destitute adult poor but the blind, diseased, feebleminded, immoral and insane. Later it became the accepted practise to put into the almshouse the dependent child who was too young to work and immediately to indenture older children. Recognition of the terrible experiences of dependent almshouse children who were indentured in groups to work in factories and mines

resulted during the early part of the nineteenth century in some of the first statutes directed against the abuse of child labor. Indenture is still used to some extent in England to enable children leaving institutions at working age to attain self-support, but it is regulated by statute.

Partial substitutes for almshouse care were the orphan asylums founded by religious or other private groups in the eighteenth century, the number of which grew rapidly in the early part of the nineteenth century. Segregation of children from the adult population of the almshouse was begun after the report of the Royal Commission in 1834, although two or three thousand children, not all of whom are accompanied by their mothers, are still to be found in almshouses. The institutions used by the poor law authorities for this purpose were workhouse schools, which did not wholly segregate children from the adult poor; separate schools, which were residential and thus effected segregation of the children; and district schools, which were merely separate schools supported by several poor law unions of a district. Some of the congregate buildings of the separate schools housed over one thousand children and were later called barrack schools. When the separate and district schools were composed of several small buildings adjacent to one another they were called grouped cottages. The latter correspond to what is in the United States called the cottage type institution.

Another type of institutional care, the scattered home plan, was adopted in England by the Sheffield Poor Law Union in 1893 and is now widely used. Under this system the cottages instead of being grouped are scattered on different streets of a town and each cottage has its own matron or house mother. The children usually go to the nearest public school and share more or less in the local community life. At the present time the poor law unions of England not only maintain these public workhouse schools, separate schools, district schools and scattered homes but also pay for children whom they send to various private institutions and agencies certified by national authority. These certified institutions include special establishments for deaf, blind, crippled and feebleminded children.

In Scotland the poor law authorities did not resort extensively to the almshouse and private institutions for the care of the dependent child, although such institutions existed. They adopted and still use the method, which originated in the parish, of paying widows or married couples to take one or more dependent children into their homes. Probably over 90 percent of the dependent children in Scotland are "boarded out."

After qualified approval in 1868 by a public official this method of boarding out was slowly introduced into England. Several unions had previously used it without the knowledge of the national poor law authority. Boarding out, if it takes place within the territory of a particular poor law union, is called "boarding out within the union" and, when children are placed in homes of another union district, "boarding out without the union." In either case there is usually a local unpaid committee of citizens, including women, who serve as overseers. There is also inspection by national authorities, especially of children boarded without the union.

Since the war adoption has for the first time become legal in England and two societies have been actively promoting foster care by this means. Except in the case of adoption foster family care without pay has not developed to any appreciable degree. Another form of public aid supplementary to parental care is a system of pensions or insurance to the widow and dependent children of an insured person. In addition to public care England has many private institutions, agencies, emigration societies and the like, some of which board children out. The general tendency both in institutions and in organizations supervising boarding out has been to provide such care and education as will enable the individual child to earn his own way at a reasonably early age and thus to prevent a consciousness of dependency which might lead to pauperism.

Neither the institution nor the foster home monopolizes the field of dependent child care. In 1926 there were in England about 69,000 dependent children, of whom over 10,000 were boarded out, 18,000 placed in workhouses, 32,000 in poor law schools and the rest in other institutions. In 1928 this number was considerably reduced for all groups due to the operation of the widows', orphans' and old age pensions.

In the United States similar provisions have been made for dependent children: first almshouses; then special institutions, with indenture as a supplement or substitute; the gradual shifting of emphasis to foster home care; and the enactment of mothers' pensions as a way of maintaining the home.

Mixed almshouses and indenture provided most of the care for dependent children in the older states for the fifty years preceding 1875. As early as 1729 a separate institution for dependent children was established in connection with the Ursuline convent in New Orleans in order to shelter children orphaned by Indian massacres. The first publicly supported institution was founded in 1790 by the city of Charleston, South Carolina. During the nineteenth century an increasing number of orphan asylums were established mainly by religious, social, fraternal and in some few instances non-denominational groups. Indenture was frequently resorted to by poor law officials, but after 1853, especially under the leadership of the Children's Aid Society of New York, care for considerable numbers of children of working age or approximately of that age was provided without the form of indenture in free foster families. Indenture now survives in strict legal form in only a few states, although it was used by a public institution in Wisconsin until 1925.

After 1883 the movement to place children in permanent free foster homes gained further support. Following the formation of a society later known as the Illinois Children's Home and Aid Society some thirty similar societies were founded, chiefly in the Middle West and South. These organizations, privately administered and state wide, were usually called state children's home societies and later merged in the National Children's Home and Welfare Association. Through their efforts infants and young children, many of them illegitimate, were placed out and as a rule legally adopted. Children over six were not so frequently adopted through legal means. One of the difficulties encountered was the frequent separation of children of the same family. An effort was made to provide the older children with schooling and to safeguard them from overwork, and in most cases the legal form of indenture was not used by these free foster home agencies. Nevertheless, the desire for cheap child labor was too often a factor in the decision of a family to provide a home for a dependent child.

About the same time boarding home care of children was introduced. In 1868 the Massachusetts State Board of Charity began the method of boarding out at public expense, and the system of boarding out was advocated by the Boston Children's Aid Society and the Pennsylvania Children's Aid Society.

Meanwhile, especially after 1875, the unsegregated care of dependent children in the mixed almshouse met with increasing opposition. Most states have now made the care of children above the age of three in such institutions illegal, but in 1922 over 4000 children under sixteen years of age were admitted to the almshouses in all but three states.

Nor was the housing of children in orphanages and other special institutions left uncriticized. Although hundreds of such institutions had been established in the nineteenth century, improvement in aims and methods was slow throughout the period. At the White House Conference on the Care of Dependent Children called by President Roosevelt in 1909 it was declared that "the carefully selected foster home is for the normal child the best substitute for the natural home," a finding reaffirmed by an international conference held in Washington, D. C., in 1919 under the auspices of the United States Children's Bureau. Nevertheless, it was officially reported in 1923 that the proportion of children boarded out, based on the total number of children cared for away from their own homes, was less than 1 percent in twenty-two states, while ten more states had less than 5 percent boarded. In six states no care of children in boarding homes was reported, although only two states were without some free foster home care.

The 1923 census for dependent, neglected and delinquent children (about seven eighths of whom are non-delinquent) gave a total of 404,678 children under supervision, of whom 204,888 were in institutions or receiving homes, 121,441 in their own homes, 51,164 in free foster homes and 22,281 in boarding homes. The largest group of these 400,000 children was 138,760 dependent children in institutions primarily for such children; the next largest group was 121,000 supported in their own homes by public aid to mothers.

Among agencies concerned with the placing of dependent children in free foster homes the National Children's Home and Welfare Association, a federation of state and other child placing agencies, has the widest scope. The member societies usually have receiving homes, in most of which children are given medical care and, in some, psychological examinations as well as corrective treatment. Placement and follow up work of widely varying standards are then done. The New England Home for Little Wanderers, the Lutheran Kinderfreund societies and many Jewish, Catholic, Protestant, non-demonina-

tional and fraternal children's agencies are also engaged in the work of child placement. Placement under state and county auspices is also growing. The American Legion has a remarkably differentiated national program for the care of children of ex-service men. Wherever poverty is the only cause of dependency the maintenance of the child in his own home through some form of mothers' pension is increasingly recognized as the most desirable method of care for the child.

The cost of care of dependent children in their own homes is as a rule less than the cost of their maintenance in a well equipped institution. New York finds it to be about $28 a month in an institution and a little over $15 for the same period at home. Of the three types of care this has had the briefest history as an organized procedure. The first state law for mothers' pensions was enacted in Missouri in 1911; the movement spread rapidly and in 1913 eighteen states adopted such laws. Mothers' pensions or some form of public aid to widows for the care of children in their own homes is now provided in all but two states. Faulty administration due to defects in mandatory provisions, insufficient appropriations and the like have made the benefits from this legislation fewer than they might be.

In France the system of public care dates from the time of Napoleon. Provision is made for public care of dependent children in boarding family homes to supplement provisions made by church congregations, foundling asylums and orphanages. The expense of public care is shared by the local commune, the department and the national government. Inspection is directly under the prefect of each department subject to the general control of the state minister of the interior. A majority of war orphans, *pupilles de la nation*, have been cared for on the same general plan of family home care, although with different procedure. By special arrangement some of these war orphans have been cared for in private institutions.

In 1922 Germany established a youth council, or Jugendamt, for each local unit of government or group of such units. These youth councils are centralized in provincial offices and act as guardian to each dependent child. According to the law it is the duty of the youth council to act as a link between the state and the child and between the child and such authorities as the guardianship tribunal, children's courts, poor law authorities and the like.

In Germany more than a third of a million mothers are receiving widows' pensions.

In nearly all the European countries which took part in the World War the great increase in numbers of dependent children and the curtailment of personal, charitable and religious resources threw extra burdens upon the various taxing bodies both for direct care of dependent children and for subsidy of the great numbers of private institutions and agencies. Foster family care has been developed to supplement institutions, and to this movement the temporary relief agencies such as the Red Cross and the Near East Relief have contributed. Their work has included placement of children who were made destitute by the war and for whom there has been no room in institutions. They have sought to place older children who have been discharged from institutions in self-supporting positions in the community. In most European countries, because of the small number of training schools, competent supervision of foster family care is not yet as general as it should be.

Russia delegates the care of dependent children, whose numbers were vastly increased by the famine in the post-war period, to the commissariats of health and education. Under their direction every effort has been made to avoid mistakes committed by institutions in less centrally supervised countries. Conditions and facilities differ, however, in the ten autonomous provinces and eighteen autonomous republics. Altogether there are thousands of institutions and a few colonies and communes for dependent children, all under public auspices, supervised by the commissariats and supported mostly by provincial and smaller local governments. Recently the emphasis on institutional care has been modified by a realization of the importance of home or foster home care.

In Turkey in addition to the orphanages, of which most are in Constantinople, there is an incorporated private enterprise, the Turkish Association for the Protection of Children, with headquarters in Angora and with hundreds of local centers. This organization has a large budget from various private sources and a small government grant. It is not only doing preventive, protective and health work but developing better institutional and foster home care of dependent children.

New Zealand's thoroughgoing system of infant care has stimulated similar treatment of dependent children in foster homes. A well organized system of widows' pensions is extend-

ed to certain groups of needy mothers and there is also provision for dependent children of insured persons. In Australia institutional care is still provided, although in several states the Scottish practise of boarding out was adopted and has been carried on for many years under the direct supervision of a children's department. Recently a beginning has been made in boarding some children with their own mothers or providing widows' pensions.

No one system is able to meet the needs of all dependent children. Recent developments in psychology and psychiatry have emphasized the need of a stable home life for the child and the importance of emotional attachments in the earliest years and have shown the urgency of maintaining the home wherever possible. Yet a recent study of children in foster homes in an eastern state showed that more than three fourths of them had been taken from home conditions which were definitely bad. In such cases the foster home, free or boarding, may offer the best possible substitute for the child's own home. The boarding home is particularly useful for temporary cases, such as sickly, malnourished or problem children who are not suited to the free placement which often leads to adoption. Free homes sometimes offer the child the greatest opportunities but may be unsuitable for children whose kinship ties should not be broken and who are likely to be claimed later by relatives.

Although the foster home is considered the better form of care for most dependent children, the institution is still predominant; and especially in view of some of the recent reforms in the aims and methods of the best of them the institution has a definite place as an observation center and as a means of temporary care for children needing extensive health services. As foster family home facilities now exist, the institution has the added advantage of enabling children who are to be away from their families only temporarily to avoid forming other family attachments; or it may house, although not as a rule in a united group, a family of brothers and sisters too large to be easily placed in a private home.

In any method of care which may be given the dependent child expert case work is needed. Home conditions must be investigated, emotional assets used and efforts made to maintain the home or to reconstruct it. The child must be given whatever clinic services are necessary and in an institution he must receive individualized opportunities for study, play and vocational guidance. Boarding and free foster homes must be investigated and suited to the individual child, who must be enabled to become self-supporting and must receive such after care as will insure the most effective use of his native capacity and of the training and treatment he has received.

HENRY W. THURSTON

NEGLECTED CHILDREN. The term "neglected children" might in a general sense include any children whose interests are not properly protected by responsible persons, organizations or governmental bodies. In technical usage, however, the term is restricted to those children who come to the attention of the social agency or court because of the wilful or deliberate neglect of one or both parents. At law and in professional social work usage "neglected" children are distinguished from "dependent" children who are under the care of a social agency, institution or court because deprived of the necessities of life by factors other than intentional neglect of parents.

The two groups are not always sharply differentiated either by statute or by the measures commonly taken for their assistance. A certain amount of neglect is frequently associated with dependency or delinquency, a fact which inevitably leads to confusion in treatment. The problems presented to the court or the case work agency in dealing with the parents of each group are, however, quite distinct. In the case of a dependent child plans for improving the child's condition are made on the theory that the parents are in a cooperative attitude, whereas with the neglected child the parents are likely to be hostile to the supervisory organization's proposals.

In sections of the United States, however, where child protective work or care of neglected children has been widely developed, as in Massachusetts, New York and New Jersey, we do find a clear cut legislative distinction between dependent and neglected children. In these states when a dependent child is removed from his home and parental control the change of custody is effected without the intervention of the juvenile court, while a neglected child under similar circumstances is invariably brought before the court on the theory that he is or may readily become delinquent and is likely to need the supervision of the juvenile court.

The first organization to undertake the pro-

tection of neglected children was the New York Society for the Prevention of Cruelty to Children, founded in 1875 by Henry Bergh and others. There were already in existence in many cities humane societies whose aims included the protection of animals, old people and prisoners. Most of these later added to their already diversified activities the protection of children, which, however, seldom became a very important factor in their programs. Flagrant instances of cruelty to children convinced the founder of the New York society that there was a need for an organization devoted exclusively to the legal protection of neglected and abused children.

Shortly after its formation similar societies and protective agencies were organized in other states and cities of the United States. The scope of their protective work has to some extent been influenced by the development of the New York society. Founded as an organization for the enforcement of law this society was concerned primarily with the rescue of any child suffering from brutal treatment or living in degrading surroundings. It began a vigorous program to this end, appearing in court for children, presenting evidence in the prosecution of the guilty and acting as custodian and guardian when so appointed. Whenever it found no sustaining statutory provisions for dealing with neglected children it became active in securing the necessary legislation. It did not concern itself with the causes which led to child neglect nor, except incidentally, with their removal. This attitude was not clearly indicated in a suit brought by the society to prevent the State Board of Charity from exercising powers of inspection and supervision. In the final decision of the New York Court of Appeals, rendered in 1900, the court upheld the view that the society was law enforcing rather than charitable and therefore not subject to the control of the State Board of Charity. In its specialized sphere of law enforcement, however, the New York society early set a standard of efficiency which became a model for other similar agencies. Moreover it imposed upon the entire movement its own increasingly narrow interpretation of function. Mangold in his *Problems of Child Welfare* (New York 1924) has attributed this concentration on legal prosecution to the close historical and functional association between the efforts to prevent cruelty to animals and those to prevent cruelty to children.

In many instances, however, organizations which followed the general policy of the New York society did not resent being classified and supervised as charities. A few others, such as the Massachusetts society, outlined a broader program from the beginning, and it is from these that the most constructive work of child protection has come. These societies in stressing preventive and constructive work have cooperated with other child welfare or charitable agencies. The principle of retaliation against the parent, which usually took the form of legal removal of the child, has inevitably given way to attempts to reorganize and reconstruct family situations conducive to child neglect. At the present time even the New York society has broadened its scope, seeking removal of the child "only when imperative" and encouraging guardians to reconstruct their homes.

A broad program of protection for neglected children should, and in most instances does, include far more than mere protection from physical cruelty on the part of parents or employers. Child protective agencies early in their history took into consideration the need of regulating the employment of stage children, especially young vaudeville and acrobatic performers. But many forms of exhausting, degrading and crippling child labor still stand sorely in need of regulation. There is an ever widening recognition of the necessity for protection from various immoral associations in the home, in the street or in the course of the child's occupation which are likely to contribute to juvenile delinquency. Less obvious cases, such as those of undernourished, defective, crippled and other handicapped children needing suitable medical and surgical care, are coming within the scope of these societies. Recognition of problems of child neglect arising out of the lack of supervision where the mothers go out to work has brought cooperation with the appropriate public or private agencies. Illegitimate children are a group particularly likely to be neglected, and special if not altogether adequate legislation, such as regulation of baby farms, has been enacted through the efforts of protective agencies. Jewish social agencies have in forming a National Desertion Bureau made a unique effort to cope with cases of neglect arising out of desertion by the family wage earner. In the case of children of immigrant parents, who are not familiar with the chances for delinquency offered by a complex social environment and are accustomed to standards of child welfare differing widely from those of the American community, obviously something more is needed than purely punitive measures of correction

A comparative analysis of the types of cases handled at various stages of the movement for child protection indicates this broadening tendency. The first twenty-five cases of abuse reported by the New York society were characterized as follows: beating or other physical cruelty, 13; children begging and accompanying an organ grinder, 2; children sent out by parent or guardian to beg, 2; attempted assault, 2; abandonment of child, need of medical care, child found intoxicated, child living in immoral resort, father not supporting child and commitment to an institution without court action, 1 each. There was nothing subtle about the cruelty or neglect involved in most of these cases, which were concerned largely with physical neglect of the child. Although prevention of physical brutalities is still necessary the number of such cases has greatly diminished. On the other hand with the development of a more positive conception of child welfare our idea of what constitutes neglect has been considerably extended. Demoralizing or degrading conditions whose injurious effect on the child is less immediate and obvious are now the main concern of any well run children's protective society. Cases involving protection of children from immoral associations, from lack of medical or surgical care, from early sex irregularities, from the vicissitudes of life with one parent or the other when marital relations are broken, are typical of the bulk of the work done today. An analysis of the work of the Massachusetts society about ten years ago showed that only 6 percent of their cases dealt with cruelty. The widespread general decrease in the number of cases of physical brutality reported is thought to be due in part to fear of punishment, in part to less intemperance and in part also to generally higher family living standards.

At present in many communities private agencies organized for other purposes, such as children's aid societies, family welfare agencies and legal aid associations, assume the responsibility for child protection. In certain instances children's protective societies have been combined with other children's organizations in the interest of more effective coordination of effort. The work of policewomen in many large cities has been of great preventive value and many of the activities of truant officers, probation officers and juvenile courts are concerned with child protection. Through these various public agencies child protective work, which is essentially a public service, is coming to be in a larger measure assumed by the state or local governments and financed by public funds.

There are no reliable statistics showing the extent of children's protective work in America or in other parts of the world. However, according to the report of the United States Bureau of the Census, *Children under Institutional Care, 1923* (Washington 1927), 140 children's protective societies in the United States reported that they had aided 21,754 children during the three months ending April 30, 1923. Of these 20,138 or 92.6 percent were in the New England, east north central, west north central and Pacific states, and 10,246 or 47.1 percent were in the middle Atlantic states alone. These figures show that societies specifically for the protection of children are very unevenly distributed through the United States.

Toward the end of the nineteenth century the force of the movement for child protection extended beyond the United States. The National Society for the Prevention of Cruelty to Children was incorporated in London in 1884 and now has over a thousand branches in the British Isles. There are similar societies also in Paris and Berlin.

In all Canadian provinces except Quebec there is social guardianship for children under the Children's Protective Act, and any child in danger of neglect may be made a ward of the government and referred by it to the Children's Aid Society, to the Superintendent of Neglected Children or to the Director of Child Welfare. In Australia voluntary child welfare organizations or state subsidized institutions undertake child protective work. The Australian states have extensive protective laws for children forbidding their taking part in dangerous employment, soliciting alms and the like. Under what was formerly called the Neglected Children's Aid of Victoria children are committed to the care of the Children's Welfare Department or to the care of individual persons or approved institutions. New South Wales makes provision for neglected children under the children's court acts, Tasmania through a Department for Neglected Children under the Children's Charter and western Australia under a child welfare act.

The Child Welfare Office of Germany is charged with the protection of all foster children under fourteen years and may withdraw them from their foster homes if their physical, intellectual and moral welfare demands it. In Austria if there is likelihood of neglect the courts

may intervene; and there are penalties for mistreatment of children or failure to provide maintenance.

Russia has an institute of children's inspectors to investigate cases of exploitation or ill treatment of children and young persons and to give protection to those who are homeless. There are receiving stations for homeless children and observation centers staffed by teachers, doctors and psychologists to investigate the characteristics of each child and determine the institution to which he should be sent.

The Italian National Maternity and Child Welfare Organization since 1925 has been charged with the protection and assistance of minors under eighteen in need of maternal care or moral help. In Portugal minors declared to be in moral danger also are put under the guardianship of the *tutorias*, or children's courts, as well as all destitute, exposed and abandoned children and those whose families are regarded as unfit to provide for their moral training or education. The court may order the families to pay maintenance and place the children in institutions or adoptive families. Hungary admits to orphanages or places with relatives or foster parents all abandoned children and those exposed to danger of moral destruction on account of neglect or the damaging influence of their surroundings.

Sweden gives the Communal Committee for Protection of Children (Barnavardsnämnd) charge of children who are ill treated by their parents, whose health or education is neglected or who are in danger of being corrupted by their parents' immorality. The committee can admonish the parents, place the children in institutions or find for them suitable occupations.

In the international field the Advisory Committee for the Protection and Welfare of Children and Young People of the League of Nations is making extensive and practical studies of measures of protection in the various countries, such as legislation in behalf of illegitimate children and an analysis of the effect of the development of the motion picture industry upon children not only as spectators but as actors. The League's Committee on Traffic in Women and Children is active in seeking international cooperation to avoid moral hazards possible under unregulated international migration. Its Child Welfare Committee is also planning studies of the causes of dependency and delinquency among children. In general its emphasis is on the endeavor, through a comparison of existing laws and through the discussion of desirable standards, to raise the standards of backward nations.

C. C. CARSTENS

DELINQUENT CHILDREN. Only in recent years has our social machinery dealt with the delinquent child on the principle that he is primarily a child and secondarily a violator of the law. In the case of the dependent and neglected child there has been little question as to the guiding principle of social treatment. The tardiness of progress in this respect has been commensurate only with our slowness in learning to understand the essential nature of the child and in granting him a favored position in the community. In the matter of criminal jurisdiction, however, through long centuries of history violation of the law has loomed much larger than immaturity of the offender. The changes in social concepts which have led to the present treatment of the delinquent child have had an almost dual history: one phase in the law, another in the treatment of the child himself—a little slower, more reluctant in the former; experimental, somewhat more daring in the latter. In fact the legal changes have been due almost wholly to the conviction that has gradually grown up in practical treatment that there is no essential difference between a child found guilty of violating a law—technically delinquent—and the child called "dependent" or "neglected."

The typical modern state makes separate provision for the delinquent child as distinguished from the adult offender in at least three phases of the judicial process: in the definition of crimes and designation of corresponding punishments as contained in the penal codes; in the nature of the punishment provided or, more particularly, in the nature of imprisonment; and in the criminal procedure and jurisdiction for trying the delinquency of the child.

Although in the past severe punishments and even death were at times prescribed for the child who showed disrespect for or revolted against the authority of parent or elder, the codes which have become the basis of western procedure have tended to differentiate in favor of the child. The underlying tendency in western criminal legislation has been to create parallel scales between criminal responsibility, that is, the intellectual capacity for judging the nature of one's act, and the punishment to be imposed for the crime committed. In these scales of

responsibility the child has naturally been found at the lower levels and punishment correspondingly has been of mitigated severity.

The Roman law, which has had particularly great influence upon ideas of penal minority, made the following distinctions: it regarded the child under seven years of age as lacking all responsibility, as incapable of committing a crime (*doli incapax*) and consequently as not subject to legal punishment. From the age of seven to fourteen years for a boy and twelve years for a girl (the state of prepuberty), a child was considered as only partially responsible. The praetor decided in each case the question of the child's understanding of the nature and consequences of his act, presumably. If he possessed the necessary degree of intelligence he was subject to the same punishment as an adult. For certain crimes, however, a lesser punishment was sometimes specifically provided. Thus under the Twelve Tables certain thefts by a child were punished with less severity than when committed by adults. Indeed the problem of theft by children may be said to have been prominent in all early legislations. It was generally for this crime that exceptional leniency was allowed in the cases of minors. Finally the code recognized one other period preceding adulthood, i.e. from the ages of fourteen and twelve years for boys and girls respectively, to the age of twenty-five years. Where the imposition of punishments of relative severity was permitted the praetor, he might take the offender's age into consideration. The Romanized canon law first allowed as a general principle the discretionary rule of punishment that a minor above seven years of age, when proved responsible, might be punished, but always more mildly than an adult.

The Germanic laws, which prevailed until the reception of the Roman law, rested upon an altogether different basis. The law was not so much interested in the subjective condition of the wrongdoer as in the objective necessity of securing compensation for injury. The age of twelve was generally accepted in the old Germanic laws as the limit of tolerance. Thus under the Salic law when a child under twelve committed a crime the guardian was required to pay the composition, though not the peace money. The *Sachsenspiegel* was to the same effect. But under the *Schwabenspiegel*, which marks the growing severity of the German penal law, two age limits, seven and fourteen years, were set. Even when a child under seven committed a crime the composition could be demanded, but only if the guardian was capable of paying it. Although capital punishment of children under the age of fourteen was not legally permissible it did gradually become established. In 1505, by special permission of the emperor, two children were executed for killing their mistress: a girl of thirteen was burned alive and a boy of twelve beheaded. The age limits of seven and fourteen show the influence of the Roman law, whose moderating effects were, however, not felt to any considerable degree except perhaps in the south German states. The *Carolina*, the penal code of Charles v, necessitated by the confusion caused by the reception of the Roman law, involved a still further retrogression. No definite age of exemption from punishment was fixed at all. Nevertheless, thieves under the age of fourteen were declared to be subject to milder punishments than adults, and the dominance of the Roman law established exceptions of practise whereby, even for other crimes than theft, children under seven were not punished at all and those under fourteen were more mildly dealt with than adults.

The common law of England held to the Roman model only in establishing the age of seven years as the lower limit of criminal responsibility. As Blackstone says: "But by the law, as it now stands, and has stood at least ever since the time of Edward III, the capacity of doing ill, or contracting guilt, is not so much measured by years and days as by the strength of the delinquent's understanding and judgment. For one lad of eleven years old may have as much cunning as another of fourteen; and in these cases our maxim is that 'malitia supplet aetatem.' Under seven years of age, indeed, an infant cannot be guilty of felony, for then a felonious discretion is almost an impossibility in nature; but at eight years old he may be guilty of felony. Also, under fourteen, though an infant shall be *prima facie* adjudged to be *doli incapax*, yet if it appear to the court and jury that he was *doli capax*, and could discern between good and evil, he may be convicted and suffer death. Thus a girl of thirteen has been burned for killing her mistress; and one boy of ten, and another of nine years old, who had killed their companions, have been sentenced to death, and he of ten years actually hanged; because it appeared, upon their trials, that the one hid himself, and the other hid the body he had killed, which hiding manifested a consciousness of guilt, and a discretion

to discern between good and evil. And there was an instance in the last century where a boy of eight years old was tried at Abingdon for firing two barns; and, it appearing that he had malice, revenge, and cunning, he was found guilty, condemned and hanged accordingly. Thus, also, in very modern times, a boy of ten years old was convicted on his own confession of murdering his bedfellow, there appearing in his whole behavior plain tokens of a mischievous discretion; and, as the sparing this boy merely on account of his tender years might be of dangerous consequence to the public by propagating a notion that children might commit such atrocious crimes with impunity, it was unanimously agreed by all the judges that he was a proper subject of capital punishment" (*Commentaries*, bk. iv, ch. ii, sec. 23–24).

It is apparent that, if the Roman law affected the insular common law, it must have influenced the majority of European criminal codes in modern times to an even greater extent. A famous French draft of a code, prepared by Muyart de Vouglans in 1780 (*Les lois criminelles*), reproduces the Roman law with no apparent change. But the code which actually resulted from the French Revolution marked a distinct departure from Roman ideas. Many of the central European codes adopted in the first half of the nineteenth century, such as the codes of 1813 and 1861 in Bavaria, the code of 1839 in Württemberg, the code of 1840 in Hanover, the code of 1841 in Hesse, the code of 1845 in Baden, show not only the influence of the Roman but that of the new French law.

The *Code Napoléon* represented a marked reform despite its apparent retrogression from the Roman model in not definitely fixing an absolute penal minority of seven years. But it did, nevertheless, accomplish much in raising the age of presumed limited responsibility to sixteen years. Under the *Code pénal* the judge was left to decide in each case whether the offender under sixteen might be presumed to have been responsible, that is, to have acted with *discernement*. If he had not, he was to be acquitted; but according to circumstances he was to be either returned to his parents or sent to a house of correction, where he was to be educated and detained for a period of time determined by the judge, such time not to extend, however, beyond the completion of his twentieth year of age. But unfortunately the "houses of correction" did not exist, and it seems that the ordinary departmental prison was called such for the purpose of confining minors. A detailed scale of punishments adjusted to the degree of *discernement* manifested by the accused was provided. Thus, for example, if the crime were punishable by death, life imprisonment or transportation in the case of an adult, the punishment for a minor was to be ten to twenty years imprisonment in a house of correction. If an adult would have incurred a penalty of penal servitude or solitary confinement, the punishment for a minor was to be imprisonment in a house of correction for a period of not less than one third or more than one half the time for which an adult would have been sentenced, and so on.

The French law finally raised the age of penal majority to eighteen, and this age has found wide acceptance in other codes. But the faint beginnings of correctional treatment of children, provided however ineffectively under the *Code Napoléon*, were really far more important than the legal definition of penal age limits. The establishment of separate institutions for the imprisonment of young "criminals" was gradually brought about by reformers. Before the first ones were established by law or recognized in the penal codes, their prototypes were founded by private philanthropy and conducted under private control. The first reformatory institution for children to be recognized as a public institution, although technically retaining its private form of organization, was the House of Refuge, an American experiment established by an act of 1824 in New York state. In 1826 the New York legislature made it mandatory upon the managers of the institution to receive children properly committed by the appropriate judiciary. In England the short lived Parkhurst Juvenile Prison was created in 1837, and the first special departments of the French *maisons centrales* were set aside for children in 1842, some eight years before the passage of the French law providing for reformatory education of delinquent children in *colonies pénitentiaires*. But all these institutions and those that followed them are more truly incidents in the history of the care of orphaned, homeless and neglected children than in that of the treatment of criminals, and were championed from time to time by pioneers in that field, such as Herman Francke (1663–1727), Canon Odesalchi (1679–1741), Johannes Falk (1768–1826), Count Van der Recke (1764–1846) and Johann Wichern (1808–81).

From the point of view of the legal status of the delinquent child there are at least two im-

portant features of the public institutions for the commitment of children convicted of crime: first, their separation from adults and their concentration in special institutions, which represented the transitional phase from the concept of the young criminal to that of the child in trouble; and second, the tendency to derive from the special status of the institution a corresponding legal differentiation of the delinquent child from the adult criminal—that is, to define the child's status in terms of the function of the institution rather than in terms of laws violated by him. Striking examples are afforded by the House of Refuge and the Elmira Reformatory, two of the pioneer institutions of their kind in America. The board of managers of the House of Refuge was given powers which apparently bear little relation to criminal punishment. "The managers," said the law, "shall have power to place the said children committed to their care, during the minority of such children, at such employments and cause them to be instructed in such branches of useful knowledge as shall be suitable to their years and capacities. . . ." The law creating the New York State Reformatory for Men in Elmira is an even more striking instance of the effect that the establishment of a physical institution may have upon the changing of legal concepts. According to this law (which also introduced the indeterminate sentence for adults) male offenders from the ages of sixteen to thirty years, an age group which had never before been recognized as having any distinct legal status, either civil or criminal, might be committed to the new institution for any offense except murder. The term of those committed to the reformatory was made entirely independent of their special offense and subject only to the judgment and discretion of the board of managers.

The creation of the juvenile court marked the next significant step in the treatment of the delinquent child. The juvenile court may be defined fundamentally as a court dealing exclusively with children of certain ages who have been accused of crime. These courts brought about a revolution in the treatment of the delinquent child. They have done away with the trial of children in the demoralizing atmosphere of the ordinary criminal courts. Of far greater importance, however, is the special procedure itself, which has in effect virtually destroyed the substantive law of crimes with regard to delinquent children. The jurisdictional age limits of the juvenile courts thus become in effect the true limits of criminal responsibility, and as they range from sixteen to twenty-one, the extent to which they represent a more enlightened conception of juvenile criminality than that which obtained previously can well be appreciated. Moreover, as the juvenile court idea has spread from the United States where it was first realized to England and the continent, the reform it represents may be said to be widespread.

The legal status of the delinquent child, however, except where all laws relating to children have been codified in a recognized children's code or its equivalent, is still a composite of somewhat overlapping legal provisions, namely, the definitions of criminal responsibility contained in the penal code or the common law, the provisions relating to the creation and administration of penal and reformatory institutions and the law and procedure governing the juvenile courts. For instance, ameliorating conditions as far as juvenile offenders are concerned have often been the result of reforms in the general penal law applying to adults and children alike, as the creation of probation in Massachusetts as early as 1869 and of parole at least as early as 1876 in the United States and earlier in England in the form of "ticket of leave." Then there have been changes in the law intended directly for the benefit of minors, such as the legal separation of minors from adults in jails and prisons; the prohibition of the detention of children under sixteen in any prison, as, for example, in the New York state law of 1877; and quasi-administrative regulations of the judiciary system itself, such as the Juvenile Offenders Act in England in 1847 and the Summary Jurisdiction Act of 1879, which gave judges jurisdiction to try children and young persons, except in cases of homicide. However, a unity for the somewhat uncoordinated legal provisions is provided by the administrative procedure which has gradually developed in the treatment of delinquent children as socially neglected or uncared for. There is every probability that any differences in the legal positions of delinquent, neglected and dependent children will soon disappear. The factors tending toward this result are notably the progress in educational psychology, the expansion of the mental hygiene movement, the discoveries in psychiatry, the growth of social case work and case studies in juvenile delinquency. Legal concepts are becoming of far less importance than the idea of the social treatment of unadjusted children.

PHILIP KLEIN

INSTITUTIONS FOR THE CARE OF CHILDREN. As a means of caring for dependent, neglected, handicapped and delinquent children outside of their own homes the institution is still overwhelmingly predominant in practically all countries. The most generalized type of institution is that commonly called the orphanage, or, when it is designed for younger children, the foundling asylum. This, however, represented an advance over the public workhouse, almshouse or poorhouse, in which children were housed not only with dependent or aged adults but with the insane as well as with human derelicts of all sorts. Despite its name, the orphan asylum often admits other types of dependent children, and it has been said that not one tenth of the inmates of such institutions are orphans. At the outset there was a tendency to admit not only the more or less normal cases of dependent and neglected children but also children suffering from physical or mental disabilities. The understanding of the special needs of handicapped groups has led to the creation of special institutions for the care or training of the blind, the deaf, the crippled and the mental defectives; and reform schools, junior republics, detention homes and the like have been established for the segregation of delinquents or other well defined groups. The so-called children's institution now generally includes only the more or less normal dependent child.

The large majority of these institutions were founded by private religious, social or fraternal organizations and are still maintained by them. At the present time in the United States only one tenth of the total are under public auspices. The tendency of state and county authorities has been to replace the state orphanage by foster home care and by mothers' assistance laws which make it possible to maintain children in their own homes. Only in Russia are all children's institutions under public auspices, publicly financed and with complete public supervision. Elsewhere the semiprivate or private institutions are usually supported by private philanthropies, although in some cases they may receive public aid from city, state or county.

During the nineteenth century both in England and in the United States children's institutions sprang up in rapidly increasing numbers and were a favored form of philanthropy. In the United States their number increased from 6 in 1800 to 1500 in 1923, 400 of them having been established between 1890 and 1903. The numerical increase was not accompanied by a corresponding development in technique or in the appreciation of the problems involved, and for almost one hundred years there was little improvement in methods or management.

At the beginning of the twentieth century, however, these institutions became increasingly subject to criticism. This was reflected in the decision of the White House Conference on the Care of Dependent Children in 1909, which went on record as preferring foster home care wherever possible. In recent years there has been a growing tendency to question the relative value of institutions even for handicapped and delinquent groups. The realization that other means of caring for children, even where more desirable, could not entirely and immediately supplant the institution, as well as a recognition of its definite place in a program of child care, has led to a number of studies aimed at the improvement and "de-institutionalization" of institutions. These studies and activities have been conducted by the United States Children's Bureau and more especially by the Child Welfare League of America. Various sectarian bodies both local and national have also turned their attention to the problem. For instance, in the larger cities wherever there is an organized Jewish community the Bureau of Jewish Social Research has stimulated the organization of a central bureau of child welfare. The National Conference of Catholic Charities has held annual conferences for those in charge of Catholic children's institutions and has also stimulated the organization of central diocesan agencies to supply case work service for the institutions. The tendency of the Protestant churches toward individualism has resulted, on the whole, in a lack of cooperation, although the Federation of Agencies Caring for Protestants in New York City has been effective in dispelling the isolation of individual Protestant agencies in its vicinity. The various studies, surveys and conferences have resulted within the last decade in a vast improvement in technique and in administration of the institution, as well as in a correlation of its activities with those of other child welfare agencies.

One of the most discussed aspects of the institution is that of housing and its effects. The congregate institution, housing large numbers of children, compelled to wear uniforms and subject to other forms of regimentation, has been particularly criticized. As a substitute the "cottage type" has been recommended, in which small groups of children are housed in

separate cottages, each with its own house mother and in which the atmosphere of a home is duplicated as far as possible. An even more radical departure is the English type of "scattered home," in which the cottages, instead of adjoining each other, are located on separate streets of the same town. Because of the higher cost of the cottage type of institution and the greater difficulties of supervision and because of the existence of buildings which could not immediately be scrapped, a compromise plan has been worked out, particularly in some of the Catholic institutions, by which children are separated into groups, each under the supervision of a nun. Nevertheless, the congregate institution still predominates. Within the congregate institution itself regimentation is overcome by such methods as abolition of the uniform, spending money allowance, the encouragement of schemes of self-government and the introduction of techniques for individualizing the treatment of each child. Considerable attention has also been given to the facilities of the institution as regards space, ventilation and the like in an effort to improve the bad housing of the older institutions. Standards have been evolved for such institutions by the United States Children's Bureau. Although the appalling mortality rates for the old asylums have been considerably reduced they are still higher than those for non-institutional children. This may be due to conditions at admission, for which the institution cannot be held wholly responsible. In the case of infants the mortality rate is lower for institutions than for other forms of child care.

Discussions concerning the location of institutions have resulted in a consensus of opinion against the city, provided, however, that the rural location be fairly accessible to other communities, to the families of the children and to schools. Particularly in the case of Catholic institutions there has been a definite reduction in the number of urban institutions.

Considerable difference exists both in opinion and practise in the matter of schooling. On the whole it is agreed that wherever possible it is better for children in institutions to attend public schools in order that they may participate in community life and mingle with non-institutional children. Outside schooling is common among Protestant institutions, the rule in Jewish institutions and the exception in Catholic homes. There has been considerable disagreement with regard to the relative value of the non-vocational education in the public schools and the manual training commonly given in the institution, as well as to the eventual usefulness of the vocational training thus received.

Undoubtedly one of the greatest difficulties in the conduct of institutions for the care of children is that of personnel. In the past the position of matron of an institution has too often been filled by misfits in other occupations, partly because of the arduousness of the work and the low salaries paid. In recent years there has been more emphasis not only on better personal qualifications but on special training and higher salaries for general workers. These general workers are often supplemented by experts in the various branches of medicine, psychiatry, diet and recreation, as well as by social workers who correlate individual case studies. Along with this improvement in staff has come a better understanding of the functions and methods of institutional care. This will affect institutional work in its entire procedure from admissions to discharge and after care.

The problems of admission, discharge and after care illustrate particularly the necessity not only for expert care within the institution but for the correlation of its work with that of other agencies for the care of children. Originally the orphan asylum and foundling home not only accepted all applicants but in some instances even sought them. At the present time applicants may be rejected on the ground of mental or physical incapacity, if such is the policy of the institution, after careful examination, recording of social history and the evaluation of other possible means of care. The rejected applicant is, however, usually referred to specialized institutions or to welfare agencies. Likewise in discharging a child such elements are considered as the extent of family reconstruction or other forms of post-institutional care, the mental and physical capacities of the child, his capacity for self-support and his reference to proper placement agencies. The effects of follow up work after discharge and of better care during the period spent within the institution have led to less frequent reiteration of the charge that the ranks of criminals and other social misfits receive an undue proportion of their recruits from children's institutions.

The Child Welfare League has been influential in inducing many institutions to reject such practises as the use of surrender and indenture forms. Studies have been made of the influence of the length of stay, in conjunction with other

qualitative factors, on the capacity of the discharged child to care for himself or to adjust himself to a non-institutionalized environment. One of the criticisms of the institution has been that it has created so artificial an atmosphere either through regimentation or through too well arranged environment as to make post-institution adjustment difficult if not impossible for many children. The desire of children to return to institutions is no longer uncritically accepted as a mark of its efficacy.

Many of the defects in institutional care, in cases where the staff itself may have been cognizant of methods of correction, have been attributed to the personnel of the boards of trustees and the lack of public supervision. In the early days there was no general supervision by any public authority, and there are still many private institutions today without any such inspection. An increasing number of states now have legislation requiring all organizations to obtain permission from the state authorities before the establishment of an institution.

Reference has been made to our "orphaned" asylums to indicate the oversupply of institutions in the United States, many of them operating below the minimum modern standards of child care. In 1923 it was estimated that there were 1500 institutions housing 150,000 dependent children, with a staff membership of 14,000 and annual budgets aggregating from sixty to seventy million dollars. The orphanage is still a favored form of charity, particularly because of the sentimental appeal of the orphaned child and partly no doubt because of the concrete evidence which such an institution offers as to the philanthropy of its donor. Many institutions for dependent children have large endowments which perpetuate them whether they are needed or not. The situation is aggravated when property has been left as a memorial to a church or to a board of managers but no funds provided to carry on the work. The larger congregate institutions have, however, often been closed and cottage type institutions, home treatment or a combination of both substituted for them.

In any consideration of the values of the various types of care it will be seen that there is still a definite place for the institution, particularly in view of the vast improvements made in recent years. According to Dr. R. R. Reeder, one of the most constructive critics of the institution, the following groups benefit more from institutional than from other forms of care: children of family groups too large to be placed in one foster home or in separate foster homes so situated as to keep the children in close family touch with one another; children deprived of both parents in need of such special training or opportunities as foster family homes cannot provide; children whose surviving parent or other close relative stands in such affectionate relationship with them as to make it inadvisable for the children to form new foster family attachments; children for temporary special treatment before placing in family homes; children who have become repeated misfits in foster family homes; children of widowers who may later reestablish their family homes; and those of low mentality needing early industrial training. Some of these standards have been subjected to further inquiry. Whatever general principles may be considered as properly governing the scope of the institution, it is evident that only through careful case work and cooperation with all agencies can the best decision be made. With the further extension of modern placing out systems, of mothers' pensions arrangements and of more selective methods of admission the number of institutions will undoubtedly decrease to meet the actual needs of those cases which are properly institutional charges.

MARTHA P. FALCONER

CHILD LABOR. The term "child labor," a convenient expression for "the labor of children," has a well recognized though rather vague meaning. It refers both to an economic practise and to the attendant social evil. The economic practise had been taken for granted until, in England, at the onset of the industrial revolution the social evil was discovered. Since then reformist usage of the phrase has brought about a general acceptance of a peculiarly moral or humanitarian connotation.

Child labor as an economic practise signifies employment in the so-called gainful occupations or a material contribution to the labor income of the family, as in the period before the wages and factory systems or today in agriculture on the home farm. Its extent is readily measured by quantitative standards, such as those used in the United States Census of Occupations; and nothing but an age line differentiates it from adult labor. But the extent of child labor as a social evil is determinable only by methods of qualitative analysis, with consideration of the character of the actual jobs in which children

are engaged, the dangers to which they are subjected in their work and the desirable opportunities of which they are deprived by reason of their being "gainfully occupied."

Knowledge of the prevalence and increase or decrease of child labor in this latter sense depends as yet too much on opinion and too little on measurement. Occupational statistics cannot represent a survey of child labor from the standpoint of human values, and no adequate set of tests and measures has been constructed.

The initial emphasis in reformist effort was naturally placed on obvious wrongs to be immediately righted, and there grew up a stereotyped conception of child labor as pertaining to very young children engaged primarily and almost exclusively in industrial forms of employment, particularly in factories and mines, and exposed to physical and moral dangers. While none of these forms and aspects of child labor has disappeared in this or any other country, they constitute a narrow and anachronistic but strongly persistent notion of child labor as a social evil. In certain countries and localities, particularly those only recently affected by industrialization, reformist activity still has to do with more obvious and revolting conditions.

Interpretation, however, has broadened, so that child labor in other than industrial pursuits receives more attention; the protection and education of children over fourteen is one of the major issues of today. More and more it is realized that many of the problems center about the difficulties of adolescence, for an understanding and adjustment of which the point of view of the mental hygienist is necessary. Any adequate conception of child labor begins with the child himself, his nature and his needs both present and future. Every child laborer is a child with all the needs of other children. He needs opportunity for growth not only physical but in mind and personality, through all the activities and experiences which properly belong to childhood. And when the business of wage earning, or of participation in self or family support, conflicts directly or indirectly with the business of growth and education, the result is child labor.

In such a conception play has an important part but does not exclude the role of work—not deadening, but enlivening and self-developing work, involving purpose, plan and freedom. In other words the function of work in childhood is primarily developmental and not economic. A broad program of reform, accordingly, concerns itself with the conservation and cultivation of the definite values to be found in work activities and of the work impulses, interests and capacities of children both before they leave school and after they enter employment. It is not confined to merely negative aspects such as the prevention and prohibition of premature, excessive and unsuitable work in gainful occupations. It stresses adequate preparation for occupational life, provides intelligent guidance and aids in proper adjustment. Children's work, then, as a social good is the direct antithesis of child labor as a social evil.

The history of child labor is bound up with the status of the child, his rights and privileges in general. As the group developed its cultural aids to the point where its economic dependence on the labor of children decreased, the appreciation of childhood for its own sake rather than for purely utilitarian reasons began slowly to increase. The process was, no doubt, reciprocal. The prolongation of the social infancy of the child, along with the growth and complexity of the social heritage, has been marked by a lightening of the child's share of the burdens of self and family support, by a postponement of his assumption of adult economic responsibilities and by the establishment of institutions and agencies for utilizing this extended leisure.

Agricultural and industrial workers of servile status formed the bulk of the population everywhere in ancient and mediaeval times, and their children were early put to arduous drudgery in house and field. The apprentice in a mediaeval craft guild was comparatively fortunate, assured as he was not only of maintenance and training but of permanent employment in his chosen trade. In the textiles, however, even before the coming of the factories, children were largely without benefit of apprenticeship in the guild tradition. Most unfortunate of all were the workhouse or pauper children of England, so numerous during the seventeenth and eighteenth centuries that the parish overseers bound them out regardless of training and welfare to any sorry masters in any sort of business.

The cotton factories established in the country districts of Lancashire and Yorkshire toward the close of the eighteenth century were worked largely by pauper children from London and other towns, whence they were brought in cartloads. The atrocities visited upon these boys and girls, housed in horribly overcrowded and unsanitary dormitories and literally driven to

death in the mills, form one of the darkest chapters in the history of childhood. But the pauper apprentices were not the only children exploited. In 1800 or a little later, in England, the majority of boys and girls employed in the mills and factories belonged to working class families which had been reduced to dire straits by their inability to make a living any longer from home manufacturing or small farming or the common combination of both.

It was not until 1794 that public attention was aroused to conditions of child labor in factories. In that year a committee headed by Dr. Thomas Percival of Manchester investigated an infectious fever which had broken out in the cotton mills of Lancaster and reported that, while the disorder was not caused by "the injury done to young persons through confinement and too-long-continued labor," it was aggravated by it. The report suggested, moreover, "this further very important consideration, that the rising generation should not be debarred from all opportunities of instruction at the only season of life in which they can properly be improved." Thereafter a few ineffective attempts were made by local authorities to curb the spreading evils of the situation. In 1802 was enacted the first protective legislation with the passage of the Health and Morals Act to Regulate the Labor of Bound Children in Cotton Factories, sponsored by Sir Robert Peel. This act forbade the binding out of children younger than nine years, restricted the hours to twelve actual working hours a day and prohibited night work. The act of 1819 still applying only to cotton mills extended protection to other than bound children.

Following the Napoleonic wars the factory system, beginning with cotton and woolen mills, took root on the continent. The period of most marked abuses came before the forties and the first measures of legislative protection for workers in Prussia, France and other European countries applied, as in England, to children in textile establishments. The more widespread effects of industrialization on child labor were felt in the seventies in Germany and Belgium and a decade later in Italy. In these countries legislation dealt with child labor in industrial and later in commercial establishments, but overlooked until very recently the child worker in agriculture. In the other countries which remained predominantly agricultural child labor in agriculture and in industrial homework was and still is a major problem.

In the United States the factory system and the new industrial order date from 1790 when Samuel Slater built a cotton mill in Rhode Island. Factories were later established in New England and the middle Atlantic states, but unlike those in England they did not find any large class of poverty stricken workers who had no choice but to seek employment for themselves or their children in the mills. Nevertheless, conditions were favorable to the extensive employment of boys and girls, partly by reason of the colonial tradition of hard work and plenty of it as good for their souls and partly because of nationalistic ambitions for the development of industry with the cheapest labor available.

Slater's first employees were boys and girls ranging in age from seven to twelve; thereafter he adopted the practise, not uncommon in England, of employing whole families under a single wage agreement. David Humphreys, in Connecticut, secured a number of children from almshouses in New York. In Lowell and other Massachusetts towns the majority of the workers were daughters of neighboring farmers. It was reported in 1832 by the New England Association of Farmers, Mechanics and Other Working Men that two fifths of all persons employed in New England factories were between seven and sixteen years of age. Hours of labor were long, never less than ten, seldom less than twelve, often fourteen or fifteen or even more. The first child labor law in the United States, in Massachusetts, was not passed until 1836. It provided that no child under fifteen should be employed in any manufacturing establishment unless he had attended a school for at least three months in the preceding year. In 1842, in Massachusetts, the labor of children under twelve in textile factories was limited to ten hours a day. In the same year Connecticut forbade the employment of children under fourteen for more than ten hours a day in cotton or woolen mills. The Pennsylvania law of 1848 forbade employment in textile mills of children under twelve. These early laws were inadequately enforced.

Well nigh universal labor of children, at early ages and for long hours, characterized even the pre-factory era. Drilled and sweated workers, including children, were employed in the manufacture of millinery, cardboard boxes, metal ware, furniture and the like long before the introduction of the water wheel into industry. The very tendencies which gave rise to child labor in the machine age, such as the

splitting up of occupations into specialized routine jobs, robbed the work of the child laborer of any educational or vocational value. Under the drive of the increasingly important motive of profit the factory and machine methods of production intensified the routine character of work and added to the hazards of all workers and especially of children. Heavy as may be the indictment rightly laid against machines and factories, it is nevertheless important to note that changes directed toward engaging fewer children and at shorter hours have been greater and certainly more rapid in the machine era than in all previous history.

It is worthy of note that with the exception of the first period of the machine age the number of children per family has decreased with its spread. Children have tended to become economic liabilities rather than economic assets. Not only has the proportion of all children to all adults declined but also the proportion of working children among all workers. This latter tendency is less marked in agriculture than in other pursuits. On the other hand, the increase of legislative protection is especially marked with respect to industrial occupations. The countries and states most advanced industrially have in general the highest effective standards of legislative protection and of educational opportunity.

In the machine age child labor has become enormously diversified. Industrial pursuits have multiplied, commerce, transportation and communication have expanded and the effects of the business regime on the organization of agriculture have not been altogether beneficial to the workers on the land. There is in addition a new complex of economic activities and occupations growing out of new standards of consumption. The majority of working children reported by the United States census in 1920 were employed in non-industrial occupations; in non-agricultural occupations the majority are found outside the mining, manufacturing and mechanical pursuits.

Agriculture in the machine age has undergone revolutionary changes. The use of machinery and the application of science have enabled the farmer to cultivate a larger acreage or to cultivate more intensively; but at the same time they have often increased the amount of work to be done by hand. The larger the farm the more work there is for children to do, especially where there is a shortage of hirable labor; if the farm is small, in consequence perhaps of unsuccessful management, the family is even more likely to depend on itself. Although work on the farm has many undoubted advantages for these children it often occupies too large and exclusive a place in their lives; and although the economic plight of the American farmer today calls for remedial action, no group is in greater need of "farm relief" than the farm boys and girls.

What is generally called "the industrialization of agriculture" refers chiefly to the organization of large scale enterprises in the production of special crops, like onions, sugar beets, tobacco, fruits or garden truck. These, conducted on a capitalistic basis, often by companies incorporated for the purpose, and utilizing a system of wage or contract labor make extensive use of children. Their work is performed under the eye of bosses or overseers, as in factories; and the same concomitants of mass production prevail, through the motive of profits, desire for cheap labor and, frequently, absentee ownership or control. It is out of door work, but hours are usually long and unregulated, serious health hazards exist and there is interference with school attendance. The practise of contracting the family labor is common and a premium is placed on the size of the family. Families with children are brought by the carload into the beet areas from distant places; families move out from nearby cities for the season regardless of the schooling thus shortened by weeks or months every year; migratory families, "following the crops" hither and yon, appear on the scene. Often they are housed in huts and barracks that would put to shame a city slum.

Until modern times income had always taken the form of a family income because women and children were accustomed to contribute to the family support by their hunting, fishing or agricultural work and by spinning and weaving cloth. Only with the adoption of factory methods of production and a money exchange for goods and services has there been a tendency to shift the major burden to the shoulders of one person, the husband and father. Nevertheless, this tendency has been obstructed by forces inherent in the new industrialism, among which may be included the new feminism, the causes as well as the consequences of which are economic in part. In England, in the nineteenth century, as the wages of the nominal bread winner were again and again reduced, only by the earnings of the whole family could a bare subsistence be obtained. The prevailingly low rate of wages paid in southern textile mills in this country

today is closely connected with the fact that the labor supply has been hitherto largely obtained by bringing whole families in from the hill farms and paying wages on the basis of the family labor.

Child labor under these or other circumstances at once supplements and depresses the family income. It may seem, perhaps, that adult wages can be but slightly affected in the United States when only 2.5 percent of all workers are in the ten to fifteen-year age group, but the situation is to be viewed with reference to particular trades and industries and particular localities. Although the proportion of ten to fifteen-year old children among cotton mill operatives dropped from 18 percent in 1900 to about 6 percent in 1920, even the ratio of one in eighteen might have an appreciable effect. In Pennsylvania, in 1920, over 11 percent of the silk mill operatives were children under sixteen; in the United States, 8 percent. It may be observed that the textile industries are exceptionally difficult for the labor unions to organize. The tendency of employers is to pay the lowest wages that the workers will accept under conditions which permit children to supplement the family income; thus child labor is not only a subsidy to industry but a direct inducement to the payment of the low adult wages and to the entrance of children into the labor market.

In times of depression and unemployment children who would otherwise be kept in school are often compelled to leave and go to work and are sometimes able to secure jobs when their parents cannot. In a period in which the employment and dependency problems of workers over forty assume their present magnitude and in which, temporarily at least, a vast amount of "technological unemployment" exists, a program for the exclusion from gainful occupations of children under sixteen would, even at the cost of the adjustments involved, result no doubt in a saving to society.

Child labor exists contemporaneously in various pursuits in countries of widely differing stages of industrial development. In China and Japan the recent rapid transition from a handicraft society to machine methods and modern techniques of production has brought about in the cotton and woolen mills and silk filatures abuses rivaling those in the darkest period of England's industrial history. These exist side by side with pre-industrial low standard child labor in agricultural and household occupations. In China under the guise of adoption or apprenticeship the ancient slave trade in children continues, and every year tens of thousands of these children become household drudges, rice field hands and factory toilers. It has been estimated that there are over a million child workers in modern industrial establishments alone in China. In Japan legal protection as well as industrialism is farther advanced; according to one figure there were, in 1925, 263,000 child workers, including 223,000 girls, in manufacturing establishments. About three fourths of them were in the textile industry. The total number of children employed in all occupations was in 1924 almost a million and a half. Parents often contract the labor of their children, girls more frequently than boys, to factory owners or managers for a term of years. A large majority of the employees in Japanese weaving sheds and textile mills are women and children, recruited chiefly from the farming districts. Whole families work together in the mines. The extreme poverty prevalent in large parts of the country renders difficult the enforcement of regulations pertaining to the industrial employment of children. Even in countries industrially more backward than China and Japan, as, for example, Persia and Algeria, the exploitation of very young children is common in rug and carpet making as well as in other occupations.

In most European countries considerable progress has been made in checking evils as obvious as those which still exist in the newly industrialized countries. In Great Britain the early factory acts were gradually improved upon so as to include children in ironworks, mines, sweatshops and mercantile establishments. The introduction of compulsory school attendance, the establishment of juvenile labor exchanges and other moves of general social import reenforced restrictive legislation. Both in England and in Germany the lessening of the evils of child labor came through social legislation, fostered by public bodies, by reform groups and by labor unions, as well as through apprenticeship regulations and restrictions in collective trade agreements. In Great Britain in 1929 a bill was sponsored by the second Labour government for raising the school leaving age from fourteen to fifteen with a provision for government aid in needy cases. In 1925 the total number of workers between the ages of fourteen and seventeen was over two million.

More backward countries have recently raised their standards, partly as a result of their participation in the conferences of the International

Labour Office formed in 1919 and attached to the League of Nations. All the leading nations of the world, with the conspicuous exceptions of Soviet Russia and the United States, are members of this organization. Annual conferences have been held, at which draft conventions, a number of them relating to children, have been adopted; these have been submitted to the member nations for ratification and incorporation into the law of the ratifying nations. The draft convention providing for a fourteen-year age minimum in industrial occupations has been ratified by eighteen countries; that prohibiting night work of children under eighteen in industrial pursuits, except in certain continuous industries, by twenty-one countries, and of children under sixteen in continuous industries by twenty countries; that prohibiting employment of children under fourteen in agriculture, except outside the hours fixed for school attendance, by twelve countries.

Nearly all of the fifty-five members of the International Labour Office have laws regulating the employment of children in industry, with regard to age of admission, hours and times of employment, conditions to safeguard health and education. In most of them regulation is extended to commercial work, as in stores and offices, although the age minimum and hour standards are sometimes lower. Street trades and public amusements are less often subject to regulation, and the same is true of agriculture and household work, especially when performed under parental supervision. The age of admission is usually lower for street trades than for industrial or commercial employment, but sometimes it is higher. Control of non-industrial employment is effected to a considerable extent through school attendance laws, some of which contain provisions limiting hours of outside work. Argentina has an age minimum of at least fourteen for virtually all forms of gainful employment, not including agriculture, while Poland forbids, without exceptions, the work of children for wages under the age of fifteen.

The prevailing age minimum of admission to industry, which in all cases coincides with the lower age limit for regulation, is fourteen. Exemptions are numerous; Japan and France, to cite two examples, permit children of twelve and thirteen respectively to enter industry if they have completed the prescribed elementary course. There are also poverty exemptions in many countries, but these are rapidly tending to disappear. Requirements for admission to indus-

TABLE I

REGULATION OF WORKING HOURS FOR YOUNG WORKERS

COUNTRY	AGE TO WHICH REGULATION APPLIES	MAXIMUM WORKING HOURS	
		PER DAY (HOURS)	PER WEEK (HOURS)
EUROPE			
Austria	14–18		44–48
Belgium	14–18	8	48
Bulgaria	14–18	8	48
Czechoslovakia	14–18	8	48
Denmark	14–18	10	60
Esthonia	14–18	6–6½	
Germany	14–16	8	48
Finland	15–18	8	48
France	13–16	8	48
Great Britain	14–18	8–10½	48–74
Holland	14–18	8½	48
Hungary	12–14	10	
	14–16	8	
Italy	12–15	11	
Latvia	14–18	6–8	
Luxemburg	14–18	8	
Memel	14–16	8	
Poland	15–18	8	46
Rumania	14–18	8	
Russia	14–16	4	
	16–18	6	
Sweden	13/14–18	8	
Switzerland	14–18	8	48
Spain	10–18	8	48
Yugoslavia	14–18	8–10	
AFRICA			
Egypt *	10–14	12	
Morocco (French Protectorate)	12–16	10	
AMERICA			
Argentina	14–18	6	36
Brazil	12–18	6	
Canada	13–16 †		
Ecuador	12/14–18	8	48
ASIA			
China	12/14–17/18 ‡	8	
Japan	12/14–16	11	
India	12	6	
Palestine	12–16	8	
OCEANIA			
Australia	14–18 †	8–10	48
New Caledonia	13–18	10	
New Zealand	14–16	8¼	45

* In cotton ginning factories only.
† The age of admission as well as the age limits of regulation vary in different provinces and states. The majority of the provinces of Canada have 14 as the age of admission.
‡ Boys 12–17, girls 14–18.
Source: International Federation of Trade Unions, *The Protection of Young Workers*, International Trade Union Library, 2nd ser., Reports and Documents, no. 1–2 (2nd ed. Amsterdam 1930) p. 17–18.

try include a compulsory physical examination in twenty-four countries (discretionary in several others) and some educational qualification in seventeen. Examinations while at work are discretionary in twelve countries and compulsory in Sweden.

Generally speaking, the defects of legislation, aside from its weak enforcement, have been in the omission of industrial home workers and of children in agricultural pursuits. Germany, for instance, neither in its law of 1903 nor in the improvements thereon in 1918 has included the vast and ever increasing number of agricultural child laborers working under completely unregulated conditions.

The legislation of most of the states in the United States has been characterized in an informal report of the International Labour Office as being on the whole much in advance of any found elsewhere. The early legislation of the pre-Civil War days was administratively weak and inadequately enforced. The rising tide of immigration and the dynamic changes in industry tended to retard progress in the organization of adult labor into trade unions and progress in child labor legislation. In some states there was even a lowering of existing standards.

Despite successive enactments and better enforcement in the latter half of the nineteenth century, the gains did not keep pace with the phenomenal expansion of industry, its penetration into new fields of enterprise, its spread beyond state borders and its unceasing demand for the cheap labor of boys and girls. In 1900 "less than a dozen states were seriously attempting to limit the labor of children in mills, mines, factories or stores, in sweatshops or street trades. Such laws as existed were chiefly unenforced, and all were lamentably meagre. . . . In most states it was not illegal to send children as young as 10 or 8 or 7 years into a mill, and keep them at work unlimited hours. Boys of these ages were kept through the night-shift serving blowers in glass-bottle works, and as water boys all night in iron and steel mills. Day or night, in cotton mills, children's hours were commonly those of adult workers" (*The National Consumers' League; First Quarter Century, 1899–1924*, New York 1925, p. 2).

Various organizations undertook to remedy these conditions. The National Consumers' League formed in 1899 was outstanding in its efforts. In 1904 there was created the National Child Labor Committee, an organization which has devoted itself to enlightening the public about conditions and helping to obtain more and better laws, better enforced. It has cooperated with other agencies interested in the problem. Although in the main the trade unions have depended on minimum wage standards and apprenticeship requirements to act as minimum age barriers, in such industries as mining they have carried on active and successful campaigns for child labor laws or for licensing laws prohibiting child labor under the age of sixteen. The American Federation of Labor has taken an active part in the various attempts for the enactment of federal child labor legislation. Finally, the Children's Bureau of the United States has carried on extensive studies of the types and effects of child labor.

At the present time all but two states have adopted a nominal age minimum of at least fourteen for full time employment in industry, and usually in some if not all other occupations. In many states only specifically enumerated occupations are covered. Most of the laws do not apply to agricultural work or domestic service. Montana has a sixteen-year minimum for factories, Ohio for all occupations. Six states have a general fifteen-year age limit, but one exempts children of fourteen and another exempts children of twelve on grounds of poverty. Thirty-nine states have a fourteen-year limit but the laws of eight of these contain exemptions permitting employment at earlier ages. Two states have no general age minimum and have exemptions in their compulsory school attendance laws allowing children to leave school and go to work before they have reached fourteen. The laws regulating work of school children outside of school hours are far less strict and in many states either non-existent or unenforced.

For extrahazardous occupations most states have an age minimum of sixteen or eighteen or both, but the list of such occupations varies greatly from state to state. In twenty-two states a state board of health or of labor has authority to determine occupations dangerous to children and young persons under specified ages and its rulings have the effect of laws. Eight states grant extra compensation to minors injured while illegally employed. Only twenty-one states have laws regulating the employment of children in street trades in any way, and only fourteen require badges to be worn by newsboys. Thirty-five states permit boys under twelve and twenty-nine states permit girls under twelve to engage in street trades. There is some regulation by municipal ordinances.

Hours for working children under sixteen are limited to eight a day and forty-four a week in four states; not all occupations, however, are included. Twenty-five states have the eight-hour day and forty-eight hour week for most occupations; in twelve other states this is the standard, but with serious exceptions. Eight states permit children to work nine to eleven hours a day and fifty-one to sixty hours a week. In thirty-seven states night work is prohibited for children under sixteen after seven p.m. (or earlier), although in some states there are serious exceptions.

A physician's examination and certificate of fitness are required for the issuance of work permits to children under sixteen in twenty-seven states. Periodical reexamination is required in only one state, although in a number of others an examination is required each time the child changes from one employer to another. The educational requirements for work permits vary widely from state to state. In only fifteen states and the District of Columbia is an eighth grade minimum in force. In seven states the compulsory attendance law applies only to children under fourteen years; and in most others there are exemptions to permit children to leave school and go to work at fourteen or in some states even earlier, under special circumstances.

The reluctance of certain states to adopt protective standards as high as those in comparatively advanced states, and the effect of this condition of affairs in retarding legislative progress in both "backward" and "advanced" states through the competitive advantage supposed to be enjoyed by industry in states with low standard laws, led several decades ago to a demand for federal legislation in order to secure a minimum level of uniformity. The case was strengthened by considerations of national pride and welfare and by the desire to place the United States in a position to participate in international agreements on the subject of child labor.

The first federal act, passed in 1916, prohibited the shipment in interstate and foreign commerce of goods produced in mines or quarries in which children under sixteen years of age were employed; or in mills, canneries, workshops, factories or manufacturing establishments in which children under fourteen years of age were employed, or in which children between fourteen and sixteen years of age worked more than eight hours a day or six days a week or between seven p.m. and six a.m. This act was declared unconstitutional by the United States Supreme Court in 1918. The second federal child labor act, included in the Revenue Act of 1919, imposed a tax upon the profits of all mines and manufacturing establishments employing children in violation of the above standards. This act was declared unconstitutional by the Supreme Court in 1922.

The sixty-eighth Congress in 1924 adopted a joint resolution proposing to the several states a constitutional amendment under which the national legislature should have power, concurrent with that of the states, "to limit, regulate and prohibit the labor of persons under 18 years of age." More than three fourths of the states (the proportion necessary for ratification) acted adversely on this proposal. Only five (Arizona, Arkansas, California, Montana and Wisconsin) have certified their approval to the secretary of state at Washington.

The following tables based upon figures of the United States census, taken decennially, show the extent of child labor in the United States.

TABLE II

CHILDREN 10 TO 15 IN ALL OCCUPATIONS AND IN NON-AGRICULTURAL OCCUPATIONS IN THE UNITED STATES

YEAR	NUMBER OF CHILDREN		PERCENTAGE OF ALL CHILDREN 10–15		PERCENTAGE OF ALL WORKERS	
	ALL OCCUPATIONS	NON-AGRICULTURAL OCCUPATIONS	ALL OCCUPATIONS	NON-AGRICULTURAL OCCUPATIONS	ALL OCCUPATIONS	NON-AGRICULTURAL OCCUPATIONS
1870	739,164	238,779	13.2	4.3	5.9	3.7
1880	1,118,356	396,504	16.8	6.0	6.4	3.7
1890	1,503,771	591,568	18.1	7.1	6.4	4.2
1900	1,750,178	686,213	18.2	7.1	6.0	3.7
1910	1,990,225	557,797	18.4	5.2	5.2	2.2
1920	1,060,858	413,549	8.5	3.3	2.5	1.3

The rise in the number and proportion of children employed from 1870 to 1900 is in large part an expression of expanding industry and commerce, as may be judged from the comparative stability of the ratio of children to total workers. The decline for non-agricultural occupations from 1900 to 1920 reflects the influence of child labor and school attendance legislation. It is especially marked for the age group below fourteen; the number of children ten to thirteen years old in non-agricultural occupations declined from 185,660 in 1900 to 95,841 in 1910 and to 49,105 in 1920. The huge

drop from 1910 to 1920 in the number of children employed in agriculture may be explained in part by a change in census practise. The change in the census date from April to January resulted in the omission of hosts of children beginning in the spring to take part during a large portion of the year in the planting, cultivation and harvesting of crops; and the new instructions to enumerators, with reference to farm children, strongly stressed regularity of work and disregard of chores and household tasks. Further, in interpreting the 1920 figures it must be borne in mind that the census of that year was taken at the beginning of a period of industrial and business depression, as was the fact also in 1930. A federal child labor act, later declared unconstitutional, was in operation; its restrictions on employment in mills and factories were of a higher standard than many of the states chiefly affected by it have yet attained, particularly in the matter of hours, the eight-hour provision discouraging the use of children where the longer working day was customary, as in southern textiles.

TABLE III

CHILDREN 10 TO 15 BY OCCUPATIONAL CLASSES IN THE UNITED STATES

OCCUPATIONAL CLASS	NUMBER EMPLOYED		CHANGE FROM 1910 TO 1920
	1910	1920	
Agriculture	1,432,428	647,309	—54.8
Mining, quarrying	18,090	7,191	—60.2
Manufacturing, mechanical	260,932	185,337	—32.8
Transportation	20,800	18,912	—9.1
Trade	70,700	63,368	—10.4
Public service	537	1,130	+110.4
Professional service	3,566	3,465	—2.8
Domestic and personal	112,171	54,006	—51.9
Clerical	71,001	80,140	+12.9

As is apparent from Table III the decrease between 1910 and 1920 in the number of children employed affected each major group of occupations. The increase of 110.4 percent in public service is insignificant on account of the small numbers involved. The increase of 12.9 percent in clerical occupations suggests the rapid advance of commercial activities and the comparative attraction of white collar occupations. The decrease in number of children in domestic and personal service may be explained in part by lessened demand for household servants or by decreased willingness to seek or accept jobs of this sort. The influence of legislation, of little account in domestic service and agriculture, was very significant in the mining and manufacturing fields. In these fields the decline in the employment of children was more pronounced for the ages of ten to thirteen than for those of fourteen and fifteen, the decline for the former group being as high as 72.6 percent in mining and 71.1 percent in manufacturing industries.

A selected list of non-agricultural pursuits is suggestive in a general way of the nature and environment of some of the principal occupational activities of children:

TABLE IV

CHILDREN 10 TO 15 IN SELECTED NON-AGRICULTURAL OCCUPATIONS (UNITED STATES, 1920)

	NUMBER	PER-CENT
All non-agricultural pursuits	413,549	100.0
Messenger, bundle and office boys and girls *	48,028	11.6
Servants and waiters	41,586	10.6
Salesmen and saleswomen (stores) †	30,370	7.3
Clerks (except clerks in stores)	22,521	5.4
Cotton mill operatives	21,875	5.3
Newsboys	20,706	5.0
Iron and steel industry operatives	12,904	3.1
Clothing industry operatives	11,757	2.8
Lumber and furniture industry operatives	10,585	2.6
Silk mill operatives	10,023	2.4
Shoe factory operatives	7,545	1.8
Woolen and worsted mill operatives	7,077	1.7
Coal mine operatives	5,850	1.4
All other occupations	162,722	39.3

* Except telegraph messengers.
† Includes clerks in stores.

Nevertheless, the census figures for children in gainful employment cannot be accepted as a complete and accurate picture of the number of children at work during all or a large portion of the year. No account is taken of boys and girls under ten, and in some communities there are almost as many workers under that age as between ten and sixteen. In various types of seasonal agricultural work investigations have disclosed that among the children under sixteen a quarter to a third are younger than ten; boys and girls from six to ten are also numerous in street trade and tenement homework. The number of street traders, as, for example, in the case of newsboys, from ten to fifteen is many times larger than the census reports indicate.

The census does not disclose the large number of children who work for their parents in small stores and other businesses before and after school. The census reports, moreover, embody the results of no qualitative analysis (from the standpoint of health hazards or educational values) of the jobs and occupations in which children engage.

In the United States under the direction of the various agencies many analytical studies have been made to throw light on the causes of child labor as well as on its costs. It is of course known in a general way that poverty and tradition conspire to bring about the widespread employment of children. As the general economic level of the people rises, large classes are left below the poverty line or little above it. Changes in standards of living, such as a greater demand for goods beyond a mere family subsistence, make this poverty line elastic and at times indefinite. By reason of poverty or near poverty, of economic necessity or desire for the comforts and luxuries of life, the children of the family are drawn or forced at an early age into some sort of remunerative labor. Poverty and child labor beget each other and tend to perpetuate themselves in families and communities.

In spite of the accessibility of schools and the enforcement of compulsory attendance there is a great exodus from the schools into employment as soon as the law allows. Thus in the United States in 1920, while 92.5 percent of the thirteen-year old children are enrolled in school, at sixteen only 50.8 percent have remained. Numerous studies have been made, principally in urban areas, to determine why children leave school so early; in some cases reasons listed in the reports are frequently those given by children rather than those which might be disclosed by thorough investigation. A Massachusetts report explains school withdrawals before sixteen as due in 25 percent of the cases to "economic necessity" and in 40 percent to "a real and vital dislike of school." A Chicago report ascribed 60 percent of early withdrawals to "conditions in school" and 40 percent to "conditions at home." A Cincinnati study by Mrs. H. T. Woolley (*An Experimental Study of Children at Work and in School between the Ages of Fourteen and Eighteen Years*, New York 1926) lists in order of importance the following influences: level of the child's ability, parental attitude, health and industrial or economic status of the family. L. Thomas Hopkins in *The Intelligence of Continuation School Children in Massachusetts* (Harvard Studies in Education, vol. v, Cambridge, Mass. 1924) stresses "inability to do the work of the regular school." Many other investigators emphasize unwillingness, rather than inability, to do the school work, or lack of interest in the work of the regular school.

It appears from many local surveys that scholastic retardation is more common and pronounced among children leaving school for work at fourteen than among those who stay. In several studies this difference between the groups is shown to be very marked; but according to a recent investigation in Newark and Paterson, New Jersey, the percentage of working children under sixteen who when they left school had been advanced beyond the average, in respect of the grade attained, was as large for boys and almost as large for girls as among all school children, and in Paterson was larger for both boys and girls.

These children come in hosts from poor families and poor schools; most of them have never reached the eighth grade and have no vocational training, no real knowledge of occupational conditions. The jobs which are available to them are for the most part juvenile and futureless, and little or no use can be made of them by the continuation schools for education and guidance. A recent report of the superintendent of the Boston public schools states that the number of openings for children under sixteen years of age is becoming increasingly smaller and the character of such openings progressively less desirable, and concludes that the best work of the continuation school is in training pupils to qualify for better positions at the age of sixteen. Evans, in his more general study of educational opportunities, goes further in his statement that the time spent in continuation schools by the age group of fourteen to sixteen is practically wasted because of limited employment opportunities, and that the best work of the continuation school of the future will be with the sixteen to eighteen-year group.

The results of a study made by the White-Williams Foundation (*The Working Children of Philadelphia: a Survey of the Work and Working Conditions of 3300 Continuation School Children*, by A. B. Griscom, Bulletin no. iii, Philadelphia 1924) showed that of the jobs held nearly half were "monotonous repetitive-action" jobs; more than half held but fair or poor opportunity for advancement; and many held no such oppor-

tunity whatever. Fewer than three fifths afforded a greater or less degree of "varied physical activity," and only 30 percent could be classed as offering "mentally stimulating work"; one third offered neither specific nor general training. A sixth grade education was regarded by employers as sufficient preparation for the jobs held by 68 percent of the children. Mrs. Woolley's study in Cincinnati showed that the type of factory work open to young beginners can be performed satisfactorily by the poorest 10 percent of the working group or the poorest 5 percent of the school group, so far as intelligence level is concerned. As to the general run of work opportunities for boys and girls between fourteen and eighteen, neither the degree of intelligence nor the school grade attained had any positive effect on the chances of getting a job or on the amount of wages earned.

It is not surprising, therefore, that working children discover, after the initial interest wears off, that the job is leading nowhere and tend to shift about frequently from one job to another. The demoralizing influence of child labor turnover is a matter of serious concern. Although it has been claimed that the continuation school has reduced this turnover, there is no conclusive evidence that job shifting among young workers has been materially checked for any large group. Any value for children in trying out one job after another is more than offset by the limited character of the available openings. Probably the schools could best provide this opportunity with informational and experimental courses in occupations. Moreover, child labor turnover brings with it idleness between jobs. In New Orleans, recently, it was found that 20 percent of the children under sixteen who had gone to work before that age were neither in school nor at work; in Chicago working children under sixteen were idle half the time.

In addition to the educational and vocational disadvantages suffered by children who leave school or even by those who do certain types of part time work must be counted the cost of industrial accidents, to which children are far more liable than their elders. Thousands of industrial accidents to children and young persons are reported annually in the United States, many of them resulting in permanent loss, or loss of use, of a member, in serious and permanent disfigurement or in death. Children too are more susceptible to industrial poisons and diseases than adult workers.

It can scarcely be denied that occupations involving long hours of work, late hours or night employment, continuous standing, sitting or use of a single set of muscles, emphasis on the finer neuromuscular coordinations with attendant nervous strain, indoor confinement in noisy factories and dusty trades, carrying heavy loads under the arm or lifting heavy weights, pressure of speed in the performance of simple mechanical acts, contact with industrial poisons, exposure to inclement weather, crawling and bending all day along rows of onion or beet plants, are unsuitable occupations and provide harmful conditions for growing boys and girls peculiarly susceptible to certain deformations and diseases. Nevertheless, these and other equally undesirable aspects of child labor are still characteristic.

The existing data furnish little basis for comparison of the health of working children with that of children in schools. There have been few studies yielding really scientific knowledge of the specific effects of different occupations on health and growth, but physicians who have examined working children have frequently attributed their physical and medical conditions —especially any postural deformities—to the nature of their work. Tests applied to school and working children in Cincinnati led to the conclusion that "school life favors general physical vigor and energy more than working life."

Other studies disclose not causation, but aggravation of defects and ailments. A study of the health of continuation school children in New York City (New York State, Department of Labor, *The Health of the Working Child*, Special Bulletin no. 134, Albany 1924) shows that of the 412 boys and girls examined only eighteen were without some serious deficiency or impairment, while three fourths of the total number had two or more deviations from normal development and health. No less than 49 percent were doing work which directly aggravated these defects and abnormalities, such as bad posture, flat feet, cardiac weakness and defects, throat or lung affections and nervous difficulties. In sum, the data regarding the health of working children show that defects and ailments are common, that in many cases they are caused by the work performed or its environment, that in probably the larger proportion of cases the abnormal conditions are aggravated and that neglect of these conditions is likely to bring disastrous results.

A social cost not often emphasized in discussions of child labor is summarized by Miriam Van Waters, referee of the Los Angeles Juvenile

Court, in her book *Youth in Conflict* (New York 1925, p. 116): "Cruel as is the physical waste of youth in textile industries, mills, foundries, factories, canneries, fruit, cotton and beet fields and the like, the writer is of opinion that boys and girls suffer less permanent damage to character in industries which are productive, that is to say, where they can deal with processes of production, than in 'service' industries such as 'soda jerks,' messenger, telephone operator, theatre ushering, beauty shop attendants, dance-hall instructors, waitresses, salesladies, chambermaids, bell-boys, and 'entertainers.' In these latter pursuits it is mainly youth, beauty, charm and vivacity which sell their service. . . . The shafts of 'kidding,' flattery and other attentions fall more disastrously than do industrial accidents, or the slow wear and tear of mill and factory."

On the whole, conditions and needs from the point of view of mental hygiene have not received the required attention. Boys and girls in school who manifest emotional disturbances or behavior disorders are occasionally guided into employment by the recommendation of a child guidance clinic; but the great mass of children already at work are not receiving the psychiatric service which is being offered to school children in a growing number of communities.

The transition from school to industry for children under sixteen aggravates the usual emotional stress and instability of the period, which are induced by environmental forces as well as by physical and organic changes. Leaving school and going to work is a major step in a child's life; it involves breaking away from childhood dependencies and is accompanied by diverse external and internal compulsions, such as worry over home affairs, over "making good" and "getting on in the world." The new occupation may involve difficulties of adjustment in a new and complex set of relationships. The child may have left school to escape its rigidities and restraints, only to find himself subjected to the rigidities and restraints of his job, for eight or ten hours a day instead of five or six; with a boss instead of a teacher, and a machine instead of a lesson requiring his unremitting attention. He may have left school to find self-expression through interesting work, only to find that his job and the succession of other jobs to which he may turn after a short interval are stale, monotonous and without opportunity.

Fatigue, especially cumulative fatigue which lowers the psychophysical tone and heightens suggestibility, is an important factor in the development of neurotic tendencies among working children. Employment, moreover, considerably decreases opportunity for vigorous, outdoor play, recognized as far more prophylactic in mental hygiene than the indoor, commercial amusements usually sought by the working child. The mistakes of choice and inadequacies of preparation that result from premature going to work may later eventuate in those neurotic or psychoneurotic disorders frequently found among the unemployed and the marginally, aimlessly or unhappily employed.

The importance of employment as a direct cause of juvenile delinquency has doubtless declined with the passage of legislation excluding children from occupations carrying a high degree of moral hazard. Studies of children in correctional institutions and juvenile courts reveal, however, that delinquency is much more common among working than among non-working children and much more common among children in street occupations (newsboys, errand and messenger boys and the like) than among other workers. Only in part can this difference be attributed to a difference in home conditions.

Although numerous instances of a direct connection between job and the delinquent act have been reported, the relationship between occupation and delinquency is more often a matter of general effects on personality and behavior. Much delinquency begins with truancy and much truancy with maladjustment in school. Failure in school develops the sense of inferiority which often leads the child to compensate by self-assertive behavior of an antisocial kind. But the same thing is true of employment conditions. Repression of the normal impulses, desires and powers of children at work causes them to "burst out" excessively in their hours of freedom, seeking to have a good time or to exalt their submerged and humiliated selves. Delinquency as a phase of adolescence instability is at once a revolt from monotony and restraint and an exaggerated propulsion in the direction of amusement, adventure and recognition.

Thus child labor is not to be understood by itself alone, nor is the child labor problem to be solved separately and apart from other problems of child and social welfare. It is not one, but many problems, from child health to farm relief. It involves school and education, vo-

cational guidance, employment supervision and legal restrictions. It is coming to be a problem not only of strict enforcement of rigid laws but of establishing in law and administration, if possible, a flexibility so safeguarded as not to sacrifice to the circumstances of individual cases the protection of the mass of children.

The interrelations of child welfare problems may be illustrated by the employment of so many children in the mills and factories of England and America in the early part of the nineteenth century; their presence was due not alone to their customary employment in productive labor, whether in agriculture or in domestic industries, but to the lack of any recognized activities or established facilities of other sorts. The prevalence of poverty, especially in England, was certainly influential; but even the less poverty stricken parents saw little else to do with their children than to put them to work where their labor was wanted, either at home or abroad. The alternative was play or idleness, and play was regarded as a form of idleness. There were no such things as playgrounds or play supervision. For the masses of children schooling facilities and privileges were non-existent or extremely limited. The child labor movement has stimulated and been assisted by the movement for more and better schools and for higher standards of compulsory school attendance and by the play and playground movement. Vocational guidance has the incidental but important effect of reducing the exodus from school into industry at fourteen or fifteen. Scholarship allowances, provided under private auspices and administered by the local school system, keep in school many boys and girls whose poverty would send them prematurely into wage employment. As an educational problem child labor is not a matter merely of interference with or curtailment of school attendance but of the educational worthlessness of most juvenile occupations; it is a matter also of uneducational schooling, one of the chief causes of early going to work.

Child labor is both a cause and an effect of illiteracy and ignorance, of low wages and unemployment, of standards of living and levels of family and community life. It is affected likewise by organization of workers and maintenance of labor union standards and by the organization of consumers to boycott goods produced under substandard labor conditions. The reformist program includes all measures for the relief of dependency and the reduction of poverty, the improvement of the schools and the development of better parental and civic attitudes. Legislatively, it is concerned not alone with child labor and school attendance laws but also with minimum wages, workmen's compensation, old age insurance, grants of aid to dependent mothers and the like. Child labor reform itself is ineluctably committed to broad policies of educational and economic reform, dealing with the varied problems of adult as well as of child welfare.

RAYMOND G. FULLER

CHILD WELFARE LEGISLATION. The movement to enact legislation with regard to the rights and special needs of children was not started until the beginning of the nineteenth century, and the gains within the last thirty years have been more striking than those during the previous hundred years. This legislation has established definite status and rights for children where no such provision had heretofore been made; enacted special protective measures, first for children who were socially or physically handicapped and then in certain respects for all children; created public institutions for the care and education of children and for research into their problems; and has supervised and controlled the voluntary efforts along these lines which serve as substitutes for, or supplements to, state care. Recently there has been a movement to supplement local, state and national legislation by international agreements.

At the beginning of the nineteenth century the rights of children in statutory law in respect to health, recreation, education, protection from abuse, neglect, exploitation and exposure to physical or moral hazards or to excessive labor, or as offenders against the law were the same as for other members of the community under the common law. Even obviously helpless groups, such as foundlings, orphans and deserted children, received only sporadic or indifferent attention from the state; and certain groups, such as children of illegitimate birth, enjoyed even less protection than that accorded to the community as a whole. The province of state legislation in practise and in an individualistic equalitarian theory was conceived to be the protection of property rights rather than the protection of weaker individuals or groups in society.

Although the first protective legislation for children was enacted in England and although the United States has originated some

particulars of legislation, state action and responsibility in this field have been more readily acceptable to the countries of continental Europe. Reliance on the role of individual initiative and fear of paternalism, both so strong in English public tradition, found substantial support during the pioneer period of the United States in the actual existence of such economic opportunities as free land. Even when the social costs of child neglect became obvious in striking instances of widespread abuse, in both England and the United States a greater faith was placed in private philanthropy than in public effort. Particularly in the United States the existence of large private funds, especially for orphanages and children's societies, relieved the state and federal governments of large expenditures. Only recently has there been a tendency to follow the English custom of enacting into law provisions governing the use of charitable funds and resources. The development has been from legislation which established the status of the individual child as regards custody to legislation regulating the activities of private agencies undertaking preventive and remedial work in the care of the child and finally to legislation establishing public provision for groups of dependent, delinquent, defective and otherwise socially and physically handicapped children.

The establishment of definite legal rights for the child first took the negative form of the curtailment of the rights of others to govern the child. The English law of 1822 recognized the rights of neglected and abused children to protection from their own parents, and improvements in the poor laws curtailed the right of poor law guardians to apprentice pauper children. Then came a denial of the theoretical "right" or ability of the child to govern himself or to be held to strict accountability in the making of contracts, in hiring himself out to work, in marriage, in exposing himself or being exposed to certain physical and moral risks or in the commitment of acts which were in conflict with the law.

Such legislation required a definition of age limits. The trend throughout all civilized countries is in the direction of increasing the period of protection. The Roman law recognized the child under seven as lacking in responsibility, so far as delinquent acts were concerned. Early legislation restricting the labor of children began at almost as low an age limit. The state is now clearly extending its jurisdiction to include the activities of children during their late adolescence and after. Recently several states have extended the jurisdiction of the juvenile courts, in one instance to the age of twenty-one. For the most part, in one third of the states jurisdiction of juvenile courts extends to children under sixteen, in another one third to children under seventeen and only in the remaining third to children under eighteen. In some instances where juvenile court control has not extended beyond sixteen some attempt has been made, as in the legislation of Illinois and Michigan, for separate court handling of the older adolescents.

In the conference on uniform state laws in August, 1930, there was adopted for recommendation to the various states with the approval of the American Bar Association a uniform state child labor act fixing the upper limit of legislation at twenty-one and the lower age at fourteen. This lower limit is below the standard set by seven of the states and by certain European countries. Little progress is reported, however, for the child in domestic service and agricultural labor. The period in which education becomes not only a right but a duty of the child has been correspondingly raised and the tendency is toward compulsory school attendance until the sixteenth year with some provision, where this is not absolute, for continuation school education between the ages of fourteen and sixteen. Most outstanding in this respect was the Fisher Educational Act of 1918 passed in England during the war in spite of the shortage of labor.

Similarly there has been an advance in the raising of the age of consent to sixteen, as well as in the raising of age limits in legislation which attempts to diminish the physical and moral risks to children, such as legislation prohibiting the sale of intoxicants, drugs, tobacco and the like to minors and prohibiting their presence in places and under conditions of moral and physical hazard, a category in which motion picture houses have recently been included.

Until the beginning of the twentieth century child welfare legislation displayed a vast indifference to causes and an easy contentment with rather superficial treatment of results. In the last thirty years, however, the scope of legislation has been immeasurably broadened in all countries; the number of groups aided has been increased and preventive as well as remedial measures have been emphasized. In the

comparatively new field of health legislation, provisions for the physically handicapped and for the mentally retarded and defective child have been numerous and far reaching.

The first type of remedial legislation to enlist the activity of national governments referred to specific types of the more brutal and spectacular abuse or neglect by parents. Whereas in other countries legislation has vested these protective powers and the execution of remedial measures in the state or local civil departments or courts, in England, Canada and the United States specialized protective bodies privately financed and controlled, although under public supervision, prevail.

Legislation with regard to delinquency has advanced not only in the classification of the delinquent child apart from the adult delinquent but in the creation of special courts to deal with his problems. The juvenile court movement was inaugurated with the establishment in Illinois of the first children's court in 1899, but other countries have in recent years made advances beyond those of the United States. In England, Germany, France, Austria and Canada, for example, the so-called children's courts are restricted to a much more limited field of operation than the courts of the United States, which, following the Illinois pattern, include problems of personality and behavior, mentally defective children, truants, dependent and neglected children, as well as of custody and guardianship. Moreover, European practise emphasizes the educational rather than the punitive approach to many cases, such as those concerned with truancy and the adolescent sex interests of children, and has developed treatment on the basis of social and psychiatric inquiry—a procedure possible because of the smaller number of cases within juvenile court jurisdiction.

There has been a new legislative attitude toward a hitherto underprivileged group—children born out of wedlock—which is expressed as much in the elimination of such terms as "bastard" in legal phraseology as in the placing of such children on an equal status with children born in wedlock. This is especially true in the radical legislation of Soviet Russia with regard to the responsibility of both parents and of the state. In the United States the disclosure of a death rate approximately three times as high among these children as for children of married parents indicated in part a very insecure economic status on the part of the mother; the uniform illegitimacy law, framed in 1922 by the commissioners on uniform state laws and now adopted in seven states, is essentially a support measure. Under this law both parents are liable for support, and the father's responsibility through an order of support continues until the sixteenth year. There is continuing responsibility by the court, with a degree of privacy lacking in earlier legislation. Similar legislation exists in the German states, in Austria, the Scandinavian countries, Holland and England. State guardianship for children of unmarried parents does not exist in the United States except in Minnesota.

Legislation with reference to adoption is closely related to the welfare of children of unmarried parents, since such children are those most likely to be considered for adoption. It has been recognized as fundamental in every country which has a sound welfare program that legislation prohibiting traffic in babies and controlling "baby farming" and other forms of care by unregulated persons or by corporations must come within the scope of state activity. It has been recognized too that the line between child welfare legislation and other forms of public welfare legislation is difficult to draw, as for instance in measures which tend to give equal guardianship rights to both parents and in world wide enactment of mothers' pension legislation, which extends to the home the sphere of state aid for dependent children.

Because of the great divergences among the practises of various states and countries and in details and interpretation, it is difficult to do more than to state general trends in child welfare legislation. The legislation in each of the following countries is significant as a whole. England, Germany, Austria, the United States, the Union of Soviet Socialist Republics, France, Japan, Sweden, Finland, Norway, Mexico, Argentina and Denmark. The great differences in the laws of the different political units of the United States are clearly brought out in a recent compilation which gives more than 20,000 references to the social welfare laws of forty-eight states.

Progress in unification has taken place along two lines: first, in the broadening of territorial scope and, second, in the codification and unification of provisions of a particular territorial unit. Outside of the United States the chief public force making for territorial enlargement is the Child Welfare Committee of

the League of Nations. This committee recently published a report on conditions among indigent alien children, which recommended that they be given the same rights to care and education as native born children. Many European countries have made reciprocal agreements, some of which date from before the war, containing provisions as to employment, repatriation and the care of alien minors.

In the western hemisphere international cooperation for working out standards of legislation has come through the establishment in 1924 of the American International Institute for the Protection of Children. In the United States the state provisions restricting importation or exportation of children from or to other states for adoption or placing have been fewer in number than those which provide for children within their immediate jurisdiction. Several efforts have been made to remedy the confusion and shortcomings of varying local and state standards which exist because of the limitations to federal action involved in the states' rights doctrine. These efforts have been made more often by advisory or research bodies than by direct legislation. Chief among them were the White House conferences of 1909 and 1919 on the care of dependent children. The recommendations of these bodies have had wide influence on state legislation; and the movement for the constitutional amendment to make possible federal control of child labor, as well as the Sheppard-Towner Act of 1921 giving more than six years of federal government aid to mothers and children, was an almost direct result of these conferences.

Unification of legislation within a given territorial unit received its first impetus in the enactment of the Children's Charter or Act which became the law of England in 1908. This was followed by similar movements in Belgium in 1912 and in other European countries. In the United States the influence of this movement was salutary. The establishment of a federal Children's Bureau in 1912 for the purpose of research and recommendation on all phases of child welfare was world wide in its significance and other countries have established similar bureaus. Another result was the setting up of commissions for the purpose of enacting unified codes. The first of these was in Ohio, which enacted such a code in 1913. Since that time twenty-nine states and the District of Columbia have appointed commissions to study the need for such legislation and have adopted unified children's codes. Although many of these commissions have no public funds at their disposal, the assistance of such governmental bodies as the Children's Bureau has been invaluable.

On the whole, European countries excel the United States not only in the provision of centralized bodies for child welfare administration but also in a better trained and more experienced officialdom and in the use of more advanced social technique, especially in children's court work. Much legislation has been passed since 1920 in the United States involving the complete reorganization of old state departments of welfare or charity or the creation of new bodies. California, Alabama, New Jersey, New York, Pennsylvania and the province of Ontario are political units in North America which have reorganized and centralized their child welfare activities.

The chief task which remains in the field of child welfare legislation is that of raising and broadening its standards to include groups and ages which should be but are not yet covered by legislation and of providing unified codes for various local units, states and countries. There is also developing within the United States in some quarters a belief in the principle prevalent in other countries, that public welfare activities should extend beyond the supervision of private agencies, which must necessarily be limited in territorial scope and in power, and that public funds instead of being granted as subsidies to private agencies in the field—a practise peculiar to the United States—should be increased and expended by public officials through public departments of welfare.

ELSIE GLÜCK

See: ADOLESCENCE; RECREATION; PLAY; BOYS' AND GIRLS' CLUBS.

PSYCHOLOGY; PSYCHOANALYSIS; PSYCHIATRY; MENTAL TESTS; PERSONALITY; MENTAL HYGIENE.

EDUCATION; VOCATIONAL EDUCATION; VOCATIONAL GUIDANCE; PARENTAL EDUCATION; SEX EDUCATION; PRESCHOOL EDUCATION.

APPRENTICESHIP; INDENTURE; CONTINUATION SCHOOLS; LABOR LEGISLATION; HOURS OF LABOR.

SOCIAL INSURANCE; STANDARD OF LIVING; FAMILY ENDOWMENT; MOTHERS' PENSIONS; MATERNITY WELFARE; PUBLIC HEALTH; HEALTH EDUCATION; PUBLIC WELFARE.

POVERTY; DEPENDENCY; CHARITY; SOCIAL WORK; SOCIAL CASE WORK; PLACING OUT; ADOPTION; DAY NURSERY; INSTITUTIONS, PUBLIC; ALMSHOUSE; POOR

LAWS; DEAF AND DUMB; CRIPPLES; BLIND; MENTAL DEFECTIVES.

CRIME; JUVENILE DELINQUENCY; JUVENILE COURTS; PENAL INSTITUTIONS.

FAMILY LAW; MARRIAGE; EUGENICS; BIRTH CONTROL; INFANTICIDE; ABORTION; ILLEGITIMACY; BIRTHS; MORTALITY; POPULATION.

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CHILDREN, INSTITUTIONS FOR CARE OF. *See* Child, section on Institutions for the Care of Children.

CHILDREN, LEGISLATION FOR PROTECTION OF. *See* Child, section on Child Welfare Legislation.

CHINESE IMMIGRATION. *See* Oriental Immigration.

CHINESE LAW. *See* Law.

CHINESE PROBLEM. The Chinese problem consists in reality of two problems logically separate which, through a chronological accident, have become confused, resulting in a compound problem of extraordinary complexity.

The first of these two problems is one which has repeatedly arisen in Chinese history and is apparently the result of a constitutional malady of the traditional Chinese social and political system. It seems to spring from the inevitable degeneration of imperial dynasties and the consequent incapacity of the reigning houses to produce an indefinite succession of rulers capable of performing satisfactorily the exacting social and political duties required of occupants of the Dragon Throne. No better way was ever discovered for effecting the necessary periodical changes of dynasty than a free fight.

The Manchu dynasty was one of the most powerful which ever reigned in the Far East and produced some rulers who deserve to rank among the greatest which history records. Under the leadership of K'ang Hsi and Ch'ien Lung the people of China attained unprecedented numbers and wealth, art and literature flourished and Chinese civilization enjoyed great prestige wherever it was known and understood. Although the office of emperor was by no means the despotic institution which the West has commonly supposed oriental monarchy to be, it was of great importance in the Chinese social and political system; and the selection of a new dynasty at the time of the degeneration of the Manchus was at best a difficult matter. The occupant of the Dragon Throne was the symbol of unity in an empire comprising an area greater than that of all Europe and a population possibly as great as that of western Europe and Russia together. A dynastic fight in so vast a country with such imperfect means of communication was necessarily a long and painful process. Nevertheless, the foundations of Chinese society were strong enough to be little affected by struggles for the throne. The classical rules of law and order were enforced chiefly by the heads of families under the time honored patriarchal system; the authority of the patriarchs and other local dignitaries was supported by that of the mandarins charged with the practical administration of affairs beyond the competence of the local authorities. Under this old order the vicissitudes of imperial politics greatly stirred the surface of Chinese society, but underneath life continued the even tenor of its way. The most rebellious though the least revolutionary of peoples, the Chinese were capable of dealing well enough with the problem of the imperial succession as long as they were undisturbed by alien forces.

The opening up of China to intercourse with the West, however, rendered the Manchu collapse a far more serious matter than that of their predecessors, the Mings. It is this penetration of China by western influences which constitutes the second element in the compound

problem, an element which from the standpoint of the old fashioned Chinese is a kind of casualty rather than a constitutional malady.

Toward the middle of the nineteenth century, after three centuries of largely fruitless attempts, western naval and military superiority extorted from the reluctant orientals the privilege of more intimate contact. Although the introduction of Buddhism from India in the first centuries of the Christian era profoundly affected Chinese life and culture, the economic, social and political consequences following contact with western civilization and the introduction of modern capitalism and science have been much more revolutionary. At this period the West itself was undergoing a profound transformation, and the Chinese were exposed not only to a foreign culture but to a foreign conflict of cultures. The nineteenth century warfare between western religion and natural science was succeeded by the twentieth century struggle between western capitalism and imperialism, on the one hand, and Marxian socialism and the Communist International, on the other. Contemporary China, invited and impelled to abandon its own time honored civilization for that of the modern West, has been faced also by the problem of choosing between the various cultures which a changing, confused West has sought to thrust upon it.

These social convulsions, combined with military disturbances normal to a change of dynasty, have created in contemporary China an unparalleled scene of confusion and disorder. Not one but half a dozen revolutions create the Chinese problem. There is revolution in agriculture and in industry, by which four hundred million "farmers of forty centuries" and mediaeval craftsmen are adjusting themselves to the new situation created by the division of labor, the utilization of mechanical power and the organization of the world market. There is a revolution in politics, by means of which the Chinese seek to reorganize their state so that it may be strong enough to maintain the universal external conditions of social order under the exigent circumstances of the modern world. There is a social revolution, by which the social relations appropriate to the Great Society are being substituted for the patriarchal family system. There is a revolution in morals, by means of which the Chinese seek to adapt their ancient classical piety to the requirements of the new nationalism. There is a revolution in art and literature, as new standards of taste and new cultural ideals contend with the traditional forms and methods of emotional expression. Finally, new philosophies of life are challenging the intellectual foundations of the old order. The humanism of Confucius and the superhumanism of Gotama are being forced to defend themselves against the worldliness of science and the otherworldliness of Christianity.

The intellectual revolution is the one which up to the present has made the least progress. Organized Christianity after four centuries of effort has succeeded in converting less than one percent of the Chinese people to Christianity in any of its forms. Although Roman Catholicism claims the greater part of the Chinese Christians the Roman Catholic Chinese have made no deep impression upon their fellow countrymen. The Protestant missionaries, who first invaded China in the nineteenth century, have been more influential than the Catholics in recent years among the upper classes. But although they have made more converts among the present rulers of the country they have no such following among the masses as the Catholics, and their powerful converts show little disposition to promote the propagation of the faith. Chinese Buddhism, unlike that in Japan, has failed to catch the social spirit of modern Christianity from either Catholic or Protestant teachers, and the future of religion in China is obscure and dubious. The efforts of missionaries to introduce western systems of education have been much more successful. Western educational institutions have put the Chinese in touch with modern science, for which they have shown a rapidly increasing appreciation. More slowly than in Japan but just as surely a Buddhist people is accepting the science of the West while rejecting its religion.

A revolution in Chinese art and literature, the venerable and impressive history of which pervades all Chinese civilization, accompanies the reception of western science. Although the poverty of the masses and the indifference of the rulers of the country to the artistic functions of the state have unduly restricted gratification of the artistic impulse, aesthetic sensibilities, expressed through a love of flowers, gardens and landscape architecture, painting and poetry, a well developed theater, a highly cultivated culinary art and social etiquette and such a refined form of play as philosophic discussion, are undoubtedly acute in China. The introduction of western motion and sound pictures has made possible the immense popularization of

new art forms, and the efforts to produce a new literature in the vernacular are harbingers of a new literary age. Changes in the intellectual outlook of the Chinese are likely to occur even more rapidly in the future than they have in the past and must have consequences in all aspects of Chinese life.

The industrial revolution in China has made comparatively slow progress in agriculture, as it is hindered by the poverty of the peasants and the constant fighting among rulers. For the most part China's "farmers of forty centuries" continue to practise an agricultural technique which has been little changed during a thousand years. To be sure, a beginning has been made in the introduction of farm machinery, especially in the grain growing regions of North China and Manchuria, and there have been some efforts to improve seed selection and to eliminate destructive parasites, especially in sericulture. Agricultural experiment stations have been established by several mission colleges, which have made important improvements in the cultivation of cereals and of silk. Tobacco companies have made systematic efforts to introduce and improve the cultivation of tobacco. A noteworthy experiment is that fostered by the China International Famine Relief Commission for the establishment of cooperative agricultural credit societies. Above all, the construction of better roads and the introduction of modern transportation are making possible more efficient marketing. In central and southern China, where rice is the leading crop, a revolution in agriculture is probably not to be expected in the near future, but in the wheat and corn belts of the north more rapid changes seem likely to take place. Although the backwardness of the Chinese farmer has already lost him the bulk of the silk and tea export business to his competitors in Japan, India and Ceylon, the extraordinary expansion of the soy bean industry in Manchuria demonstrates what can be done on Chinese soil by modern methods. With the restoration of political stability these methods will undoubtedly be rapidly and widely introduced; their importance will be incalculable, for the bulk of the population still lives on and by the soil.

Much more striking has been the mechanization of urban manufacturing. The introduction of factories, steam, electricity and gas engines, begun before the World War, has proceeded rapidly since its close, especially in the larger treaty ports. The growth of the textile industry in eastern and central China, especially in Shanghai and Hankow, where cotton mills have sprung up in great numbers, and of flour milling in the grain growing regions of the north, attest the facility with which Chinese capital can accommodate itself to western factory methods. Exact statistics are lacking for the measurement of these developments, but the expanding volume of bank clearings and international trade clearly reveals the increasing productivity of Chinese industry. Large scale industry has brought with it western forms of business enterprise, notably the limited liability corporation, and the development of a huge class of dependent wage earners. The thoroughly occidental spirit of the revolution in Chinese industry since the World War is indicated by the rapid organization of labor unions and the ready response to socialistic and communistic propaganda among suffering, discontented factory workers. But these class conscious factory workers are only the advance guard of the proletarian masses which the industrial revolution will eventually produce in China. Although the Chinese federation of labor at the height of its power in 1927 claimed several million members, the bulk of the urban population remains devoted to the practise of the arts and crafts as in Europe a century ago. It is, however, increasingly fearful of the loss of employment threatened by the rising tide of factory made goods. There has been in China no nineteenth century transition from the old order of handicrafts and domestic economy to the new order of the giant factory.

The revolution in Chinese society which accompanies the revolutions in industry, in art and literature and in philosophy introduces further complications. The social order in China, since the dawn of Chinese civilization, has been the patriarchal family system, and upon this foundation has been erected the whole superstructure of Chinese morals and politics. But now the patriarchal system has come into conflict with the individualism of the modern business man and the socialism of the modern wage earner. The authority of the patriarch is being challenged by that of the captain of industry and of the labor organizer. From an inveterate family conscious people the Chinese are about to become a business corporation, trade union and state conscious people. The old fashioned "big" family under the traditional domination of the grandfather is breaking down into the modern "little" family with the father

at the head. Sons and daughters are acquiring a new freedom as in the West, and paternal as well as grandfatherly authority enters upon a decline. In nothing is the new social order more strikingly manifest than in the changing position of women. The young women of China are leaving the ancestral home for the college and university as well as for the factory and department store and, like their brothers, are learning to look to New York, Paris or Moscow for their ideas not only of economics and politics but also of social order and discipline. Thus the social revolution brings with it a revolution in morals. The emancipated young woman insists on bobbing her hair, shortening her skirts and choosing both her occupation and her husband. The cigarette—but not yet chewing gum—becomes a popular indulgence with both sexes, and youth dances in public and pursues other novel western pleasures to the accompaniment of much shaking of heads by the elder generation.

All these revolutions in philosophy, literature, art, industry, social organization and morals conspire to produce an unparalleled revolution in Chinese politics. This least revolutionary of peoples must suddenly and simultaneously replace not merely a degenerate dynasty but also the crumbling foundations of the state itself.

There has been, consequently, an effort in the first place to strengthen the state so that the people may assimilate western culture at their own pleasure instead of at the pleasure of foreigners exploiting a sudden superiority either through veiled arrangements such as treaty ports and spheres of influence or through organized violence. Under the Manchus the Chinese Empire was not a state in the western sense of the term, but rather a system of international relationships. By means of the imperial authority, when the empire was in good working order, the peace was kept throughout the Far East and the various subject peoples were made free to manage their local affairs in their own way. But the exigencies of the revolution have called up a developing nationalism like that of the peoples of the West, in order that the Chinese may be able to stand alone under strenuous modern conditions. This movement has been expressed in part in such efforts to throw off foreign control as the Boxer Rebellion and subsequent periodic outbreaks of antiforeign feeling like that of 1925–26, attended by violence, a boycott of foreign goods and the Kuomintang's drive for power. The effort to create a strong national state has induced an attempt to form a competent central government and vigorous provincial and local governments, all sustained by the organized opinion of a patriotic people. To this end Chinese reformers and revolutionists have agitated for western political devices, notably representative and popular government in the technical sense of the terms, to be established in combination with those features of the ancient political system which have not outlived their usefulness. The revolutionary trend has been in the direction of a democratization of Chinese political institutions through a reconciliation of Chinese political philosophy and western political science. Finally, so that the people of China may obtain from their rulers such services as citizens of a modern state have a right to expect, there has been a demand for the expansion of the functions of the state.

The late leader of the Chinese revolutionists, Dr. Sun Yat-sen, had in mind such changes when he formulated the famous revolutionary creed known as the "Three Principles of the People." He declared for a state with a government which would be indeed a government of the people, by the people and for the people; that is, one based upon the principles of national independence and popular sovereignty and designed to promote the general welfare. These principles of nationalism, democracy and what for lack of a better name may be called socialism the Chinese revolutionists emblazoned upon their banners; and they attest the impact of western civilization upon the ancient culture of China as surely as do sewing machines, machine guns or motion picture palaces.

Dr. Sun provided the Chinese revolution with a plan of action as well as with a set of principles. In accordance with this plan the revolution will pass through three stages. First comes the stage of military operations, during which the revolutionists will overthrow reactionary forces still surviving in China and establish themselves in power. The second stage is that of political tutelage, during which the revolutionists will educate the people in the duties of modern citizenship and their leaders in the duties of statesmanship. The government of China during this stage will be a dictatorship of the revolutionary party. The third stage is that of constitutional government, to be ushered in after the gradual introduction of local and provincial self-government has laid the foundations for nation wide democratic institutions. In addition to this theory of revolution Dr. Sun

contributed to Chinese political philosophy a theory of education and a theory of government. The classical political philosophers had always insisted upon the importance of right education for the rulers of the state but had paid little attention to the education of the people. Dr. Sun insisted upon the education of all the people, but recognized a distinction between those who were naturally fitted for the conduct of public affairs and those who were not. The latter, he urged, should be trained for citizenship, while the former alone should be trained for statesmanship. Thus it would be possible to reconcile the institutions of modern democracy with the system of selecting by competitive examination public officers who might be removed upon impeachment by the censors, which is one practise of the old empire still serviceable. Whatever may be thought of some details of Dr. Sun's program, his plan is based upon a political philosophy comparing favorably with that of any other modern revolutionary leader.

Confidence in the capacity of the Chinese to regenerate their state has been much shaken by the turmoil and confusion which have accompanied the overthrow of the effete Manchus and the downfall of the old fashioned mandarins. The student body, indoctrinated with revolutionary theory, acts as an advance guard, but the most effective mass leadership seems still to be exercised by generals fighting for power, who despite their show of respect for the ostensible principles of the revolution bring little substantial change into political practise and whose reckless soldiers continue to overrun the country. Politics is with difficulty distinguished from civil war, and even as such it does not represent simply the conflict of drives binding the Chinese people but in some measure also the influence of foreign powers on whose support, financial or otherwise, the military overlords rely. Since the revolutionists drove the last of the old militarists from Peking there has been a revolution of colors throughout China, but military dictatorships continue for the most part to dominate the political scene. The revolutionists proclaim the end of the period of military operations and the beginning of the period of tutelage, but still there seems no better way of changing the men at the head of the state than by fighting. Nevertheless, it is difficult to believe that the Chinese will ultimately fail to regenerate their state in accordance with the plans of the revolutionary leaders, unless the memory of their past can be blotted out and their exposure to the influence of the West thoroughly brought to an end.

ARTHUR N. HOLCOMBE

See: GOVERNMENT, section on CHINA; AGRICULTURE, section on CHINA; ART, section on CHINA; INDUSTRIAL REVOLUTION; EUROPEANIZATION; INTERVENTION; EXTERRITORIALITY; COMMERCIAL TREATIES; CONCESSIONS; FOREIGN INVESTMENT; OPIUM PROBLEM; FAMINE; MISSIONS; NATIONALISM; KUOMINTANG; COMMUNIST PARTIES; FAR EASTERN PROBLEM.

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CHIRONI, GIAMPIETRO (1855–1919), Italian jurist. Chironi was professor of private law at the University of Turin for thirty-three years and held many public offices. He began his career at a critical period in Italian law. With Cimbali, Gianturco and Polacco he played an important part in the discussions on method (which led to the adaptation of German methods in the study of Roman law), contributing to the regeneration of private law studies in Italy. This new method was adopted by Chironi in his *Trattato di diritto civile italiano* (Turin 1904) in collaboration with his pupil Abello. Italian juridical development, however, had probably not yet reached a sufficiently advanced stage to enable Chironi to build the system he had framed, and the work was interrupted at the first volume. He was most successful in filling existing gaps in his *La colpa nel diritto civile italiano* (3 vols., Turin 1884–87; 2nd ed. 1896–1906), which considers every aspect of the doctrine of torts. There followed *Trattato dei privilegi, delle ipoteche e del pegno* (2 vols., Turin 1894–1901; 2nd ed. 1917), in which he expounded a general doctrine of security. Chironi's numerous periodical publications were collected in four volumes as *Studi e questioni di diritto civile* (Turin 1915), and a fifth volume, *Nuovi studi e questioni* (Turin 1922), was published posthumously. It is in these five volumes particularly that a clear statement of general conceptions is to be found. He held that modern law is but a consequence of historical evolution; hence no interpretation is possible apart from history and comparison. He insisted, moreover, upon the necessity of combining the study of ancient Italian law with that of contemporary foreign legislation. The *Istituzioni di diritto civile italiano* (2 vols., Turin 1888–89; 2nd ed. 1912) reflects Chironi's whole academic activity and represents a synthesis of his intellectual resources.

MARIO SARFATTI

CHIVALRY

EUROPEAN. Chivalry was one of the great representative institutions of the later Middle Ages in Europe: it marked the transition of society from the anarchy of feudal war to the settled civility of peace and order. In whatever age or clime this transition occurred some organization of a chivalric character tended to spring up, and thus chivalry had close affinities with similar institutions in other regions and in other periods of history, as for example with Bushido in ancient Japan.

Chivalry as such, however, was peculiar to mediaeval Christendom and we are here concerned with no other form than that which arose in western Europe at the time of the crusades. The eleventh century saw its initiation; it was at its height during the twelfth and thirteenth; and the next two centuries witnessed its degeneracy and decline.

In its complete and final form chivalry was a curious and rather incongruous amalgam of three distinct elements: war, religion and sexual love; but common to all three was the factor of "service." The true hero of chivalry rendered service—voluntary, unrestricted, lifelong, without thought of self or of remuneration, a service which, however lowly, involved no degradation—first to his feudal lord, secondly to his divine sovereign and thirdly to his lady love. The link between war and religion was the crusades; the link between religion and love was the worship of the Virgin Mary, which was peculiarly developed among the crusading orders.

The military element, which was basic, can be traced back to remote times. William Caxton, the English printer, in his preface to Ramón

Lull's *Book of the Ordre of Chyvalry* (1484), claimed for knighthood an antiquity not less than that of Adam and Eve, asserting that it was the earliest divine device for the recovery of the human race from the ruin of the fall and identifying the archangel Michael as the first knight. Scientific history has not as yet verified this hypothesis. It is content at present to trace the military element in European chivalry to the Teutonic *comitatus* as described in chapter thirteen of the *Germania* of Tacitus. It seems to have been the custom for German boys of good birth to enter the service of kings and chiefs, to be trained in the use of arms and, when they attained maturity, to be formally admitted by the ceremonial girding on of a sword into the select company of the companions of the lord. The *comites*, or gesiths, thus initiated were bound to the lord by ties of inviolable loyalty; they pledged themselves to remain faithful to their captain even unto death. The lives of the Merovingian saints reveal the system as still in full working order among the Franks of the seventh century. Not, however, until Carolingian times did it reach its full development or receive its most important extensions. During the mayoralty of Charles Martel (714–41) the Frankish kingdom was threatened with extinction by Moorish hosts from beyond the Pyrenees. In the ninth century, after the death of Charlemagne in 814, great invasions of Vikings, Magyars and Slavs further menaced the existence not merely of the Franks but of Christian civilization itself. The central government of the Franks was unable to cope with these new perils. To meet them hitherto independent freemen "commended" themselves to the local lords, rendering them service in return for protection, helping them to fortify, defend and provision their castles and receiving from them shelter and support in times of stress. On the other hand, bodies of *caballarii*, or horse soldiers—the only type of military power capable of meeting and repelling the invaders—were formed; these were bound to the service of the kings or local lords who conferred upon them grants of land for the maintenance of themselves and their numerous attendants. Thus from the threefold source of *comites*, *commendatores* and *caballarii* sprang the institution of feudal knighthood, the nucleus of militant chivalry.

The virtues or merits of feudal knighthood were "valour, troth, and largesse." Its countervailing vices or defects were extreme quarrelsomeness and pugnacity, merciless cruelty to the vanquished, lack of a sense of common humanity, faithlessness to those outside the circle of feudal obligation and frequently an impious disregard of religion. The limits of feudal obligation were, moreover, exceedingly narrow, and beyond them lay vast regions wherein the feudal knight roamed as a wild beast seeking his prey. The authentic story of the English bandit earl Geoffrey de Mandeville and the legendary romance of the French robber knight Raoul de Cambrai are alike eloquent of unmitigated savagery.

No doubt the qualities of the lion and the tiger, properly attributed to them by Flach, were those demanded of the defenders of the relics of Roman culture against the fierce invaders of western Europe. By 1000 A.D., however, the period of their usefulness was over. The invaders of Christendom had been either driven off or reduced to order, and in a period of organized central government the feudal knighthood remained a dangerous and obstructive anachronism. In its impregnable castles, no longer needed as places of refuge from alien raiders, it defied the royal authority; its mailclad cavalry, no longer usefully employed in beating back hordes of Saracens or Danes, infested the countryside, keeping the whole of Europe restless with private war. The church achieved a degree of success little short of miraculous in the task of taming the measureless ferocity of knighthood. Under church influence religion was associated with war, and the service of God was superimposed upon the service of the feudal lord.

In the early days of Christianity, while the Roman Empire was still pagan, the church had wholeheartedly condemned war as devilish and had encouraged the primitive believers to decline service in the imperial armies. After the conversion of Constantine in the fourth century, war in defense of Christendom, for the propagation of the faith or for the suppression of heresy, had been recognized as a legitimate if regrettable instrument of the divine will. After the rise of Islam in the seventh century it became still more generally recognized that the church might properly be militant here on earth; for it appeared that only with the sword could Christendom save itself from annihilation by the militantly proselytizing Moslems. It was not, however, until the Seljuk Turks captured Jerusalem in 1076 and commenced the systematic persecution of Christian pilgrims that the church proclaimed war to be the supreme duty of the knighthood of Europe. The formal consecra-

tion of war as an instrument of religion may be said to have occurred at the Council of Clermont in 1095, when Pope Urban II proclaimed the first crusade and when amid scenes of indescribable enthusiasm the assembled knighthood, priesthood and populace of Europe took a solemn oath to rescue the sacred sepulcher from the hands of the infidel. The great cry, "It is the Will of God," marked the conversion of feudal knighthood into Christian chivalry.

The period of the great crusades lasted from 1095 until the final expulsion of the crusaders from the Holy Land in 1291. That period was the so-called "golden age" of Christian chivalry, when the church made strenuous efforts to control war, to direct it to holy ends and to mitigate its ferocity. It succeeded marvelously in exalting and refining the ideal of knighthood. To the primitive Teutonic virtues of courage and constancy it added the Christian graces of piety, humility and the general service of the weak and oppressed. The Council of Clermont itself had decreed that every boy of noble birth, when he attained the age of twelve, should take an oath before his bishop that "he would defend to the uttermost the downtrodden, the widow, and the orphan." The pagan Teutonic ceremony of sword girding was converted by the church into a solemn ordination akin to that which signalized the entry of a priest upon his sacred duties. The prospective Christian knight was made to pass through a bath, emblem of purification from sin; he was clothed in garments white, red and black, symbolic respectively of innocence, sacrifice and death; he was required to perform an all night vigil in a church, followed by confession, mass and sermon; the sword with which he was to be girt was consecrated to the service of God; vows of obedience and chastity were imposed upon him. Only after the church had dealt with him for twenty-four hours was he surrendered, semi-ordained, to his feudal lord to be invested with his weapons, to receive the accolade, to be placed upon his horse and to be put through his military exercises.

While it is true that in every generation there shone forth brilliant examples of consecrated militancy, it cannot be said that the Christianized knighthood of the golden age of chivalry generally lived up to the ideals of its ordination. The records of heroes like Godfrey of Bouillon, Tancred of Sicily, William Marshall, Saint Louis and the Cid are eloquent of the influence of religion in exalting and purifying the standards of knightly character. But, in general, violence and lust proved too strong to be mollified and subdued by the discipline of the church. The records of the crusades from the *Gesta francorum* at the beginning to the chronicles of Joinville at the end of the period bear overwhelming testimony to the fact that no purification, no ordination, no exhortation, no conjuration, sufficed to keep the chivalry of Christendom within the bounds of decent behavior. The scenes enacted in 1096 as the first crusaders made their way through Hungary to Constantinople would better have befitted a horde of marauding vikings than the soldiers of the Cross and, similarly, the orgies that disgraced the camp at Damietta in 1249 during the last but one of the great crusades, under the very eye of the saintly Louis IX, showed that the knighthood of Christendom remained unregenerate still.

The nearest approach to the effective harmonization of religion and war was seen in the institution of the great crusading orders of knighthood. The Hospitalers, or Knights of St. John of Jerusalem, existed as a charitable order in the middle of the eleventh century, before the Holy City fell into the hands of the Seljuk Turks in 1076. Their function was to establish and maintain hostels for the shelter and comfort of Christian pilgrims. The capture of Jerusalem and its recovery by the crusaders in 1099 drew the Hospitalers from innkeeping into belligerency, and in 1118 one section of the order was formally converted into a militant knighthood. Jerusalem remained the headquarters of the order until 1187, when Saladin recovered the city for Islam. For the next hundred years Acre was its base. When Acre was lost to Christendom the order moved in turn to Cyprus in 1291, Rhodes in 1310 and finally Malta in 1530. The capture of Malta by Napoleon in 1798 virtually extinguished it.

The Knights Templars were a militant organization from their first institution in or about 1118. On the one hand they were monks of the strictest and most ascetic Cistercian type, pledged to chastity, obedience and poverty; but they were also knights bound by their vows to wage truceless war upon the infidel until the church should be universally established. For a short time they seemed to be the very embodiment of crusading zeal; popes blessed them, councils confirmed them, the saintly Bernard himself framed their statutes and composed in their favor a notable treatise *De laudibus novae militiae*. But popularity soon corrupted them and lavish benefactions demoralized them. They be-

came lazy, self-indulgent, proud, quarrelsome, lawless. When they were expelled from Jerusalem in 1187 and from Acre in 1291, unlike the Hospitalers they found no new home and no new work to do. Suspected of heresy, accused of shameful vice and having unmistakably outlived their usefulness, they were suppressed in 1312.

The Teutonic Knights, founded about 1128 by a wealthy German, combined the care of the sick and poor with the profession of arms. On the expulsion of the Christians from the Holy Land in 1291 they moved to Venice but soon found a new sphere of crusading activity on the confines of their own country. In 1309 they fixed their headquarters in Marienburg on the Baltic and from that base undertook the task of conquering and evangelizing the heathen of Prussia, Lithuania and Esthonia. In Prussia they remained, with many fluctuations of fortune, until the time of the Reformation, when their grand master, Albert of Hohenzollern, accepted Lutheranism and converted his elective mastership into the hereditary dukedom of Prussia, held as a feudal fief from the king of Poland.

During the twelfth and thirteenth centuries both the Templars and the Hospitalers rendered aid to the Christian kings and counts of the Spanish peninsula in their secular conflicts with the Moors. Such assistance, however, was spasmodic and inadequate, and from the middle of the twelfth century separate orders were instituted for this purpose. Of these the four most important were those of Calatrava (1164), Avis (1166), St. James of Compostella (1175) and Alcántara (1183). Together they played a prominent part in achieving the great victory of Las Navas de Tolosa in 1212 by which the Moorish ascendancy in Spain was finally overthrown.

These crusading orders, whether in the eastern Mediterranean or the western, marked the nearest possible approach to the harmonious blending of war and religion—knighthood and monkhood—in the institution of Christian chivalry. But long before the period of the great crusades had come to a close a third element had added itself to war and religion as an ingredient in the ultimate chivalric mixture. This was the curious and apparently incongruous element of "gallantry," or pursuit of woman. The crusading orders, it is true, had from their initiation been conspicuous for their devotion to the Virgin and for their veneration for the holy women of the calendar. All knights, moreover, from the time when the church took their ordination in hand, had been specially sworn to serve as the protectors of female weakness against the violence of dragons and the machinations of devils. No doubt the habitual contemplation of feminine sanctity and the constant search for adventures on behalf of distressed maidens predisposed the lusty horsemen of Christendom to that passionate transference of their devotion from the ideal to the actual and from the general to the particular which was involved in "gallantry." But "gallantry" itself was by no means of ecclesiastical origin, nor was it ever regarded with anything save severe disapproval by the church. Its incorporation into chivalry implied a deep degradation of knightly standards of conduct, and the social evils which resulted from its prevalence ultimately necessitated the suppression of chivalry itself as a recognized institution. For "gallantry" was nothing more or less than conventionalized adultery and socialized bigamy.

Marriage among the secular knighthood of Christendom was little more than a consecrated feudal incident, usually arranged, without the consent or even the cognizance of the persons primarily concerned, by lords or guardians who had purely business interests in mind. Hence a knight was not expected to love his wife, and his erotic passion was usually lavished promiscuously, irrespective of vows, on all and sundry who would accept it.

This errant passion, or bestial lust, was little affected by extreme clerical views on the virtues of ascetic celibacy. The troubadours, however, by means of their exquisite lyrics gave an aesthetic decoration to sexual love and concentrated the wandering passions of the erstwhile errant knight on one sole object. It came to be regarded as proper that every knight should have, in addition to the wife appendant to his fief, a lady love to whom he gave the devotion of his heart and on whose behalf he did desperate deeds in tournament and in war. As the inevitable counterpart of this bigamous system it had to be recognized that every lady might be expected to have both a husband and a paramour. If northern France, and especially Normandy, was primarily the home of that blend of militancy and piety that led to the crusades, so was southern France, and especially Provence, the main source of that poetic "gallantry" that leavened all the later mediaeval chivalry. It was not until the thirteenth century, when Provence was incorporated into the French system, that the full sway of "gallantry" was established. This establishment marked the beginning of the degeneracy and decline of chivalry.

In the fourteenth century the institution seemed more flourishing and luxuriant than ever before. Of all the pictures of chivalry in action those presented by Froissart in his chronicles are the most gorgeous and fascinating. Few of the ideal knights of chivalry can compare with Edward III, the Black Prince, Bertrand du Guesclin, Sir Walter Manny and Sir John Chandos. There had never been, moreover, in earlier days a more splendid creation of new knightly orders; the Order of the Garter in England (1349), the Order of the Star in France (1351) and the Order of the Annunciation in Savoy (1392) were among the most magnificent of their kind. Furthermore, never before had so much attention been paid to the education of the page (a boy of from seven to fourteen years of age), the squire (a youth of from fourteen to twenty-one) and the knight in all the exercises of war, religion and love. Never had jousts and tournaments been organized on a more splendid scale. But the institution of chivalry was on the decline. The new orders created were merely decorative. The jousts and tournaments had little relation to actual war. The training of pages and squires was as remote from the requirements of the life of the adult warrior as is the education given today in the public schools of England from the requirements of the modern business world. The aberrations of "gallantry" were ceasing to be tolerable to a society that was becoming increasingly commercial.

The advent of an effective infantry, armed with spears for defense and with deadly archery for offense—and still more the appearance of artillery capable of reducing castle walls to heaps of ruins—democratized war and made the paraphernalia of chivalry obsolete. The Hundred Years' War between England and France, the opening phases of which Froissart depicts, although it witnessed many chivalric episodes deliberately staged, was fought out by national armies in complete disregard of the principles of knightly combat. Still further removed from the realms of chivalry were the furious conflicts of the Wars of the Roses in England, the so-called "religious wars" in France or the Thirty Years' War in Germany.

Nevertheless, chivalry, although it vanished from the world of practical affairs at the close of the Middle Ages, continued to exist in the world of social convention. Such a decorative order as that of the Garter kept its fascination for the friends of kings, and new ones—e.g. the Golden Fleece in Burgundy (1429), St. Michael (1469) and the Holy Ghost (1578) in France—constantly sprang up and attained eminence. Perrot, the historian of chivalry, was able to enumerate no fewer than 234 orders existent in 1820 and since then, especially in England, many new ones have been instituted. They have, of course, no practical significance whatsoever. They are merely inexpensive ornaments by means of which sovereigns can manifest approval of conspicuous service on the part of faithful subjects.

When Perrot published his *Collection historique des ordres de chevalerie* a curious revival of interest in mediaeval chivalry was taking place. It was one phase of that romantic reaction following the excessive rationalism and utilitarianism of the revolutionary era from 1789 to 1815. A copious literature sprang up under its influence in many European countries and even in America. Worthy of special mention are Kenelm Digby's *Broadstone of Honour* (1822), J. G. G. Büsching's *Ritterzeit und Ritterwesen* (2 vols., Leipsic 1823), G. Ferrario's *Storia ed analisi degli antichi romanzi di cavalleria* (4 vols., Milan 1828–29) and G. P. R. James' *History of Chivalry* (1830). These writers, peering through the blood-red haze of the revolutionary terror and the Napoleonic wars, dwelt upon the courage of the mediaeval knights, their piety, their devoted service to the weak and the oppressed, their fine courtesy, their delicate sense of honor. And in illustration of their theme they depicted in glowing language the noble lives and fine achievements of such selected heroes as Godfrey of Bouillon, Tancred of Sicily or the Chevalier Bayard.

This excessive eulogy of chivalry on the part of the romantics was followed by a cold douche of criticism on the part of realistic historians. They pointed out that model knights like Godfrey, Tancred and Bayard were rare exceptions in the midst of most unattractive and unedifying normalities and that, generally, chivalry was ineffective in war, obscurantist in religion and antisocial in love. They held that it glorified fighting for its own sake, that it fostered persecution and that it disseminated a gross immorality; that its courtesies were confined to a very limited class and that outside the range of its narrow sympathies it was cruel and insufferably proud.

On the whole, however, chivalry may be said to have marked an upward step in the march of humanity from savagery to civilization. In spite of its defects, it exalted the standard of honor; it enlarged the conception of generos-

ity; it attached manhood to the service of religion; it developed and instilled a fine code of good manners; and it inculcated a splendid ideal of social service.

F. J. C. HEARNSHAW

ARABIC. The flower of chivalry, which, nurtured by Islam, reached its fullest bloom in Saladin and his contemporary Usāmah, had its roots in ancient heathen Arabia. Particularly among the Bedouins of north Arabia do we notice those prime elements which enter into the composition of a chivalric knighthood. To the denizens of the desert fighting was a chronic mental mood, *ghazu* (razzia) a national sport, camel raiding the only manly occupation and blood feud the most important institution. One Christian tribe, the banu-'Udhrah, was proverbial for its respect for womanhood and Platonic love.

Chivalry in its primitive form, implying a body of horsemen equipped for battle, was developed in the first centuries of the Christian era with the introduction of the horse from western Asia. The horse soon became a war animal and inspired a whole literature in Arabic.

In desert land, where forage was scarce and the horse an animal of luxury, the *fāris* (horse rider) gradually became the equivalent of *sayyid* (chief). With the necessary traits of leadership he usually combined a gift for poetry, by means of which he aroused the martial enthusiasm of his tribesmen, extolling their virtues and those of their ancestors and emphasizing the weaknesses of the enemy. The Bedouins came to consider most enviable the title *shā'ir fāris* (poet knight) and to regard tribal superiority as based on horsemanship, poetry and generosity, the last as an index of wealth.

In the *ayyām al-'Arab*, the tribal combats of the pre-Mohammedan era, the early warriors of the Arabian peninsula rode forth in quest of adventure, rushing to the rescue of captive maidens, offering succor to the helpless and in general typifying the qualities of *murū'ah* (manliness) most highly prized by Arabians: courage as measured by the number of adversaries killed, loyalty as evidenced by devotion to the interests of the tribe and generosity as manifested by the readiness to slay camels for the guests.

The pages of *al-Aghāni*, *al-'Iqd al-Farīd*, and the numerous *dīwāns* are replete with illustrations of chivalric virtues as well as its vices, such as persistence in revenge, intolerance of others and illicit sex relations. Al-Shanfara, Zayd al-Khayl (Zayd of the Horses), 'Adi ibn-Ḥātim, 'Amr ibn-Ma'dīkarib the champion of Yaman, Muhalhil ibn-Rabī'ah and 'Antarah ibn-Shaddād may be cited as types of pre-Islamic heroes. Al-Shanfara was taken captive while young and on his release took an oath to kill a hundred from among his captors. After making his ninety-ninth killing, so the story goes, he was himself overpowered and slain. A member of the enemy tribe, however, happened to stumble one day on al-Shanfara's skull as it lay bleaching on the ground and received a wound in his foot which resulted in his death; thus the revenge was consummated.

The name of 'Antarah has lived in Arabic literature as the symbol of chivalric conduct. This Bedouin Achilles, who flourished in the last decade of the sixth century, was the son of a black slave woman and could not therefore be regarded as a legitimate member of the family unless so acknowledged by his father. On one occasion, while his father's tribe was hotly engaged in battle, the lad refused to take part, saying, "A slave knows not how to fight, milking camels is his job." Thereupon the father shouted, "Charge! thou art free." The tale of 'Antarah's romance (*sīrah*), which took its present form during the crusades, is still relished by large audiences in the cafés of Cairo, Beirut and Bagdad.

To these pagan Arabian rudiments of chivalry, which Islam inherited, it added its own contribution. In Islam the consecration of war to the service of religion—two seemingly incongruous ideas—and their fusion into a homogeneous whole were carried to a more successful extent than in any other major religion. Of all systems of belief Mohammedanism is the only one which holds "holy war" (*jihād*) among its cardinal tenets and promises him who dies on its battlefield a passport to heaven.

Mohammed was himself an orphan who had felt the pinch of poverty, and in his social legislation favoring the fatherless and motherless, the poor, the slaves, the wayfarers, he promulgated the most humane part of his code (*Koran* 4:2,3, 40; 16:73; 24:33, etc.). To the two fundamental principles of chivalry, war and religion, the third, gallantry, was now added. Nevertheless, Arab chivalry even in its Islamic development remained a spirit, a way of life; it never became as in the Occident an organized institution. In the Moslem army of conquest the distinctive qualities of the chivalric knights, which at their best were valor, honor, piety and love and at their

worst ferocity, perfidy, fanaticism and lust, were all well represented.

The early Moslems, like the heathen Arabians, considered a man educated and cultured if he could compose in prose and verse, ride, swim and shoot arrows. Such a person was called *kāmil* (the perfect one). The first Arabic poets who wrote especially of love and sang the praises of the fair sex were all post-Islamic.

Those first crusaders who came into the Holy Land cherishing a vague idea that the Saracens were idolators were soon disillusioned. The early contacts showed the mailed gentleman of Europe that he had met his match in Asia and that neither in magnanimity nor in military prowess was a Coeur de Lion superior to a Saladin.

Saladin (Ṣalāḥ-al-Dīn) exemplified all the virtues and graces of Arab chivalry. When the crusading army entered Jerusalem in 1099 it inaugurated the "kingdom of God" by slaughtering some two thousand Christians and Jews. When Saladin retook the city in 1187 he accepted ransom for men, women and children and released several thousands who could not pay. Those same women and children found the gates of Tyre closed against them by Conrad and the Italian sailors in Alexandria unwilling to take them on board without due payment. Reginald of Châtillon, who in violation of treaty terms had attacked a caravan near his stronghold Crac (Karak), fell into the hands of Saladin after the battle of Ḥaṭṭīn in 1187. The latter had sworn to take with his own hand the life of the breaker of the truce. The prisoner was offered a cup of refreshments; but Saladin was quick to explain that since it was not ordered by him the drink did not constitute an amnesty, the Arab custom being that of considering any one safe after partaking of the hospitality of another.

It was, in fact, on the plains of Syria that European chivalry developed out of a mass of usages, mainly Gallic in origin, into an organic form. As early as the eighth century the Umayyad Caliph al-Walīd (705–15) had houses built for the lepers and insane, and it was in Syria early in the twelfth century that the first formal orders of knighthood, the Hospitalers and the Templars, were established. The Order of St. Lazarus, which was founded for assisting the lepers, and the many lazar houses which grew later in the West followed the eastern precedent.

In Spain, Cordova with its frequent jousts and tournaments was the hearth of Arab chivalry. To the Moslem courts of al-Nāṣir (912–61) and his son al-Ḥakam (961–76), where a punctilious code of honor was assiduously cultivated, flocked Christian knights under guaranty of safe conduct to break lance with the Moorish cavaliers. In Granada in 1400 ibn-Hudhayl wrote *The Ornament of Chevaliers and Banner of Gallants*. The queen of Alfonso VII, besieged in Azeca in 1139, needed but to show herself at the window and the siege was immediately raised. The Cid (short for *sayyid*), the national hero of Spain, fought first with, and later against, the Moors. In French the first full portrait of a knight is that of Roland, a commander in Charlemagne's expedition against the Moslems in Spain. *Chanson de Roland* and certain products of French troubadours, as well as of German minnesingers, show clearly the influence of oriental bards.

The Mameluke dynasty of Egypt (1250–1517), which dealt the final blow to the crusaders, was represented in the field of chivalry by Baybars (1260–1277), whose daring exploits and acts of generosity, like those of 'Antarah, are still recited throughout the Arabic speaking world. The *fāris*, who figures in *The Arabian Nights*, embodies the Mameluke ideals of a hero rather than the Abbassids, as ordinarily supposed.

The beginnings of European heraldry, a direct product and characteristic token of chivalry, can be traced also to the Arab world. The crusaders brought back with them in the twelfth century the germs of heraldic bearings. Saladin probably had the eagle for crest, ibn-Ṭūlūn (868–77) the lion and Barqūq (1382–98) the falcon. Baybars' lion can still be seen carved on the bridge he built across the Jordan. Most of the Mamelukes bore names of animals, the corresponding images of which they blazoned on their shields. On a Zangid coin struck in Sinjār (1190) we see the double headed eagle, a bird of Sumerian origin and later adopted in Europe and the United States. The eastern origin of heraldic terms may be illustrated by such words as "azure" (Arabic) and "gules" (probably Persian). Among the Moslems of the present day the crescent and star, the lion and the sun represent the sole surviving remnants of heraldry.

PHILIP K. HITTI

BUSHIDO. *See* FEUDALISM, section on JAPAN.

See: FEUDALISM; MANORIAL SYSTEM; CHRISTIANITY;

Religious Orders; Military Orders; Truce of God; Crusades; Islam; Jihad; Woman, Position in Society; Court, Royal; Etiquette; Conventions, Social; Honor: Service; Charity; Sports.

Consult: For European Chivalry: Batty, J., *The Spirit and Influence of Chivalry* (London 1890); Warre Cornish, F., *Chivalry* (3rd ed. London 1911); Digby, Kenelm, *The Broad Stone of Honour*, 4 vols. (rev. ed. London 1828–29); Gautier, E. T. L., *La chevalerie* (Paris 1884), tr. by H. Frith (London 1891); James, G. P. R., *History of Chivalry and the Crusades* (London 1830); Perrot, A. M., *Collection historique des ordres de chevalerie* (Paris 1820); *Chivalry: a Series of Studies*, ed. by E. Prestage (London 1928); Woodhouse, F. C., *Military Religious Orders* (London 1879); Flach, J., *Les origines de l'ancienne France*, 4 vols. (Paris 1884–1917) vol. ii.

For Arabic Chivalry: Wacyf Boutros Ghali, *La tradition chevaleresque des arabes* (Paris 1919); Usāmah ibn-Munqidh, *Kitāb al-I'tibār*, ed. by P. K. Hitti (Princeton 1930); *An Arab-Syrian Gentleman and Warrior in the Period of the Crusades*, tr. by P. K. Hitti (New York 1929); Lane-Poole, S., *A History of Egypt in the Middle Ages* (4th ed. London 1925); Muir, William, *The Mameluke or Slave Dynasty of Egypt, 1260–1517* (London 1896).

CHLEBORÁD, FRANTIŠEK LADISLAV (1839–1911), Czechoslovakian economist and pioneer in the cooperative movement. In 1867, following a trip to western Europe, Chleborád published a work on the Rochdale pioneers and in the following year was the leader in the founding of a producers' cooperative in Prague called the Beehive. As its first president he was largely responsible for its success, which in turn led to the establishment of a large number of cooperatives throughout Czechoslovakia. In 1872 these numbered almost five hundred. He also founded the Slavia in Prague, the first Czech mutual company for the insurance of workers against invalidity and old age. A too rapid growth, combined with lack of experience, brought about the complete failure of most of the cooperatives in the period following the economic crisis of 1873. Nevertheless, Chleborád's pioneer endeavors greatly influenced more permanent subsequent experiments in both consumers' and producers' cooperation. In his *Soustava národního hospoddřstvi politického* (System of political economy, Prague 1869) Chleborád stressed the role of consumers' cooperation and described its organization. In 1884 he published *Boj o majetek* (Brunn; translated into German as *Der Kampf um den Besitz*, Vienna 1885), in which he analyzed the conflicts between the propertied and the propertyless and advocated protection by society of its weaker members. He passed the final years of his life in Russia as teacher and later as councilor in the office of the Ministry of Finance.

Emanuel Škatula

Consult: Škatula, Emanuel, "Vývoj družstevní myšlenky v českých zemích Období Chleboradova Oulu" (Development of cooperation in Czechoslovakia during the era of the Chleborád beehives) in *Dvacet let Ústředního svazu Československých Družstev, 1908–1928* (Prague 1928) p. 23–38.

CHOMIAKOV, ALEKSÉY. *See* Khomiakov, Alekséy.

CHRISTIAN LABOR UNIONS. The Christian labor union movement represents an attempt on the part of Roman Catholic leaders to counterbalance the socialistic tendencies of the general or "free" labor union movement of Europe. With the exception of a small French-Canadian group and a few sporadic units in Mexico, Chile and Argentina, it is confined in the main to continental Europe, with over half of its membership centered in Germany, particularly in the Catholic provinces of the west, the Rhineland and Westphalia.

The beginnings of the movement date back to the eighties of the last century when a few Christian labor unions were founded, mostly in Germany by priests who were under the influence of the awakening of the "social conscience" among advanced Catholic thinkers. Its principles did not acquire unity, however, until after the publication in 1891 of the encyclical *Rerum novarum* of Pope Leo XIII.

There is as a general rule no essential difference within a given country between the structure, functional technique and short run industrial tactics of the Christian labor unions and those of the general labor movement; regulations and policies as to strike and other benefits are generally the same. In a few of the smaller countries, however, especially those of the Latin type, some of the organizations have a less militant and more benevolent character.

The relation to employers is practically the same in both types of labor unions. Frequent attempts on the part of church leaders to organize employers on "Christian" lines, and thus incidentally to refute the charge brought against them by the socialists of splitting only the workers' front, have been rendered unsuccessful by the preference of Catholic employers for remaining in the general employers' organizations.

As the primary justification for a separate

organization Christian labor unions have emphasized their distinctive program of deriving all demands ultimately from religious principles, and argue that joint organization with non-believers endangers the faith of Christian workers. The principles to which they adhere are those of the encyclical *Rerum novarum*: emphasis upon individual human personality but rejection of the economic liberalism of the capitalist regime, which, they hold, sacrifices the welfare of the workers to the profits of the few; belief in the necessity of social classes but denial of the Marxian conclusion that their existence entails class struggle; insistence that labor unionism should be non-socialistic; and a declaration of the universal need for association and for harmonizing divergent interests according to Christian ethics. Applied to industrial relations this doctrine has meant recognition of equal rights of capital and labor, organization of each and cooperation through such joint bodies as works councils and shop committees.

The growth of the movement was very slow until the first national unions were formed at the end of the century. The first attempt at international organization was the International Secretariat of Christian Trade Unions instituted in 1908 at the Congress of Zurich. The net result was slight. The World War checked further progress, disrupting the international bonds of the Christian unions even more than those of the general unions. The former Entente countries and the Central Powers held separate international gatherings until 1920, when the International Congress at The Hague created an International Federation of Christian Labor Unions. Congresses of the new organization were held at Innsbruck in 1922, at Lucerne in 1925 and at Munich in 1928. The post-war fluctuations of membership have been almost parallel to those of the labor movement generally—rapid growth until 1921, marked decline until around 1925 and since then a partial recovery.

In 1928, the International reported a total membership of 1,423,227 (as against 3,035,989 in 1922), divided as shown in the table. In Italy, which had over a million members in 1922, the movement has been suppressed by the Fascists.

The seat of the International is at Utrecht, Holland, the secretary being P. J. S. Serrarens, a former teacher in the Holland schools. Its organization is rather loose and its chief business is the exchange of information and the preparation of congresses.

On the whole, membership of the constituent unions in the International Federation of Christian Labor Unions is confined to Roman Catholics. There are two types of exceptions, however, which justify the more general denomination "Christian": in Holland and Switzerland there are separate Protestant unions as well as Catholic unions; while in Germany the Christian labor unions are open to Protestants. The practical purpose of the mixed unions in Germany was, in its origin, mainly to hamper encroachments from the Roman Catholic church authorities on the conduct of union affairs, and incidentally to facilitate relations with employers of both creeds. Christian labor union doctrine justified the combination on the ground of common opposition by both ecclesiastical groups to socialism and the validity of Christian ethical principles, whether Catholic or Protestant, as applied to social problems. Although no statis-

CHRISTIAN LABOR UNIONS, 1928

COUNTRY	NAME OF ORGANIZATION	MEMBERSHIP
Germany	Gesamtverband der Christlichen Gewerkschaften Deutschlands	720,059
Austria	Zentralkommission der Christlichen Gewerkschaften Oesterreichs	76,000
Belgium	Confédération des Syndicats Chrétiens de Belgique	155,079
Spain	Confederación Nacional de Sindicatos Católicos de Obreros	40,000
France	Confédération Française des Travailleurs Chrétiens	101,565
Hungary	Kereszténységszocialista Orszagos Szakszervezetek Központja	52,110
Yugoslavia	Jugoslovanska Strokovna Zveza	5,500
Luxemburg	Fédération des Syndicats Chrétiens de Luxemburg	1,300
Holland	Roomsch-Katholiek Werkliedenverbond in Nederland	124,850
	Christelijk Nationaal Vakverbond in Nederland	53,636
Czechoslovakia	Risska Ceskoslowanska Vseodborova Komise Krestanskosocialni	44,673
	Verband der Christlichen Gewerkschaften für das Gebiet des Tschecho-Slowakischen Staates	24,129
Switzerland	Christlichnationaler Gewerkschaftsbund der Schweiz	18,093
	Schweizerischer Verband Evangelischer Arbeiter und Angestellter	6,233

tics are available it is generally agreed that the Protestant membership in German mixed unions represents no more than a sprinkling; while the special Protestant unions in Holland and Switzerland claim an aggregate membership of only 60,000.

In Germany, although there is no formal link between the unions and the church, priests and Catholic intellectuals individually play a large part in the movement as writers, lecturers, teachers, etc. Moreover, there is a dependence based chiefly on the spiritual power of the church authorities over the individual members and a bond arising from community of creed. There is in addition a formal connection between the unions and certain Catholic organizations under direct church authority, such as the Katholische Arbeitervereine and the Verband der Katholischen Jugend- und Jungmännervereine Deutschlands. Repeated friction between the Arbeitervereine and the labor unions eventually led to the formation of a joint committee (with representatives also from the youth organization), the purpose of which is to eliminate overlapping activities and to cooperate in propaganda by meetings, literature, lecture courses, etc.

In Holland the Catholic unions officially recognize as spiritual advisers priests who are appointed by the bishops to control union activities, to watch over "the purity of faith and morals" of members and to report to ecclesiastical authorities on all disobedience. In Belgium the bishops for a similar purpose delegate a committee of six diocesan directors. In the Latin countries priests, monks and other persons affiliated with ecclesiastic bodies play an essential part in the conduct of union affairs, but church supervision is local and personal rather than central.

The relations of Christian labor unions with political parties representing the views of the Catholic church are, on the whole, similar to the relations of the free labor unions with the parties affiliated with the Labour and Socialist International at Zurich. In Germany the principles regulating the attitude of the Christian labor unions toward the Catholic Center party are almost exactly the same as those which regulate the relations between the free unions and the Social Democratic party: mutual independence and autonomy but personal union; support given to the party at elections; organized joint action on special issues; and mutual recognition of the party as the political representation, and of the unions as the industrial representation, of a common outlook. The chief leaders of the Christian labor unions often represent the Catholic Center party in the various parliamentary bodies. In 1930 the general president of the Gesamtverband der Christlichen Gewerkschaften Deutschlands, Herr Stegerwald, was a cabinet minister in the Socialist-Catholic-Liberal coalition government of the German Republic. In contrast, however, to the harmonious role of the "free" labor unions in the homogeneous class organization of the Social Democrats, Christian labor unionists, who form the left wing of the Catholic Center party, often clash with the large middle class and capitalist groups which constitute the bulk of the party. In Austria the Christian labor unions similarly support the Catholic Christian Social party, which in practise is the most conservative. In Holland the Catholic and the Protestant unions support their respective parties, both of which are chiefly conservative. In other countries Christian labor unions are of small account politically. Needless to say, the support thus given to parties so closely associated with capitalistic interests and identified with a long historical tradition of bitter opposition to labor demands (the right to organize and strike, legalized collective bargaining, the abolition of class suffrage, disarmament and internationalism) is one of the chief arguments used by the "free" unions against the Christian unions.

Originally there was nothing but fierce hostility between the two types of unions. The power of the Christian labor unions, too small for effective pressure on the employers, was yet sufficient to weaken the workers' position by disrupting their unity. The bona fide character of the Christian labor unions was denied by the "free" unions, who charged them with being tools in the hands of the capitalists. In the prewar period, almost any strike involving Christian labor unions led to such charges as blacklegging and being in the pay of the employers, although these extreme accusations could be substantiated only in a few local instances. The tone of the Christian labor union propaganda against the general unions was equally aggressive.

Since the war in Germany, and to a somewhat smaller extent in the neighboring Teutonic countries, hostility has become much less acute. In fact cooperation, tacit or even openly organized, on all concrete immediate issues, is the general rule. Proportional representation according to membership regulates joint activities

in the innumerable bodies set up by labor legislation or collective bargaining, such as shop councils, tariff committees, economic councils, social insurance bodies and even the conference and the economic council of the International Labour Office. Parliamentary lobbying is also often undertaken jointly. In most strikes and other wage movements of the last decade there has been organized cooperation in all the stages from the formulation of demands to the final settlement of disputes. This improved condition is due to many causes. Christian labor unions found that they could retain their membership only by defending the workers' interests as energetically as did the other unions—a situation which has caused many employers to complain that the Christian unions have become "at least as bad" as the socialists. Community of interests has enforced the same attitude with regard to all practical questions; the growing recognition of the unions by employers and the state has enormously extended the field of actual immediate responsibility on practical issues and accordingly narrowed the field of doctrinaire controversy on metaphysical problems, disagreement being limited to ultimate aims and doctrinal principles. Owing to the increased strength, responsibility and experience of the general unions, their post-war practise has become much more moderate, retaining little of the Marxian ideology which the Christian labor unions abhor. There has been since the war a decided turn to the left on the part of the political parties with which the Christian labor unions are associated; the German Catholic Center party for instance has during most of the time since 1918 been a parliamentary ally of the Social Democrats. Controversy between spokesmen of the two movements has accordingly become much more courteous and tolerant. Increasing homage is being paid on both sides to the "ideal principle of united unionism"; the Christian labor unions contend merely that this cannot be realized as long as the general unions fail to emancipate themselves still further from Marxian philosophy, while the general unions retort that they have no purpose other than to organize for the improvement of their condition all workers regardless of creed, and that therefore there is no bona fide reason for the separate organization of a Catholic minority.

In the meantime, while many of the leaders of the Christian labor unions admit that the decrease of ideological differences between both movements jeopardizes the existence of the Christian labor unions' position, it has been stated by some of the socialist union leaders that their movement for industrial democracy must proceed on a more solid psychological and ethical foundation than that of the Marxian class struggle theory and that in this respect there is much to be learned from Christian doctrines.

HENRY DE MAN

See: LABOR MOVEMENT; TRADE UNIONS; CATHOLIC PARTIES; CHRISTIAN SOCIALISM; SOCIAL CHRISTIANITY; RELIGIOUS INSTITUTIONS.

Consult: Lorwin, Lewis L., *Labor and Internationalism* (New York 1929) ch. xxiii; Arendt, Joseph, *La nature, l'organisation et le programme des syndicats ouvriers chrétiens* (Brussels 1926); Cassau, Jeannette, *Die Arbeitergewerkschaften: eine Einführung* (Halberstadt 1927) p. 30–40; Erdmann, August, *Die christliche Arbeiterbewegung in Deutschland* (2nd ed. Stuttgart 1909); Müller, Otto, *Die christliche Gewerkschaftsbewegung Deutschlands* (Karlsruhe 1905); Gasteiger, Michael, *Die christliche Arbeiterbewegung in Süddeutschland* (Munich 1908); Confédération Internationale des Syndicats Chrétiens, *Compte rendu* of the 2nd and 3rd congresses (Utrecht 1922 and 1926), *Rapports et conclusions* of the 4th congress (Utrecht 1928), *L'internationale syndicale chrétienne pendant les années 1922–1925* (Utrecht 1926), and *L'oeuvre de l'internationale syndicale chrétienne, 1925–1928* (Utrecht 1929).

CHRISTIAN SCIENCE. The Christian Science church is in reality a phase of a more general social movement which had its origin in the attempts to fuse two comparatively independent modern tendencies: the successful practise of, and increasing interest in, mental therapeutics; and theological liberalism based on antimaterialistic philosophies. Both these tendencies came to a sensational climax during the third quarter of the nineteenth century, and found their most significant social expressions in New England. In the rural regions mesmerism was prevalent and in the cities transcendentalism. When these two currents met they produced a new religious movement based on spiritual healing and antimaterialistic theology, which are dominant characteristics not only of Christian Science but of the kindred religious movements of New Thought, Spiritualism, Unity, Jewish Science, and to a certain extent of Vedanta, Theosophy and the Emmanuel movement.

The term "Christian Science" was first used casually by P. P. Quimby, a doctor and mesmerist in Portland, Maine. One of his most enthusiastic students and patients, Mary Baker Glover Patterson, later known as Mary Baker Eddy (*q.v.*), helped him systematize his ideas

and after his death continued to champion and develop them. The date usually given for her discovery of Christian Science is 1866, when she felt herself divinely restored after a severe fall on the ice. Thenceforth she worked assiduously on the so-called Quimby manuscripts until in 1875 she published the first edition of her famous *Science and Health*, to which she later added a *Key to the Scriptures*. After years of discouraging experimentation as author and teacher she made two moves which eventually transformed her individual practise into a world wide religion. In 1879 she organized her students at Lynn, Massachusetts, into the first "Church of Christ (Scientist)"; and three years later, in Boston, she established in addition to a church the Massachusetts Metaphysical College. From the latter institution practitioners were sent into all parts of the country, equipped with the Christian Science degree authorizing them to practise healing and to teach the "divine metaphysics." These disciples soon brought undreamed wealth and power to Mrs. Eddy and fame to her book.

The initial impetus of the Christian Science movement is accounted for not so much by Mrs. Eddy's personal accomplishments as teacher (certainly not as healer), nor even by the local prestige of her group in Boston, but rather by the practical successes of the pioneer practitioners in the Middle West. In almost all cases these were women, and achieved their most significant results among middle class women in the larger cities. Hundreds of testimonials of remarkable cures were forwarded to the leaders in Boston and published in the *Christian Science Journal* for the benefit of its widening circle of readers. In addition to the Sunday reading services midweek testimonial gatherings were organized and proved another source of enthusiasm for the practical results achieved.

The movement spread rapidly not only in the United States but in the British Empire, notably in the dominions, and in Germany. Its most remarkable recent advances have been made in California and Florida. With only a few significant exceptions the movement has found its stronghold in those classes and social groups where neurasthenic disorders are prevalent and where the accompanying intellectual environment is characterized by metaphysical speculations and pseudo-scientific theologies. Christian Science has a double appeal, its practical success as a therapeutic cult and its simple yet "scientific" theology. Although in its denial of the reality of both matter and individual "mortal" mind it bears a superficial resemblance to absolute idealism, it is much closer in theory to the Hindu philosophies of disillusionment. There is little evidence that it has been directly influenced to any great extent either by modern philosophical idealism or by modern science. Its chief intellectual concern has been the exposition and reinterpretation of the Bible. Its theology is based on the idea of the "Father-Mother" God, the only reality, as impersonal, universal, infinite Principle, Mind or Good. Endowed with perfect love He manifests His spiritual power against the world of error, illusion or "mortal belief" by conquering sin, disease and death: both through Christ, who "demonstrated" man's "at-one-ment" with God, and through *Science and Health*, His modern revealed word.

At first the movement was attacked by the defenders of the more conventional Christian theology and, more seriously, by the medical profession. In almost every state attempts were made to prevent the professional practitioners from healing, by making a medical degree legally necessary for any kind of healing. The first attempts of this sort were made during the nineties (e.g. in New York, Massachusetts, Michigan, Oregon), while in England a similar move was made in 1906. But practically all of them failed, since the courts conceded the right of an individual to resort to any kind of healing he wished, and in the United States refused to interpret this issue as falling under the police power of the state.

More recently, various factors have contributed to greater tolerance. In the first place, Christian Scientists have adopted more reasonable tactics and the movement as a whole has been raised to a higher intellectual level. The physical fear of "malicious animal magnetism" which dominated so much of Mrs. Eddy's later career, and kindred ideas taken over from the mesmeristic background, have lost most of their force and have been assimilated to the metaphysics of "mortal mind." In 1901 Mrs. Eddy permitted her students to be vaccinated and enjoined them to obey all quarantine laws and not to treat contagious diseases. Since 1902, when she abandoned "metaphysical" obstetrics, there has been a general tendency among Christian Science practitioners to refuse surgical cases. A second factor is the great progress made in recent years by the science of psycho-therapeutics and its admission of many results of mental treatment which were formerly regarded as in-

credible or miraculous. At the same time, however, the practical vindication of mental healing by medical science has tended to undermine the theoretical interpretation of "spiritual or divine" healing required by Christian Science theology. A third factor is that other religious denominations, warned by the success of Christian Science, have given official encouragement to faith healing, prayer healing and other traditional practises which had fallen into disfavor under the reign of mechanistic psychology and metaphysics. Finally, the spread of other cults, especially of oriental, non-Christian ideas, has brought many new rivals and more sophisticated traditions into the field which formerly demanded an avowedly Christian theology.

Although healing has been the distinguishing characteristic of its practise, Christian Science has expended much energy also upon combating the more subtle manifestations of "error." It has sought to banish fear in its many forms and has preached optimism in the face of disasters, wars, depressions, poverty and social evils. As a result it has practically never engaged in movements of reform, in "social gospels" nor in the usual forms of philanthropy and church benevolence, except in the negative sense of denying the reality of evils. The most significant deviation from this policy was the Christian Science war work, which supported among the soldiers about two hundred "workers" and over a hundred "welfare rooms" and served not merely to distribute Christian Science literature but also to provide physical and mental comforts for the soldiers. Another deviation was the giving of considerable sums in recent years to sufferers from floods and earthquakes. As a church Christian Science has no political or social platform except in so far as it explicitly demands obedience to law, honesty in business and, in general, "the sweet amenities of Love, in rebuking sin, in true brotherliness, charitableness and forgiveness." The interest which many Christian Scientists display both personally and collectively in material comforts is explained on the ground that these external symbols, in a world of illusion, demonstrate, as well as stimulate, their love for harmony and beauty in that real world of infinite intelligence or love which constitutes the Divine Mind.

The highly centralized administration of the church is a masterpiece of Mrs. Eddy's genius. All who wish to practise or teach Christian Science must be members of the Mother Church. This is governed by a Board of Directors; the original directors, five practical men of affairs, were appointed by Mrs. Eddy and given the authority to choose their successors. The Board of Directors must govern the church according to the by-laws laid down by Mrs. Eddy in the *Church Manual*. It exercises absolute control over the membership of the Mother Church and final jurisdiction over the local membership and government of each of the various branch churches. According to the United States census of 1926 the Mother Church had 149,957 members, of whom 87,940 belonged also to branch churches; while the membership of the 1913 branch churches was 140,081, of whom 52,141 were not affiliated with the Mother Church. Out of the total membership of 202,098 about 9000 are authorized practitioners or nurses. More recent (1930) figures, published in the *Christian Science Journal*, give the number of Christian Science churches in the world as about 2400, of which about 2000 are in the United States and 200 in Great Britain. The male membership constitutes 32.5 percent of the total, and the urban about 94 percent. The *Christian Science Monitor*, a non-partisan daily newspaper published by the church, has a circulation of about 135,000. The most important of the other church agencies are: the Christian Science Publishing Society, governed by a separate Board of Trustees but in reality controlled by the Board of Directors; the Publication Committee, which conducts a vigorous campaign against "obnoxious books"; the Board of Education, which examines teachers, awards their degrees and gives free public lectures (about 3500 annually); the Benevolent Association, which conducts two "sanatoriums," one at Chestnut Hill, Massachusetts, and one in San Francisco; and Sunday Schools and reading rooms, which are found in almost every Christian Science society or church.

On the whole, the Board of Directors has maintained its power very shrewdly. Several law suits have tested its powers, especially with respect to the trustees of the Publication Society and over the trust fund trustees named in Mrs. Eddy's will. Several women have aspired to be Mrs. Eddy's successors but the Board of Directors has succeeded in asserting its complete authority over them. Only two movements have proved menacing. Mrs. Augusta Stetson, a devoted disciple of Mrs. Eddy, established a strong Christian Science organization in New York, which by threatening to eclipse the Mother Church in Boston aroused the jealousy of its

founder. By exalting Mrs. Eddy as "Mother Mary" to equality with Christ, a move which Mrs. Eddy herself publicly repudiated, and by exploiting her personal prestige as an intimate of Mrs. Eddy, Mrs. Stetson incurred the hostility of the Board of Directors as well as of Mrs. Eddy and was excommunicated in 1909. But she had an influential and loyal following in New York, which continued to proclaim her doctrines, such as the spiritual conquest over birth and death and the purely spiritual government of the church. After her death in 1928 her followers asserted their confidence in her, as well as Mrs. Eddy's, imminent reappearance and immortality demonstration.

A second serious dissension began in the Third Church of London, where Mrs. Annie C. Bill resigned after she had come under the influence of Frederick L. Rawson's doctrines. Appealing to the *Manual* and defying the authority of the Board of Directors after Mrs. Eddy's death, she insisted on a single successor to Mrs. Eddy and organized a "Central Assembly" with herself as "pastor emeritus." She was sued for adopting the "authorized" titles of the Mother Church, and after losing her case in the courts with a few followers she changed the organization to the Parent Church of the New Scientific Generation. In 1924 John V. Dittemore, who was one of the original five directors of the Mother Church and who had been ousted by his fellow directors, joined the movement and carried a considerable personal following with him. American headquarters were established at Washington, D. C., and the name was changed to the Christian Science Parent Church, The Church of the Transforming Covenant. In 1930 all connection with Christian Science was abandoned and the name was changed to The Church of the Universal Design. There are now about 80 branches and 1200 members in this church. In doctrine the Parent Church is distinctive in emphasizing a spiritualized version of evolution, in sponsoring the Anglo-Israel doctrine and in preaching medical cooperation. Although it is small numerically it is significant as another evidence of the difficulties encountered by the Board of Directors in keeping the church under its control.

HERBERT W. SCHNEIDER

See: RELIGION; CHRISTIANITY; SPIRITUALISM; TRANSCENDENTALISM; CHURCH; SECTS; CULTS; HEALING.

Consult: The works of Mary Baker Eddy, *Science and Health, with a Key to the Scriptures*, and *Church Manual*, available in numerous editions; the files of the *Christian Science Journal*; First Church of Christ, Scientist, Boston, War Relief Committee, *Christian Science War Time Activities* (Boston 1922); United States, Bureau of the Census, *Religious Bodies: 1926*, 2 vols. (Washington 1929–30) vol. ii, p. 348–57; Wilbur, Sibyl, *The Life of Mary Baker Eddy* (5th ed. Boston 1923). See also such critical works as Riley, I. W., Peabody, F. W., and Humiston, C. E., *The Faith, the Falsity and the Failure of Christian Science* (New York 1925); Dakin, E. F., *Mrs. Eddy* (New York 1929), containing a bibliography; Milmine, Georgine, *The Life of Mary Baker G. Eddy and the History of Christian Science* (New York 1909).

CHRISTIAN SOCIALISM

GREAT BRITAIN. Christian Socialism was the phrase chosen by a small band of clerical and lay members of the Church of England in the middle of the nineteenth century to express their deep conviction that the economic development and the social relations of the community could prove satisfactory only if they were consciously brought into obedience to the spirit of Christ and His purpose for mankind. They found the church, to which they were passionately attached, accepting and even commending the views of philosophers, politicians and economists whose knowledge of public questions it reckoned superior to its own. Those views justified, on grounds claiming to be scientific, the abandonment of the vastly expanding industrial system to the virtually unregulated dominion of the profit seeker, the glorification of competition regardless of its effects and the discouragement of all efforts at combination among the laboring classes, either to alleviate the conditions of their employment or to seek a livelihood outside the wage system. The Christian Socialists challenged both the validity of this teaching and the right of the church to identify itself therewith. The resistance of the masses to the workings of the industrial system was, they claimed, not merely justifiable but actually animated by contrasting ideals of cooperation and service which were in harmony with the spirit of Christianity. The Christian Socialists banded themselves together therefore to proclaim the supremacy of Christian values over purely secular considerations, to expound the traditions and implications of Christianity in this light, to enlist the sympathy of the public for the efforts made by the workers to improve their conditions and transform their status, and to initiate practical experiments in working class education and cooperation of every kind.

The Christian Socialists "owed their inspiration to Carlyle and their opportunity to the

Chartists," says Canon Raven in his authoritative history of the movement. The socialism which was crystallizing into a scientific form in the *Communist Manifesto* of Marx and Engels, though much of it had been formulated in England, influenced them scarcely at all. Some had been affected by the protests of Southey and Coleridge against the laissez faire doctrines of the Manchester school and the utilitarianism of Bentham, others by the French experiments in industrial cooperation which grew out of the writings of the Fourierists. This latter influence was conspicuous in the case of the young barrister John Malcolm Ludlow who was the true founder of the movement. Educated in Paris he returned there to witness the development of affairs after the Revolution of 1848, and wrote his reflections thereon in a letter to his friend Frederick Denison Maurice; this letter, Maurice testified, exercised "a very powerful effect" upon his thoughts, and led to a series of talks between the two in which were developed the main ideas that formed the foundation of Christian Socialism.

There broke in upon these colloquies a new social situation and a dynamic personality. News of the Monster Petition meeting organized by the Chartists for April 10, 1848, brought Charles Kingsley to London. And in the company of Ludlow he witnessed the fiasco in which the meeting issued. To both men the situation presented itself as a challenge and an opportunity for the church. That for which the workers were groping unsuccessfully, religion must come forward to supply. They sat up through the night drafting placards which were posted up next day upon the walls of London, proclaiming to the "Workmen of England" that "the Almighty God, and Jesus Christ, the poor Man who died for poor men, will bring freedom for you, though all the Mammonites on earth were against you."

Christian Socialism thus emerged with a significant gesture on the morrow of a democratic defeat. It began its work as a propagandist force through periodicals (*Politics for the People* in 1848 and the later *Journal of Association*, 1852–54), pamphlets (notably *Tracts on Christian Socialism* in 1850) and novels (Kingsley's *Alton Locke*, 1850, and *Yeast*, 1851). It entered the field of practical experiment as the "Council for Promoting Working Men's Associations" in 1850; it achieved an important legal reform in the Industrial and Provident Societies Act of 1852; and set the coping stone on that education of the workers which it had undertaken from the first by the foundation of the Working Men's College in 1854. The work of these six years was carried through by a group of men, mostly laymen from the professional classes, who faced with wonderful confidence and perseverance the ridicule of the respectable and the suspicion of the workers in whose cause they sacrificed their time and sometimes, as in the case of E. V. Neale, their fortune. Their loyalty to their leader Maurice remained unshaken. His leadership was founded, indeed, on a real spiritual genius, distilling its influence most characteristically through the group's weekly Bible reading which was "the sacrament of their unity, the means whereby they received their inspiration."

The experiments in producers' cooperation into which the Christian Socialists put their principal expenditure of effort and funds ultimately failed. The dishonesty of a few, the insubordination of others, helped to wreck enterprises which were struggling with insufficient resources, moral and practical, in an atmosphere hostile to them. Nothing in the development of industrialism had prepared the workers for the task to which the associations called them. But to speak of Christian Socialism as a failure is to misconstrue the significance of the movement. Two things it conspicuously achieved: association of single minded men among the middle classes with the fate and the aspirations of the working class, a tradition carried on later by the positivists, the Fabians and the Guild Socialists, and the rescue of religion from the social apostasy and sycophancy into which it had sunk.

The "socialism" of Maurice and his group was neither collectivist in outlook nor bound up with any political theory of a revolutionary working class movement. When the challenge of Christianity to the dominant economic forces of the day was formulated afresh a quarter of a century later, while its note was distinctly more revolutionary than that struck by Maurice and his group, its independence of secular partisanships was equally unmistakable. This challenge proceeded from a new quarter—the Anglo-Catholic movement in the London slums. Stewart Headlam, while he readily acknowledged the inspiration of Maurice, founded in 1877 the Guild of Saint Matthew in Bethnal Green upon his own interpretation of Catholic theology and the social significance of the sacraments. He made explicit the Tractarian protest against plutocracy and materialism which, because it was delivered as part of an attack upon "liberalism,"

had generally been interpreted as merely reactionary. The Guild of Saint Matthew thus "achieved the impossible by being at once Puseyite and Maurician," but its ecclesiastical "extremism," its frank sympathy with the new unionism and socialism of the nineties and its audacious anti-Puritanism necessarily limited the scope of its appeal. A less dogmatic and more cautious group gathered round the great figures of Scott-Holland and Charles Gore in the Christian Social Union (founded 1889), devoting itself to the study of social problems in the light of Christian principles and to the advocacy of practical measures of reform. Parallel bodies began to form in the nonconformist communities under the name of Social Service Unions, and in 1910 these drew together in regular interdenominational conferences, evolving an outlook increasingly critical of the economic order. Included amongst these was the (Roman) Catholic Social Guild founded in 1909, a live body which derived its inspiration from the scholastic traditions in restraint of usury and economic injustice and from the encyclical *Rerum novarum* of Pope Leo XIII. Outside stood the Church Socialist League, formed in 1906 largely under Anglo-Catholic influences, carrying on a vigorous propaganda in avowed sympathy with, although independent of, the new widely expanding socialist movement. A smaller interdenominational Society of Socialist Christians replaced this in 1924.

The war, by calling attention in so many ways to new problems of conscience and to the defects of the social system and by dispersing the fog of "progressive" complacency and revealing a new consciousness of crisis, opened a fresh chapter in the history of the attitude of the churches to social issues. The feeling began to spread that secular civilization was at the end of its resources, that religion had, or must discover, something distinctive to say upon political and economic problems and that it must do more than merely approve or support policies evolved by others.

The influence of Christian Socialism has extended far beyond these groups, not only in England but in continental European countries and in the United States, to a movement which in its manifest activities and intellectual expression is most widely known as Social Christianity.

MAURICE B. RECKITT

UNITED STATES. Christian Socialism as a definite movement in the United States did not appear until the late eighties of the last century. The semi-utopian communities of the forties and fifties were, it is true, an American manifestation of those Fourieristic influences which had affected the first English Christian Socialist leaders. The founder of one of these communities, Adin Ballou, had in fact described his scheme as Practical Christian Socialism (Hopedale 1854). These early groups had attempted also to make some connections with the struggling labor movement of the period. It was not, however, until the industrial and social upheaval of the eighties and the establishment of the Knights of Labor that socially minded clergymen attempted to break down the barriers which had grown up between labor and the church under middle class influences.

The first expressions of this new social consciousness, in the writings of Josiah Strong and Washington Gladden, in the formation of the Christian Labor Union (1872) and of the more influential Church Association for the Advancement of the Interests of Labor (Cail) in 1887, were concerned more with bridging this chasm than with any thoroughgoing theory of social and economic transformation. The more radical approach was probably first taken by the Reverend W. D. P. Bliss, who had been a member of the Knights of Labor, who in 1889 formed the Society of Christian Socialists in Boston and who, thereafter, in his magazine, the *Dawn*, in pamphlets and in his country wide lecture tours attempted to spread the doctrine of Christian Socialism. This doctrine was largely that of the English movement. The Christian Social Union founded in 1891 was affiliated with the English Christian Social Union. In the nineties many small and obscure groups, denominational and interdenominational, sprang up. At the same time individual clergymen, like the Reverend George D. Herron, embarked on a series of activities which led to their eventual affiliation with the non-religious socialist movement. The interdenominational Christian Social Fellowship, formed in 1906, and the Church Socialist League (1911–19) not only formed the nucleus for later church groups but furnished many of the leaders for later liberal, labor and socialist organizations. The writings of Walter Rauschenbush, especially his *Christianity and the Social Crisis* (New York 1907), clarified and gave spiritual impetus to the American Christian Socialist attitude. By this time, however, the growing movement within the churches had become less definitely

socialistic and was concerned primarily with the application of the social gospel to immediate industrial and social problems.

At the present time the movement for Social Christianity, as led by Harry F. Ward, Bishop Francis J. McConnell, John Haynes Holmes and others, shows the definite influence of the earlier protagonists of Christian Socialism.

VIDA D. SCUDDER

See: SOCIAL CHRISTIANITY; SOCIALISM; COOPERATION; CHRISTIAN LABOR UNIONS; CATHOLIC PARTIES.

Consult: FOR GREAT BRITAIN: Raven, C. E., *Christian Socialism 1848–1854* (London 1920); Brentano, L., *Die christlichsoziale Bewegung in England* (2nd ed. Leipsic 1883); Beer, M., *A History of British Socialism*, 2 vols. (London 1919–21) vol. ii, ch. ix; Woodworth, A. V., *Christian Socialism in England* (London 1903); Noel, Conrad, *Socialism in Church History* (London 1910); Gore, Charles, *Christ and Society* (London 1928); Headlam, Stewart D., *The Socialist's Church* (London 1907); *The Return of Christendom*, by a group of churchmen with introduction by Bishop Charles Gore (London 1922).

FOR THE UNITED STATES: *Essays in Intellectual History*, dedicated to J. H. Robinson (New York 1929) ch. viii; Jacobs, Leo, *Three Types of Practical Ethical Movements of the Past Half Century* (New York 1922) ch. i; Laubenstein, P. F., *A History of Christian Socialism in America* (unpublished thesis in library of Union Theological Seminary, New York 1925).

CHRISTIAN SOCIALIST PARTY, AUSTRIA. *See* PARTIES, POLITICAL; CATHOLIC PARTIES.

CHRISTIANITY. The primitive teaching of Christianity set before mankind the ideal of a life based simply and solely on the love of God and man. One love implied the other, for if a man loved not his brother, whom he had seen, how could he love God, whom he had not seen? And if he did not love and trust God as a father how could he understand that all men were God's sons and therefore his own brothers? How could he avoid occupying himself with the things of the world which set man against man? In Christian love, mankind became as one family in which the needs of any one are the concern of all, in which none is before or after the other, none is greater or less than another, and all are protected by a Father so omnipresent that not a sparrow falls to the ground unheeded by Him. Man, therefore, should not be anxious about the morrow, heaping up riches when he cannot tell who will gather them, but should meet the difficulties of the day, raising the ass or the ox from the pit even on the Sabbath, ministering to the needy and serving the Lord in cheerful contentment with his lot. Such a life may be achieved by every man in ordinary society, for it depends primarily on his own personal love and trust. Although there may be those who will injure and despitefully use him, he will reply to injury with beneficence, to evil with good. It was understood even by the Gentiles that they should love their friends; but the Christian loves his enemies as well and turns the other cheek to the smiter. He must not even vindicate his rights; if a man takes his cloak, he must let that man have his coat also, for the meek shall inherit the earth. He must assert not himself but his Christianity. No mortification of the flesh is enjoined for its own sake—marriage and the natural affections are assumed, and the sex teaching is simple and wholesome. It is only if the family tie obstructs a Christian call that it is wrong. When the call comes to any man he must leave all and follow it. Asceticism is no end in itself; but all desires of the body and all claims of personal love are swept aside if at any point they interfere with Christian duty.

While the Christian life is open to anyone, in any society, however full of oppression and wickedness, its natural fulfilment and perfect expression are in a brotherhood of the believers. This brotherhood will have no worldly aims. It will not seek to dominate either the world of nature or the world of man, although it will seek to draw all men into it by spreading the light. Its aim is to live by the law of love. The physical necessities of life it will secure by honest labor and by sharing all things in common, and even its apostles will work with their hands at tent making, or whatever it may be, so far as the first duties of the Christian mission allow them. Work is a duty; if a man does not work he shall not eat. On the other hand, there is to be no self-enrichment. It is hard for a rich man to enter the kingdom of heaven, and all that a man has, beyond his personal necessities, he should give to the poor, or rather bring into the common stock. At the same time, outside the community the laws of civil society and the authority of the rulers are accepted. To Caesar are to be rendered the things that are Caesar's. The powers that be are ordained of God. Christ's kingdom is not of this world.

Such communities sprang into being in many places during the apostolic age. Their simple communism was not, as in the monastery of a later age, a communism of production. The ordinary Christian had his employment in or-

dinary life, but he brought all his superfluities into the common stock. But though there was no collective organization of production, there soon came to be organization of church government, including the administration of the common funds. The communistic rule might be very strict, as the story of Ananias and Sapphira shows (for while the punishment might be justified on the ground of their deceit, the point of the tale is that no partial sacrifice of wealth avails). A more lenient view, however, goes back to very early times; and in any case this simple communism could hardly survive the growth of the Christian communities. Broadly speaking, communism as a system which, without excluding all personal possessions, makes the common wealth dominant, works well under one of three conditions. First, it operates in every well ordered family where, whatever personal possessions are recognized, the fundamentals of wealth are shared alike, and where in case of shortage the weak and helpless are served first. Secondly, it works well in very primitive communities where none has risen above the rest, all are concerned with day to day needs, all are born and bred in one tradition and in fact form a kind of enlarged family. Thirdly, it functions among men united by a common purpose—even a common need, as in the case of a shipwrecked crew—to which everything personal gives way; such a community was the early Christian church, and such were the best of the monastic brotherhoods. As long as the common dominates the personal, group communism holds its own. Under the first condition mentioned, the common dominates through the strongest natural affections. Under the second, personal initiative is hamstrung by the absence of opportunity for self-advancement. Under the third, even the strongest individuality may be held in restraint by the universal conviction of the common purpose; but as soon as the insincere and half converted come in the tie is dissolved. Communism, although preserved in the monastery, is for the laity reduced first to the duty of applying superfluities to the common need, and then to the obligations of charity. Finally the spirit of charity itself frequently perishes in its "organization."

In this connection, however, it must be acknowledged that obligations to the needy and a certain vaguely defined trusteeship in the possession of wealth have been continually maintained by Christianity in most if not in all of its forms, and that sociologically the institution of Christian ministers, lay officials and establishments for the relief of indigence and suffering are regular features of any Christian society. Exactly how Christianity compares in this respect with other religions, or with pagan or secular states, it would be difficult to say without an elaborate and difficult examination. Material beneficence is one of the oldest and most universal of the virtues. Islam and Judaism are notable for their insistence on works of mercy. Christendom is remarkable for the universality of its philanthropy, for the great variety of its efforts which have organized distinct forms of relief for so many different kinds of suffering and for the exceptional self-sacrifice of doctors, nurses and ministers of religion.

While simple communism was bound to melt away with the expansion of Christianity, the question of the relation of the church to civil society became increasingly important. From the first it was to recognize the powers that be, but at the same time "saving always the duties of a Christian" was an understood condition. How was it to comport itself in regard to the laws of the land when opposed to Christian duty or the Christian spirit? Confronted with a pagan government there were points on which the Christian clearly could not conform, and these came to the front in every persecution. And there were deeper issues by no means settled when Christianity became a state religion and the whole empire in name a Christian brotherhood. How were the law of the state and the law of love to be reconciled? The state recognized war, had courts for the redress of private wrongs and the punishment of criminals, used the oath —and in those days torture as well—in the legal procedure, guarded private property and allowed the indefinite accumulation of wealth together with its inheritance and bequest, sanctioned slavery and the sale of men, women and children, allowed the exposure of infants and recognized divorce. Some of these things were, as all would now admit, abuses; others, especially the institution of courts of law and the recognition of private property, appear integral to organized society. War society hopes to abolish, but so far military defense has appeared a necessity of state organization. What was Christian teaching to do in the matter? Nominally it had conquered the western world. What was the real relation to be? Was it to absorb the world or to be absorbed by the world as conquerors so often are by the conquered? Or was it after all to stand

aloof from the world and establish a dual law—worldly and other-worldly—for mankind?

In order to understand the course of events we must first appreciate the Christian attitude as it came to define itself. Primarily the Christian life was inward. It was something that each could attain for himself and was independent of outward circumstances. Slave and emperor could be equal as Christians, just as they had been equal as stoics. Material possessions were indifferent, except indeed that their increase added to the difficulty of remaining a good Christian. It must in truth be added that even intellect was indifferent, for out of the mouths of babes and sucklings was ordained praise. Neither philosophy nor science, neither art nor literature, was essential. The Christian teaching might broaden its outlook, but as such it had no essential concern with the Hellenic conception of a many sided development of personality or with the modern ambition to read the secrets of the universe and to acquire thereby a control of the conditions of human life and development. Nor was it concerned with the humanitarian view that institutions and even moral laws involving great suffering to men and women must be wrong. The law of God was in essentials known and must be accepted come what might. Man was made for no other happiness here on earth but the happiness of accepting that law and of taking with contentment that lot which it would allow him. Thus it would be quite unhistorical to criticize the work of the churches as if they had meant to recreate society on the lines of modern humanitarianism. Modern Christians may, and many do, regard this humanitarianism as the natural development of Christ's teaching, but in the early formative days no such development was in sight. Christianity had primarily to maintain itself in a society which at first was hostile and, even after Constantine, contained all sorts and conditions of men—unbelievers, nominal Christians, Jews, infidels and, above all, heretics. The ideals of the simple brotherhood of all true Christians were inapplicable. The original teaching, as well as the wisdom of Christian leaders, recognized the state as a necessity. The problem as it appeared was to find some reconciliation on the points at which state law and Christian law were in definite conflict whether in letter or in spirit.

In form—and form affected substance—the solution was found in a slightly modified acceptance of the stoic conception of the *jus naturae* and the Golden Age. By nature, the stoics taught, man was free and equal and there had been a Golden Age in which man had actually so lived. From this state he had, however, fallen off, and the *jus gentium*—the legal principles common to all nations—recognized subjection and inequality, while the positive civil law of any particular state, and of course of the Roman Empire, imposed its own special obligations on its citizens. Where the civil law conflicted with natural law it was in principle void; but the stoics refrained from the effort to abolish it, primarily because they held that the wise man was superior to all institutions, since these were but external things, while he could always regulate his own conduct by the light of reason. But as jurists they did seek to bring the civil law as near to the law of nature as might be, short of revolution.

The Christian fathers took over these conceptions, adding an explanation that the falling away from the state of nature, or innocency, was due to sin and that the state was the divinely appointed remedy for sin. Nature was good, for it was what God made. Actual society was defective, for it was the outcome of man's sin. But law and the state were good, as it were at one remove, because they were God's appointed remedy for sin. Because of their origin they involved hardships, like slavery, and allowed things unfitted for a Christian brotherhood, like the accumulation of riches. But the true Christian was above or indifferent to circumstances. He might be loyal and trustworthy as a slave. He might use his riches for the glory of God or for the benefit of the poor. These considerations together governed the attitude of the church, and it was left to the enthusiasm of the sects of the future to strive after fuller Christian ethics. In the meantime state law was to be respected, with two exceptions: if it was in clear and literal conflict with Christian teaching, it was to be abolished; if it was contrary to the spirit, it was to be softened and amended.

Among the points of conflict slavery would seem to us perhaps the most definite. Yet neither stoicism nor the church sought its abolition, although its justice had been challenged by thinkers as early as the fourth century B.C. Here the doctrine of the indifference of circumstances was as fatal to the church as it had been to the stoics. Slaves must obey their masters, and masters must be kind and just to their slaves. The slavery of the later republic and early empire had been intolerably harsh and cruel,

but for two centuries and more the stoic jurists had been at work upon it, and the worst features had been suppressed. Morally the stoics recognized the equality of slave and freeman and the church similarly maintained that slave and master as Christians stood on the same footing, and it accepted slaves, at least on emancipation, for the ministry. As to legal rights the canon law imposed its own penalties on maltreatment of slaves. What was most important was that the canon law gave sacramental sanction to slave marriages, which originally had no recognition in law. Some slight advances toward such recognition had indeed been made under the pagan empire, but it was by a law of Constantine that the separation of slave families was forbidden. The consent of the master was at first required to validate a marriage of slaves, but this condition was eventually abolished by Pope Hadrian IV. Marriages of slaves and free were allowed under Justinian. In the view of the church the consent of the parties was the sole prerequisite of marriage, and on the whole the church stood by its principle in relation to the slave and to later feudal rights. Yet the right of feudal superiors was long to survive, and even in the sixteenth century the Council of Trent found that it was too often the custom for secular lords to compel men and women to marry against their will, a practice which they anathematized on the grounds that it was *maxime nefarium matrimonii libertatem violare.*

These were the most important contributions to the rights of the slave made by the mediaeval church, which for its part did not hesitate to hold serfs and is indeed charged with more than average tenacity in keeping its own. Christianity did not abolish slavery. But there were two ways in which the church's action made for the gradual extinction of the institution. First, it opposed the enslavement of fellow Christians, whether as war captives or through the slave trade. For example, the traffic in slaves which went through Bristol to Ireland was suppressed in the eleventh century by Wulfstan, bishop of Worcester, and although by a regrettable inconsistency the church allowed a man to "commend" himself, his wife and children to an abbey, its influence helped to secure the limitation of debt slavery to the period necessary for redeeming the debt. These limitations went a long way in reducing the supply of slaves. Secondly, the church always encouraged emancipation as a deed of charity. It is clear, therefore, that the influence of the church must be reckoned as an important factor in the extinction of the slave class, which, so far as true chattel slaves are concerned, was nearly complete in western Europe by the end of the twelfth century.

The enslavement of non-Christians was another matter. All through the Middle Ages a regular trade in slaves was maintained by the Genoese and Venetian merchants in the Levant. To deal in Christians was prohibited, but did adherents of the Greek church count as Christians? Authority was inclined to wink when in practise the negative view obtained. In any case, there is evidence that there were slaves in considerable numbers in Genoa and Venice (where in 1368 they were numerous enough to constitute a public danger); and although they were rarer inland, there were 339 sales of slaves (mostly female) in Florence between 1366 and 1397. The matter became much more serious when explorers began to open out new worlds, where backward peoples were at the mercy of European arms and organization. To the church the prospect of converting the natives was held out as a bait, and this hope was the explicit ground of the bull by which Pope Nicholas V in 1454 sanctioned the importation of Negro slaves into Portugal. In full consistency with principle the enslavement of Negro neophytes was condemned by Pope Pius II in 1462. Yet presently doubts arose on the whole question. Columbus' despatch to Spain of five hundred Indians as slaves was the occasion of a juristic dispute, and the Indians were eventually sent back by Queen Isabella. When the Negro traffic to America began, the popes, it is but fair to say, made successive efforts to check it. Although no one stopped Sir John Hawkins, who first brought Negro slaves to North America and believed that he was acting as a good Christian, it was a Christian sect, the Quakers, that led the protest against this second and very detestable slavery. Churchmen, Methodists and rationalists cooperated in the eighteenth century movement for the suppression of the slave trade and in the nineteenth century extension of the struggle to the suppression of slavery. It would be unreasonable to attribute the success to the Christian elements alone. It was perhaps the first, but by no means the last, case of cooperation between an enlarged and enlightened Christian conscience and the secular humanitarianism which was beginning to inform ethics and law.

It must be added that the struggle for elementary rights for the weaker peoples is by no

means over, that forced labor may come perilously near to slavery, that social exclusiveness and the closing of avenues to skilled employment may make the Christian native an outcast, and that in this struggle the Christian missionaries are the force on which we have now mainly to rely for the education of public opinion on this important and dangerous aspect of the "expansion of Europe."

Warfare stood in even sharper contrast to Christian teaching than slavery, and it was in this conflict that the failure of the church was most conspicuous. The early Christians held military service unlawful, but in spite of many prominent supporters the rule was soon relaxed, and a full blooded defense of "just wars," i.e. wars for the redress of wrongs or for self-defense, was but feebly qualified by censure of malice, cruelty, vengeance and the lust of dominion. Ambrose—although he could compel a king to do penance for a massacre—denounced the principle of non-resistance and declared that he who refused to defend a friend was as bad as the aggressor. In the Canon de Treuga the church made an effort to mitigate private wars, but throughout history the churches have given moral support to official wars. It was left to the sects that went back to primitive teaching—the Anabaptists and above all the Quakers—to lead an opposition to war as such and to wrestle as best they might with the resulting problem of internal security.

The methods of war were indeed so far alleviated that the killing of non-combatants, the enslavement of Christians and the refusal of quarter were forbidden, although in justifying ransom the canon law, as stated by Gratian, seems still to imply that in principle the life of the conquered is forfeit. Unfortunately these prohibitions were difficult to enforce, and the wars of Christendom hold their own for horror when matched with those of the heathen, the wars of religion being perhaps the worst of all. Possibly the best defense of Christianity is that the secular spirit, working since the days of Grotius through international law, has as yet little to show, and in the World War even the distinction between combatant and non-combatant began to crack. The *via media* between the piety of non-resistance and the crude realities of oppression and aggression has not been discovered for nineteen centuries.

What now of the element of force within the life of the state—the enforcement of law, the procedure of courts and the punishment of crime? As a persecuted sect the Christian church had its own legal system, resting on penance and excommunication. As an official religion it at once recognized the lawfulness of public justice. Retaliation by the individual is wrong, but retaliatory punishment may be lawfully inflicted by the judge. For he gives not evil for evil, but justice for injustice, which, says Augustine, is good for evil. An ingenious turn, although not as honest as Confucius' denial that justice to the offender can be reconciled with Lao Tzu's doctrine of good for evil. But consistent or not, this decision of the church was socially necessary. When, however, we find excuse offered for the faithful who ex officio either exercised torture or passed a capital sentence, we are on different ground. The church did not in fact use its opportunity for abolishing the use of torture, which disgraced the Roman law. About capital punishment it certainly had its doubts. It became the rule that ecclesiastics could not enforce it, and clerks omit the words in the sentence, leaving the criminal "in mercy." There was even in the Middle Ages, particularly in the tenth and eleventh centuries, a definite revulsion against capital punishment, and it was, for example, actually abolished in England by William the Conqueror. The substitutes of blinding and castration were even worse than the original, however, and by the thirteenth century, without legislation, death resumed its place as the penalty for felony. Centuries earlier the whole system of Roman law had crumbled in the West under the barbarian invasions, which had reintroduced the feud, and in the courts the oaths of purgation and the ordeal. The church did its best to resist this rebarbarization, but had eventually to make terms with it. Not without controversy it gave its sanction to the ordeal; and Charlemagne ordered all men to believe the judgment of God without any doubt. In the meantime, however, the church was feeling its way back to rational justice through the courts of inquest into morals held by the bishops. They were ably seconded by the growing power of the king's court. And while both bishop's and king's courts at first allowed the oath of purgation or the ordeal by combat or by magical procedure, these methods were suppressed under Innocent III, and ordeals in particular were condemned by the Lateran Council of 1215. It took time to consolidate the victory. The ordeal by combat, forbidden in France by Saint Louis in 1260, lingered in England through the thirteenth century, when champions for hire still offered

themselves; and some remnants of the old law still survived in the early nineteenth century.

On the whole, however, the principle of impartial justice, based on evidence and supervising public safety, prevailed, and the church certainly played its part along with the state in securing this first principle of modern civilization. On the other hand such methods of barbarism as the use of torture in procedure and extreme severity of punishment survived; the latter tended rather to increase than to diminish, and with the exception of the temporary check on capital punishment does not seem to have been combated by the official churches, which indeed in their own dealings with their special enemies, the heretics, only led the way. The penal law of Europe was a disgrace against which there was no serious complaint until a protest was led by the Quakers and supported alike by the utilitarians and the Evangelicals in the eighteenth and nineteenth centuries. Here again "primitive" Christianity and ethical rationalism found themselves at one.

The primitive theory of communism continued to the Middle Ages as one of those principles of natural law which, owing to sin, had been set aside by civil law. Aquinas, however, does not allow that there is any true contradiction, but considers that natural law simply neglected to make any division and that the omission was supplied by civil law, and rightly, in his view, since private property tends to the avoidance of quarrels and to efficiency in production and administration. Aquinas in this connection is closer even than elsewhere to Aristotle, in whose antithesis—"private acquisition, common use"—he finds the solution. The Christian must use his property for the common benefit and, what is remarkable, in case of necessity the "natural law" of communism revives. To supply the actual and urgent necessaries of life—e.g. to meet imminent danger—whether for self or for another, it is no crime to take another man's superfluities, whether openly or secretly. One may regard the Poor Rate (after all a compulsory levy on those who have for the benefit of those who have not) as a regularization of this principle, which otherwise might seem to smack rather of Robin Hood than of Augustine, and certainly goes far beyond the common exhortations to charity. At the same time, in returning to Aristotle Aquinas was preparing the way for the coming industrialism. For the appeal to production and efficiency is distinctly secular in spirit, while the vindication of private ownership departs not only from communistic idealism but from the feudal order, in which the most important property was held on a basis of definite obligations in respect of it.

The methods of acquiring property were always a matter of concern to Christian ethics to the extent that they involved any form of exchange in which one man might get the better of another. To Christian ethics this was the sin of covetousness, and it was the universal opinion in the church that in buying and selling a man should ask and give the just price, and that in seeking payment he should demand what was necessary to support him rather than the most that he could get. Above all, lending should be a friendly act and should not be an occasion for usury, which always appeared to the legists, and particularly to the schoolmen under the influence of Aristotle, as a gross and palpable method of getting something for nothing. These rules of behavior bore a simple and intelligible relation to the rather primitive economy into which the world had relapsed after the luxuries of Roman civilization. The modern economist would probably be willing to admit that a man should give and take the just price if he only knew what the just price was. In a simple society it seems to be known. It is what always is, always has been and always will be given by men who know what they are about. It is in fine the customary price, and if a seller gets more than that it can only be either by deceiving the purchaser or by taking advantage of some special necessity. In other words it is a piece of individual wrongdoing, as the modern economist would very willingly admit. But as soon as markets begin to extend, as alternative sources of supply occur, and, finally, when competition sets in, customary standards lose their hold. The classical economy has built itself up around the conception that there is really no exchange value attached to a thing except that which can be arrived at by the higgling of the market in free and open competition. The difficulty is not unfelt by the exponents of the canon law and as the economic system develops they take account of the impersonal forces determining value, but without deserting the principle that it is illegitimate to make selfish profits at the expense of another. It must be borne in mind, however, that for them a just price and just remuneration is that which is suited to maintaining a producer in the state of life to which he is accustomed, without superfluities—a standard which it must be said seems

to accept and stereotype the class distinctions of the feudal world.

Lastly, with regard to usury, which has a long and rather tangled history, the canonists were right in condemning the man who takes advantage of the necessities of the peasant. But they misunderstood the nature of interest when they troubled themselves with distinctions between interest on money and rents on land, between recompense for risk or damage and bare payment for the use of money. For a long time they did not appreciate that the use of a loan was a valuable asset for which the borrower would be just as willing to pay as, say, for the tool which he had to buy outright in order to carry out his job. In large scale transactions of Jews and of great firms like the Fuggers, however, it became apparent that the big men who borrowed from them were not in a position to be put upon, but were acting with their eyes open on the well founded belief that they were getting full value for the interest which they undertook to pay. If the self-interest of important men was the main motive for the toleration of such transactions, there was a real distinction, at first no doubt more readily felt than accurately formulated, which eventually led to a very different view of interest. How far the prohibition of usury held back the development of industry and commerce is not very easy to say. Its most palpable effect was to concentrate finance in the hands of the Jews, who had no scruples about taking usury from Gentiles. But eventually the entire machinery of regulation proved ineffective to deal with the oncoming rush of the new industrial forces, before which the old rural economy and the guild monopolies went down, carrying bad things like serfdom and good things like neighborly dealing along with them in their ruin.

It has been a common opinion that the Protestant Reformation was responsible for the economic individualism which came to dominate the modern world, and which as a doctrine won its way to supremacy during the eighteenth and nineteenth centuries. But recent writers have shown this to be a mistake. Luther's attitude on questions of industrial regulation was, indeed, inconsistent and quite unsystematic. Calvin, however, not only took over the general conception of the duty of the church to regulate the economic order but carried it through with an efficiency and particularity which the mediaevalists might have envied. And it was the Elizabethan and Stuart legislation, notwithstanding its opposition to Calvinism, which was not only insistent upon the authority of government but made the first effective attempts to adjust its regulations to the changing order of things. Calvin, however, and with him the forms of Protestantism, deriving and yet departing from his impulse, introduced (or at least gave real effect to) two new departures. They definitely recognized the legitimacy of interest under strict moral limitations, whereby the new capitalism achieved legitimacy and social respectability and, further, they gave to the industrial virtues of probity, industry and enterprise an acknowledged place in the moral order. Cutting off much of the gaiety of life they sought an outlet for human energy in cultivating the fruits of the earth for the benefit of man, conceiving success as a testimony to the glory of God and even as a proof of divine favor to the elect. The Puritan type, essentially serious and strenuous yet on principle repudiating asceticism and monasticism, living in the world, marrying and giving in marriage, needed a direction for its energies which was secular and yet honorable and pious. Wealth could be turned to the service of God and to the benefit of the poor, and in fine the doctrine that the meek should inherit the earth might take the form of a demonstration that the elect understood how to cultivate its fruits and to use them for the common advantage. The repudiation of luxury, wanton expenditure and idleness could take the form of the exaltation of thrift, strict application to business and austere self-control in the enjoyment of its fruits, which would after all only result in their continued multiplication.

These principles, in R. H. Tawney's view, held the field in England until the Restoration, after which they suffered from simultaneous assaults from more than one source. In the first place, there was a general reaction against severity of control, religious and even moral. In the second place, the monarchical and still more the ecclesiastical machinery for the control of industrial relations suffered in the Puritan estimation from the general unpopularity of church and king. But, in the third place, and what turned out most fundamental, the new commerce and particularly the new finance began to claim autonomy and evolved its own science of political arithmetic, which in the next century began to be known as political economy. The central idea which emerged in this study was that economic relations left to themselves regulated themselves. There was an underlying harmony of interests, a hidden hand, which

brought it about that intelligent but selfish men in their dealings with one another were forced by their mutual relations to give the best service to each other while merely seeking the best advantage for themselves. Regulation from above might have its exceptional uses, but too often it was inept and in the main only served to block the natural channels into which unimpeded self-interest would flow to the advancement of wealth and the greatest common sum of prosperity. Even the good intentions of government were by no means above suspicion. In England the aristocracy had obtained power and used it for its own advantage. In administration it was difficult enough to get bare honesty. No one would have dreamed of committing to the rudimentary civil service of the eighteenth and early nineteenth centuries the great complex of regulations which are efficiently worked at the present day. It was by no means certain that to tighten regulation would benefit the sufferers from the industrial changes, and many of the old controls were manifestly out of date.

It would be unfair to condemn the economic movement root and branch for its emancipation of industrial life from religious, legislative and administrative control. Men like Adam Smith were as humane and as much inspired by the conception of the common well being as any mediaeval canonist, but they believed that in what they called the system of natural liberty they had found the right way, and so far as they were condemning the governments and governmental methods of their experience who shall say that they were wrong? The real mischief was, as the Hammonds have shown, that in the critical early period of the agrarian and industrial revolutions the governing classes took from Adam Smith what suited them and quietly ignored what was inconvenient to them. Where it was a question of protecting the standard of the workers the doctrine of laissez faire seemed a heaven sent message. Where it was a question of enclosures there could be no objection at all to the use of the law. Freedom of contract and exchange was everything where the employer of labor required the unrestricted right of working women and children for the hours and under the conditions which suited him, but freedom of imports was all wrong when it would lower the price of agricultural products. The incidence of Christianity on the economic life seems to have been virtually in abeyance during the eighteenth century until the time of the Methodist and Evangelical revivals. These bore their legislative fruit in the agitation for the factory acts and in the reform period were, so to say, incarnated in the great dominating personality of Lord Shaftesbury; while the Christian socialism, which began with Maurice and Kingsley and later in the century was carried forward by a small but well instructed and influential group of High Churchmen, has undoubtedly played its part in the reestablishment of moral ideas in industry. To such forces as these we may fairly attribute the contrast between the markedly anti-Christian attitude of continental socialism and the relatively friendly relations obtaining in British society. Once again we find the primitive elements in Christianity in cooperation with ethical rationalism.

In the law of the family Christian doctrines have been dominant since Constantine. Christian ethics, for reasons which have never been fully explored, have tended to concentrate on the sexual relation. The tendency does not originate with the Gospels, whose sex teaching is simple and free from all morbidity. Its germ appears in the kind of bewilderment with which St. Paul speaks of women, but did not mature until the appearance of a form of asceticism which condemned the sexual relation entirely. The sounder mind of the early church rejected this exaggeration, but accepted virginity as the better way and saw an incompatibility between the sexual life and the exercise of spiritual ministration, which eventually hardened into the prohibition of marriage to the clergy in the western church, with effects beyond measure on the relations of priesthood and laity. For the laity itself the church would recognize marriage only in the form of indissoluble monogamy. So far as monogamy was concerned it had no difficulty with the Roman law but a good deal with the customs of the invaders, who allowed chiefs and kings more than one wife. Long centuries later some of the reformers even weakened on the point of principle, having political convenience to tempt them and Old Testament patriarchs to excuse them. But this was a brief aberration. The matter of divorce was more serious. The Roman law allowed the easy dissolution of marriage. The canonists were not satisfied until in theory they had suppressed it altogether. Separation, in cases of cruelty and gross misbehavior, they had to allow, but there could be no breaking of the marriage bond. Innocent or guilty, the parties that could not live together must live celibate. Yet marriage was not

rendered particularly secure, for although it could not be broken it might be annulled, no matter how long after its consummation, if any flaw were found in its conditions—for example, if the consent of either party had not been genuinely given, or if they were found to be entangled somewhere in the web of forbidden consanguinities, affinities, spiritual relationships. The ramifications of this web were such that it has been doubted whether in the Middle Ages the fully valid marriage was not rather the exception than the rule. The tangle was, however, combed out by the Reformation and, less drastically, by the Counter-Reformation. The Protestants, moreover, denying marriage to be a sacrament, have gradually come to allow divorce, although they have for the most part declined to accept the full consequences of the alternative view that marriage is a contract.

The Roman woman, particularly the matron, had won a status and a freedom scarcely paralleled before, unless it were among the most primitive of men, or since, unless among the most advanced. Some early civilizations, the Egyptian and to a degree the Babylonian, had given woman a good position. It was the distinction of Rome that the position of women improved as civilization advanced, and that, notwithstanding vague general charges of immorality, she gained in freedom without loss of man's respect. Of her freedom one very important element was conserved and even extended by Christianity in the doctrine of free courtship and consent in marriage, noted above. Otherwise the woman, and especially the wife, sank into a position of dependence of which the best one can say in general terms is that it was not everywhere as abject as it was under English law. Fierce punishments for irregular relations signalized the first entry of the church on the scene of legislation, and in this work Reformers were even more ardent than Catholics. The suppression of infanticide was a great advance on pagan morals, but the treatment of the unmarried mother was harsh to the point of cruelty.

Yet in some ways Christianity raised the status of women. The ascetics, in too many of whom are evident clear signs of sexual abnormality, might think of women as limbs of Satan, and yet, upon the whole, Christianity (and not only the Christianity of Christ, but of the churches—the eschatology, the ceremonies, the confessional) made its prime appeal to women, and through the ages it is women who have kept men Christian. Women took a prominent place among saints and martyrs and have always been in the center of works of charity. Comparative ethics will justify the claim that Christianity brought to fruition a type of womanhood little developed and still less recognized before its time. With the recognition of this type men began for the first time to think of women as of a finer texture than themselves, and romantic love ousted sensual passion as well as mere adventure from the central place in literature. Such opinions may be derided today, but we are here dealing with historic facts, and the attitude to women, which became distinctive of western civilization, is historically one of the most important sociological effects of Christianity and must in fairness be set against those other influences upon sex and family life which were less favorable to the status of woman.

There is probably no one so discontented with the measurable effects of Christianity upon society as the serious Christian. But of the method of estimating these effects as attempted here he will probably say that on such lines we fail to see the wood for the trees. Christianity is a religion of the spirit, and it is in the spirit and not in the outer law that its work has been done. To have established the authority of conscience and widened and deepened the claims of man on man are the great permanent achievements of Christianity, expressed not in specific institutions but in the general spirit of social life. Such achievement is difficult to bring to the test of fact, indeed more than difficult unless we have an agreed system of values. For the sake of argument I will assume what I take to be the standards of ethical rationalism and try to imagine what an ancient rationalist like Seneca or Marcus Aurelius, if he could return to the world, would say of Christendom. I think, then, that he would judge our societies to be full of contradictions and unsolved problems, but to be on balance better and far more full of hope than his. If Socrates were the *revenant* his attitude would be more uncertain. He would no doubt ask us a number of awkward questions, for instance whether automobiles and wireless really make us happier, and, if not, why we spend so much on them; while as to hope he might maintain that even in the humiliated Athens of his last years she lingered at the bottom of Pandora's box. Nevertheless, I think he would come to recognize a larger outlook than that of the city-state, a truer appreciation of the common man than that of the Greek intellectuals and in fine some things

that were not on his horizon at all. I think we could substantiate these judgments in gross by comparisons in detail on the major points. But if, discarding all extravagant claims, we take a favorable view of modern Christendom, we have still to ask how far its advances, or for that matter its backslidings, are due to Christianity and how far to such other causes as freedom of thought, the advance of knowledge, the development of industry and political organization. A very searching analysis would be needed to disentangle factors so intimately interwoven.

But two results have emerged in our brief discussion. The first turns on the discrimination of periods and of churches within Christianity itself. To the ethical rationalist, who on this point at least figures as an impartial outsider, it appears that the sociological contribution of some of the sects has been more notable than that of the official organization, and that if the message of essential Christianity is taken to heart by individuals of all churches, it is enforced collectively only by some churches or only at some periods and in some relations. When so taken, however —and this is the second result—the message goes deep, for this same rationalist, whose natural sympathies are all with knowledge, will yet recognize as an impartial investigator that the scientific view in social applications has suffered from crudities and limitations, and economic advance has been responsible for oppressions and degradations of standard to which essential Christianity is a great corrective. Not accepting its speculative foundations such a thinker is free to criticize its judgments and may not even accept all its principles of valuation, but he knows that the essence of its social teaching must be absorbed into anything that can call itself a rational reorganization of society.

L. T. HOBHOUSE

See: RELIGION; RELIGIOUS INSTITUTIONS; PRIESTHOOD; COMMUNISM; COMMUNISTIC SETTLEMENTS; ASCETICISM; MONASTICISM; CHARITY; SERVICE; RELIGIOUS ORDERS; MILITARY ORDERS; PAPACY; CANON LAW; APOSTASY AND HERESY; INQUISITION; PROSELYTISM; MISSIONS; REFORMATION; SECTS; CULTS; CHRISTIAN SOCIALISM; SOCIAL CHRISTIANITY; PROTESTANTISM; PURITANISM; HUMANITARIANISM; MORALS; ETHICS; PAGANISM; CONFUCIANISM; BUDDHISM; BRAHMINISM AND HINDUISM; JUDAISM; ISLAM. See also in Part I of the Introduction to volume I, THE UNIVERSAL CHURCH and THE GROWTH OF AUTONOMY.

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CHRYSOSTOM, JOHN (347–407), church father and doctor. He was priest in his native city of Antioch from 386 to 398 and afterwards patriarch of Constantinople. John's fame as the greatest preacher of the early Christian church won for him after his death the epithet Chrysostom, or "the golden mouth"; both by his contemporaries and by subsequent historians he has been praised as a tribune and attacked as a demagogue. His preaching, especially at Antioch, was devoted to the reform of morals on the basis of early Christian social life. Great wealth was in the hands of a very few excessively rich men, who spent it on luxury. Of the remaining population of Antioch one tenth was destitute and eight tenths lived in comfort. The rich were denounced by Chrysostom for having acquired their immense fortunes by violence, cheating, monopolies and usury, and for their indifference to the distress of the poor. As the result of a law of the empire which made municipal coun-

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cilors personally liable for the expenses of the city the old aristocracy could no longer afford, and the new plutocracy refused, to hold office. It was therefore, according to Chrysostom, inevitable that the life of the poor in the agricultural districts was miserable, in the urban districts criminal. Yet he never incited the poor to plunder the rich; on the contrary, he wished everyone to be poor after the model of the apostolic Christians. Following his transfer to Constantinople he carried out his own principles by selling for the benefit of the poor the treasures collected by his predecessor, the patriarch Nectarius. In every sermon he urged alms giving—money, clothes, food, free professional services or a small money contribution to be collected from each family at the end of the business week. Stoic in his philosophic tradition, he maintained that private property and slavery were not natural but conventional, i.e. not in nature but by experience found to be inevitable in human life. In spite of this theoretical justification of slavery, he condemned cruelty on the part of the owner, going so far as to degrade a deacon who had struck a slave. Another phase of Chrysostom's reforms was the reestablishment of a purely Christian education (the Greek of his many exegetical and homiletic works is in perfect style) and of the sanctities of married life. Thus he insisted that the infidelity of the husband was as evil as the infidelity of the wife. He forbade the killing of heretics. His reforms and his sermons brought him into conflict with the court at Constantinople, especially with the empress. He died in exile.

BEDE JARRETT, O.P.

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CHUANG TZU (fourth to third century B.C.), Chinese moral philosopher and mystic. Chuang Tzu was born in what is now the province of An-hui. In his youth he held a post as petty official but later he retired to private life and refused all offers of high position. Living in a period of strife between the seven states and of bitter controversies between the rival schools of thought, he developed a philosophy of negation and skepticism which led to a life of inaction and to a sense of futility in the search for truth. To Lao Tzu's affirmation that the Way is to be able to do nothing he adds the dictum that the Way is also to know nothing. As a mystical idealist and philosophic interpreter of Taoism he raised a bitter cry against the materialism and utilitarianism of the Confucian school. A consistent anarchist, he also preached a doctrine of a golden state of nature and the need for a return to it which is strongly suggestive of Rousseau. All government is, in its origin, inherently evil. The creation of the state marks the beginning of confusion and disorder. All man made rules of virtue and propriety are bad in that they are destructive of the proper harmony between man and his nature. Chuang Tzu never tires of assailing the "sage" and the "model ruler" as those who have brought about man's degeneration from the natural state. Like Machiavelli he develops the idea of the non-existence of a state morality. "How is this so?" he asks. "One man steals a purse, and is punished. Another steals a state and becomes a prince."

Chuang Tzu, as Giles points out, was for many centuries classed as a heterodox writer and as such was of little use to the candidates for official positions at the competitive examinations. As a result he was studied chiefly by older men who had retired from office or who had become disappointed in their careers. At present, however, he ranks as the most imaginative and poetic thinker of ancient China and as the most brilliant Taoist his country has ever produced.

KOPPEL S. PINSON

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CHUPROV, ALEXANDER ALEXANDROVICH (1874–1926), Russian statistician, son of the economist A. I. Chuprov. After graduation from the faculty of mathematics in Moscow he studied social science in German universities, publishing in 1902 *Die Feldgemeinschaft, eine morphologische Untersuchung* (Strasbourg), a doctoral dissertation prepared under G. F. Knapp. For the next fifteen years he was associated with the economics faculty of the St. Petersburg Politechnic, where in general lectures and seminar work he trained a number of well known statisticians. Although he was interested primarily in statistical theory he maintained fruitful contacts with practical workers, particularly *zemstvo* statisticians, and contributed articles on such subjects as demography and rural economics. In 1917 he did not

return to Russia from his summer trip abroad. He lived first in Stockholm and later in Dresden, where conditions were favorable to the undisturbed pursuit of scientific work. In 1924 he was elected honorary fellow of the Royal Statistical Society of London.

Chuprov was one of the founders of the modern logical and mathematical theory of statistics. He provided a synthesis of several hitherto uncoordinated lines of thought: the biometrics of Galton and Pearson in England, the investigations of the stability of statistical series by Lexis and Bortkiewitsch in Germany and the work in probability calculus by the Russian mathematicians Chebishov and Markov. In his study of the logical aspects of statistical theory Chuprov attached considerable importance to probability as the basis of the statistical method. To him a statistical measurement represented a reflection, affected by chance, of certain a priori relations, which being looser than strictly causal connections could be described as probability relations. In his interpretation of probability as an expression of objectively existing possibilities rather than as the effect of imperfect knowledge he followed A. A. Cournot and to some extent J. von Kries. In the mathematical theory of statistics Chuprov made considerable progress, using the method of mathematical expectation. He criticized and modified the conclusions of the English and some of the German school with reference to the applicability of the law of large numbers in statistical practise and in correlation theory.

STANISLAS KOHN

Important works: *Ocherki po teorii statistiki* (Essays on the theory of statistics) (St. Petersburg 1909, 2nd ed. 1910); "Zur Theorie der Stabilität statistischer Reihen" in *Skandinavisk aktuarietidskrift*, vol. i (1918) 199–256; "On the Mathematical Expectation of the Moments of Frequency Distributions" in *Biometrika*, vol. xii (1918–19) 140–69, and vol. xiii (1920–21) 283–95; "On the Mathematical Expectation of the Moments of Frequency Distributions in the Case of Correlated Observations" in *Metron*, vol. ii (1922–23) 461–93 and 646–83; "Ist die normale Stabilität empirisch nachweisbar?" in *Nordisk statistisk tidskrift*, vol. i (1922) 369–93; *Grundbegriffe und Grundprobleme der Korrelationstheorie* (Leipsic 1925); "Ziele und Wege der stochastischen Grundlegung der statistischen Theorie" in *Nordisk statistisk tidskrift*, vol. iii (1924) 433–93; "The Mathematical Theory of the Statistical Methods Employed in the Study of Correlation in the Case of Three Variables" in Cambridge Philosophical Society, *Transactions*, vol. xxiii (1928) 337–82.

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CHUPROV, ALEXANDER IVANOVICH (1842–1908), Russian economist and statistician. After graduation from the law faculty of Moscow university Chuprov received a teaching appointment in 1874 and for the next twenty-five years lectured to large classes on economics and statistics. In 1899 he resigned because of poor health and spent the rest of his life abroad, continuing his scientific work. His influence as a teacher was enormous; an excellent lecturer, he stimulated his students to independent interests and trained a whole generation of academic economists and practical statisticians. He edited for publication students' notes of his university lectures on statistics, theoretical economics and history of economic doctrines; these enjoyed wide popularity as texts. No less important was his activity in public life. He was one of the owners, editors and regular contributors to the liberal Moscow daily, *Russkiya vedomosti* (Russian gazette). While serving as president of the statistical section of the Moscow Law Society he turned it into a center for coordinating the work of *zemstvo* statisticians. He was one of the initiators and the intellectual mainstay of the broadly sketched inquiry into the rural economy of the major part of European Russia which beginning in the seventies was conducted by the statistical departments of many *zemstvo* (local self-government bodies).

Chuprov sympathized with the aspirations of Russian populists (*narodniki*) and believed in the desirability of preserving the village community, the artel and other peasant institutions. In the field of theory he was close to the German historical-ethical school. His contributions along strictly scientific lines include two volumes on railway economics (Moscow 1875 and 1878) which are even at present considered classics, and a number of shorter works on peasant agriculture and landholding, most of which are to be found in a three-volume collection published posthumously (Moscow 1910–11) with a biographical sketch by N. Kablukov.

VLADIMIR E. DEHN

CHUQUET, ARTHUR MAXIME (1853–1925), French military historian and literary critic. The foundation of his broad knowledge of German language and literature was laid during his undergraduate studies at the École Normale Supérieure in Paris and at the University of Leipsic, which he attended for two years as a graduate student. Throughout his academic career, which took him in turn to the Lycée

Saint Louis (1876), the École Normale Supérieure (1886), the École Supérieure de Guerre and the Collège de France (1893), he exerted a considerable influence as professor of German. He was the author of several works of literary criticism dealing not only with German literature but also with French writers, such as Rousseau and Stendhal.

Chuquet is much more widely known, however, as a military historian, and more especially as a writer on the revolutionary and Napoleonic wars. His interest in military history was aroused by the research involved in editing Goethe's *Campagne in Frankreich*, which is a description of the Argonne campaign of 1792. Discovering that there were no satisfactory accounts in this field, Chuquet continued his researches, which he embodied in his doctoral thesis on the Argonne campaign. Thereafter he devoted a considerable portion of his activity to study of the revolutionary wars in a series of eleven volumes (*Les guerres de la révolution*, Paris 1886–96). Additional publications, limited almost entirely to this same field, include *La jeunesse de Napoléon* (3 vols., Paris 1897–99); *Ordres et apostilles de Napoléon 1799–1815* (4 vols., Paris 1911–12); *Études d'histoire* (8 vols., Paris 1903–20); only occasionally, as in *La guerre 1870–71* (Paris 1886–96), *1814–1915, De Valmy à la Marne* (Paris 1915) and *Allemands d'hier et aujourd'hui* (Paris 1918), did he go further afield.

In addition to his activities as historian and teacher Chuquet during the period from 1888 until his death edited the *Revue critique d'histoire et de littérature*, which had been founded in 1866 by Gaston Paris and Gabriel Monod. This periodical restricts itself to critical summaries of contemporary publications and has rendered the greatest service to scholarship by condemning unreservedly all works that do not respect the rule of historical method. During the thirty-seven years of his editorship Chuquet was one of the strongest influences on historical study in France, not only through the articles which he himself published, one thousand approximately, but also through his selection of collaborators.

In 1900 he was elected a member of the Académie des Sciences Morales et Politiques. He contributed actively to its work and published an important number of articles in its *Compte rendu*.

ED. ESMONIN

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Consult: Reinach, Salomon, and Croiset, M., in *Revue critique d'histoire et de littérature*, n.s., vol. xcii (1925) 197–201; Janet, Pierre, in Institut de France, Académie des Sciences Morales et Politiques, *Séances et travaux*, vol. 204 (1926) 99–101.

CHURCH. *See* RELIGIOUS INSTITUTIONS.

CHURCH FATHERS is the comprehensive term applied to that group of great Catholic theologians whose activity and influence extended from the middle of the second to the end of the sixth century and who provided the rising church with its framework of dogma and apologetics, its legal supports and its philosophic foundations. They are to be distinguished, on the one hand, from their predecessors, the so-called apostolic fathers like Clement of Rome, Ignatius, Polycarp and Hermas, who, it is assumed, were directly chosen by the apostles or at least had been in personal contact with them; and, on the other hand, from the innumerable later theologians and lay writers whose theological, philosophical and historical works were premised on the already firmly established organization of the papal church of Rome.

The apostolic fathers contributed greatly to the crystallization of the spiritual enthusiasm of primitive Christianity into a system of moral principles and community regulation. With the church fathers, however, the new religion entered openly into the intellectual and spiritual struggle with the forces of classical religion and philosophy. The church fathers of the first generation, among whom Aristides, Justin Martyr and Tatian (second century) were outstanding, are known as apologists since their most important function consisted in defending Christianity against the state and society of classical antiquity as well as against the Jewish rabbis. Those of the next generation, although often classed with the apologists, are more correctly designated as old Catholic fathers, for with them apologetics was subordinated to constructive work.

Corresponding to the general course of Christianity, which spread slowly from the provinces to the world metropolis at the center of the empire, all inspiration for theological development came for a long time from the provinces. Irenaeus (*c.* 130–*c.* 200), bishop of Lyons, and his contemporary Hegesippus came from the East, and the mighty leaders of the church from Tertullian (*c.* 160–*c.* 220) to Augustine (354–

430) and from Origen (*c.* 182–*c.* 255) to Athanasius (*c.* 295–373) came from Africa and from Egypt.

Tertullian, formerly a highly esteemed Roman jurist but after his baptism a presbyter in his native Carthage, saturated the Christian *νόμος*, or moral law, with the phraseology and concepts of Roman law. He thus not only provided Catholic discipline and dogmatics with a lasting form but also paved the way for that fusion of divine law, natural law and Roman law which became the basis of all practical scholastic ethics. Tertullian's most important pupil was Cyprian (*c.* 200–258), bishop of Carthage. Cyprian proclaimed the doctrine of the unity of the episcopal church and of church representation in the bishop and in his struggle with the heretics established for all time the Catholic principle that communion with Christ is impossible without adherence to the church.

Almost contemporaneous with this development of patristics in Africa there arose a catechetical school in Alexandria whose leaders permeated Christian theology with Greek political philosophy just as the Africans had done with Roman law. Clement of Alexandria (*c.* 150–*c.* 215) in his homily, *Who Is the Rich Man That Shall Be Saved?* gave a quieting answer to the agitating question of the attitude of Jesus and the church toward riches and the rich. Origen, who was a polyhistorian with a wide view of classical antiquity, Christianity and Judaism and a founder of Catholic theology and systematic theological philology, combined the political philosophy of Plato and the world views of Philo with the teachings of Jesus and of primitive Christianity.

Eusebius of Caesarea (*c.* 265–*c.* 340), whose chronicle and church history are valuable for their excerpts from writings and documents otherwise extinct, belongs to that new epoch when Christianity, elevated to a state religion, shed the last vestiges of its apologetic attitude and directed more of its attention to the legal and economic order of this world. At the same time the political and doctrinal feuds of the church assumed a new intensity. Athanasius, the leader of the Egypto-Byzantine orthodoxy, won recognition for the pronouncement of the Council of Nicaea in 325 on the identity of substance in Christ and God the Father, as against Arius (*c.* 250–336) and his doctrine of the similarity of substance.

It was not so much the Christian theology of the Greek East but rather Christian poetry and literature which culminated in the fourth century in the "three great Cappadocians," Gregory of Nyssa (*c.* 335–*c.* 394), his brother Basil the Great (*c.* 331–379), bishop of Caesarea, and their friend Gregory of Nazianzus (*c.* 325–*c.* 390). Reared in the tradition of Origen they rescued the precious Alexandrian heritage for the Greek church. Their work, which lives today in the liturgy and rules of monks and convents, as at Athos, sealed the fusion of Greek Catholicism with Platonism and neo-Platonism. Among their supporters Chrysostom stands out for his forceful preaching. This period also marks the culmination of western theology in Ambrose (*c.* 340–379), in Rufinus (*c.* 345–*c.* 410), whose translations of Origen, Eusebius, Basil and others secured the work of the Greek fathers for the West, and in Hieronymus (*c.* 340–420), whose Latin translation of the Bible, the Vulgate, is still revered and used in the Roman Catholic church. All this achievement bore its richest fruit and found its highest intellectual and spiritual expression in the works and activity of that great African, Augustine (*q.v.*), in whom the ancient and the mediaeval, the early Christian and the late Roman theology and philosophy, met and became one.

The church fathers of the fifth and sixth centuries built on the theological and philosophical foundations laid by their predecessors without ever attaining either their eminence or influence. The Alexandrian tradition, which received new impetus under the lead of Didymus the Blind (*c.* 310–*c.* 395), found its last effective representative in the patriarch Cyril. Egyptian monasticism, chiefly through the influence of the lives of Egyptian and Palestinian monks written by Palladius (368–*c.* 431), became the admired prototype of all Christendom. Catholic mysticism was formulated in the work of the pseudo-Dionysius the Areopagite (*c.* 500). In the West the line of Augustine descends through Martin of Tours and Orosius, the author of an apologetic history of the world, to Leo I (? – 461) and Caesarius (*c.* 470–542). The latter as bishop of Arles was a popular preacher as well as the creator of the Frankish church ritual. Gregory the Great (*c.* 540–604) was the last of the great fathers of the old church and the first of the great mediaeval popes.

There is no general and uniform system of political and economic thought that can be ascribed to the church fathers. All attempts at establishing a uniformity of doctrine or of development are faced with the insurmountable

difficulty of differences and contradictions between the various church fathers in the realm of social thought that are as great as are their theological differences. A short survey must therefore limit itself to a consideration of the most important views on some of the most important problems.

First in importance was the relation of the individual Christian and of the church to the secular state. By the middle of the second century, when the work of the church fathers began, the radical tendencies in early Christianity were already confined to uninfluential sects. The views that the state in itself is bad and that earthly rule is a gift of Satan yielded to a more harmonious adjustment. This attitude is revealed in the incorporation of a prayer for the reigning emperor in the church liturgy as early as the time of Clement of Rome (*c.* 100). Moreover, the theory of the inherent contradiction between the Roman and the Christian ages had been replaced by the doctrine already propounded by Melito of Sardis (*c.* 180) that God had from the beginning and for all eternity joined together the universal empire and the universal religion, Augustus with Jesus. As long as the empire worshiped the ancient gods and adhered to the cult of the emperor, clashes between the old and the new faith, even apart from the great Christian persecutions, were unavoidable. Neither Origen nor Tertullian nor Cyprian, however, concluded from that the existence of an eternal and inevitable hostility. They established firmly the moral superiority of the divine over the earthly community and pointed out weaknesses and contradictions in procedure, but sought to demonstrate not so much the guilt of the state toward the Christians as the blamelessness of the Christian toward the state. After the establishment of Christianity as the state religion the problem of the relation of a heathen state to the Christian church disappeared. Only rarely, as in the case of Ambrose, had it dawned on the church fathers that the relationship of a Christian state to the church also involved numerous difficulties. The immediate problem was to discover the distinguishing characteristics of the Christian state and its rulers and its essential differences from the ancient state. The solution was facilitated by the generally accepted patristic, as well as stoic, distinction between the natural and the historical state. The way, moreover, was paved by Ambrose who Christianized the stoic doctrine of duties and linked the four cardinal virtues of Plato and of classical antiquity with the three Christian virtues. It received its form, definitive for over a thousand years, in the work of Augustine, who found the distinguishing mark and valid criterion in the Christian *justitia*, which allots his due to each individual and even to God.

Natural law never attained the same importance among the church fathers as it later achieved in scholastic thought. Nevertheless, or perhaps for this very reason, there was a uniformity of conception never attained in later times. Men of such contrasting natures as Origen and Tertullian, Hieronymus and Augustine, combining the Ciceronian-Roman theory with Paul's words in his *Epistle to the Romans* (II : 15), taught what was essentially the same doctrine, namely that natural law, which is divine law, is inscribed in the heart of man. This *lex dei* or *lex naturae* transcends all earthly and written law. Even God's own Mosaic law, according to Hieronymus, became necessary only because the natural law was either disregarded or destroyed. According to Ambrose natural law is the law of the just; written law is necessary only for the unjust.

While the Gospels proclaim no doctrine of property as such, the uselessness, the danger and the obligations of wealth are clearly pointed in the acts of Jesus and his apostles and in the words of Jesus to the rich young ruler. It was thus an easy transition to the absolute interdict against private property and to the radical demand for a Christian communism. The *Acts of the Apostles*, *Revelation*, the *Epistle of James* and the *Shepherd of Hermas* all prove that there was a strong communistic strain in early Christianity. To be sure, it made no impress on the church; yet it was not only partially realized in the small communities of convents and monastic orders but with few exceptions also influenced the church fathers toward the assumption that property was held in common—at least in the original state, the state of nature. Nevertheless, it must always be borne in mind that religious-communistic thought, unlike modern communism, never expected salvation from the communization of property nor considered this principle of social order as an elementary premise of social justice. What the church fathers believed to be necessary was contemplation, conversion and a fraternal life; but out of these principles proceeded the ethical conclusion, revealed in the ideal Christian state as set forth in the *Acts of the Apostles*, that no one might call anything his own and that

riches impose the obligation to use them for the welfare of all Christian brethren.

All the church fathers looked upon property in general and wealth in particular as a worldly fact and a historical category; their attitude bore no relation to the modern view of the sanctity of private property. A small group, represented by Clement of Alexandria and Lactantius, went so far in their quietistic position as to reinterpret metaphorically the story of Jesus and the rich young ruler as a demand that not wealth but pride and presumption be cast aside. The overwhelming majority, even those who did not lead a monastic life and advocate it as the ideal for all Christendom, agreed that property was an institution made necessary by the fall of man and hence to be tolerated. Wealth can only be endured if the rich man shares it with his poor brethren. Even Clement in another work taught that it was not proper for one man to be rich while others starved. Cyprian declared that property originated only from the confiscation of divine possessions and should therefore be used in common. According to Basil, who was more severe, a man who appropriates to himself what was given to him to distribute is a robber. Ambrose, Hieronymus and Augustine expressed themselves similarly. The most radical teaching of all is that of Chrysostom, friend of Basil. He looked upon community of property, not private property, as in accordance with nature and he considered it inconceivable for the rich man to be a good man. This radical theory of property, as well as the conservative view, continued through the Middle Ages in the works of Isidor of Seville and in the Gratian Decretal, and the former provided the basis for one of the first communistic movements of modern times, that of the Anabaptists of Münster.

"Let every man abide in the same calling wherein he was called," was Paul's teaching (*1 Cor.* VII: 20). This attitude was characteristic of that early period of primitive Christianity when the return of the Lord was considered imminent and when Christianity's official representatives felt it necessary to guard against all revolutionary tendencies. The church fathers preached and wrote when eschatological hopes had faded, when it was necessary to give the increasing multitudes of the faithful rules and regulations for daily life. The question was now raised whether all callings were really suitable for the Christian; the problem of military service for a Christian was debated and all activities connected with the ancient sacrificial ritual were forbidden. The attitude toward trade presented special difficulties. The opinion that trade is an undesirable occupation for Christians because it distracts the soul from God was held almost unanimously. Yet trade could not be dispensed with and when the state and the majority of the population were Christian its complete prohibition was out of the question. The only solution was to condemn trade conducted for the greatest possible profit and at the same time to sanction trade restricted to the mere exchange of goods. From the fifth century on, the church established another limitation: laymen were allowed to trade but not the clergy.

The opinions of the church fathers on questions of price and interest followed logically from their views on the problems previously considered. While they expounded no price or interest theory in the modern sense they followed what was implicit in the commands of Christian ethics. If trade in itself was dubious, it was self-evident that taking interest should be forbidden as usurious. The words of the *Gospel of Luke* (VI : 35), "Mutuum date, nihil inde sperantes," formed a guiding principle for all the church fathers. Their position offered greater difficulty in connection with price, its existence and amount. To be sure, the idea of a just price (*justum pretium*) was the governing principle. But even though there were authoritative examples, there were no specific directions as to how this just price was to be determined. Generally speaking, the church fathers condemned as anti-Christian the principle "to buy cheap, to sell dear" and held as just that price which was based on the cost of production or reproduction and which assured a mere livelihood for the seller.

EDGAR SALIN

See: CHRISTIANITY; RELIGIOUS INSTITUTIONS; PAPACY; CANON LAW; STATE; NATURAL LAW; COMMUNISM; USURY.

Works: Migne, J. P., *Patrologia latina*, 221 vols. (Paris 1844–80), and *Patrologia graeca*, (Greek-Latin ed., 161 vols., Paris 1857–64; Latin ed., 81 vols., Paris 1856–61). A more scientific edition of the Latin fathers is the *Corpus scriptorum ecclesiasticorum latinorum*, vols. i–lxv (Vienna 1866–1926), and of the Greek fathers *Die griechischen christlichen Schriftsteller der ersten drei Jahrhunderte*, vols. i–xxxvi (Leipsic 1897–1929). For an English edition see the *Ante-Nicene Christian Library*, ed. by A. Roberts and James Donaldson, 24 vols. (Edinburgh 1868–72).

Consult: Cadoux, C. J., *The Early Church and the World* (Edinburgh 1925); Carlyle, R. W. and A. J., *A History of Mediaeval Political Theory in the West*, vols. i–v (Edinburgh 1903–28) vol. i; Gierke, Otto, *Das deutsche Genossenschaftsrecht*, 4 vols. (Berlin

1868–1913) vol. iii, ch. i; Salin, Edgar, *Civitas Dei* (Tübingen 1926); Troeltsch, Ernst, *Gesammelte Schriften*, 4 vols. (Tübingen 1912–25) vol. i, p. 83–178; Hashagen, J., "Über die Anfänge der christlichen Staats- und Gesellschaftsanschauung" in *Zeitschrift für Kirchengeschichte*, vol. xlix (1930) 131–58.

CHURCHILL, RANDOLPH HENRY SPENCER, called by courtesy "Lord" (1849–95), English statesman. After an undistinguished student career at Eton and Oxford he was elected to Parliament in 1874 and remained a member of the House of Commons for the rest of his life.

He was nominally a Conservative but displayed a conspicuous independence of attitude and action. After 1880, when the Liberals under Gladstone came into power, he rose to rapid eminence as the leader of a group of young Conservatives, the so-called Fourth Party, who not only opposed Gladstone with extraordinary vigor and success but also assailed with equal vehemence the feebleness and incompetence of their own nominal leaders.

Although Churchill's behavior brought him into extreme disfavor with the Conservative chiefs, he won so strong a position both in Parliament and in the country by his audacity and efficiency that when Lord Salisbury became prime minister in 1885 he was made secretary of state for India. During Salisbury's second ministry, in 1886, Churchill was chancellor of the exchequer. In the cabinet he was the sole champion of what he called Tory democracy, a policy which was Tory in defending the monarchy, the established church, the Irish union and the constitution generally, but democratic and even socialistic in advocating extensions of the franchise, wide measures of local self-government and bold experiments in social reform. Growing friction between him and his reactionary colleagues culminated in a definite clash over what he regarded as excessive expenditure on the army and the navy. Hence he resigned his office as chancellor of the exchequer in December, 1886, and was never again admitted into the cabinet. Although he continued to support the Conservative government in its resistance to Irish home rule, on other questions he came into violent conflict with it. It was expected that he would join the radical party, but his premature death occurred before any transfer of allegiance had been effected. Churchill's speeches have been collected and published by L. J. Jennings (2 vols., London 1889).

F. J. C. HEARNSHAW

Consult: Churchill, W. S., *Lord Randolph Churchill*, 2 vols. (London 1906); Wilkinson, W. J., *Tory Democracy*, Columbia University Studies in History, Economics and Public Law, no. 257 (New York 1925) chs. iii–iv.

CHYDENIUS, ANDERS (1729–1803), Swedish-Finnish writer on economic subjects. He was one of the most ruthless opponents of the old economic and social order before Adam Smith and an early champion of laissez faire and of the interests of the poor. A clergyman in the north of Finland, he served as a member of the Swedish parliament in the years 1765–66 and 1778–79. In his publications, most of which were brought out as early as 1765, as well as during his brief and stormy political career, he fought against the existing mercantilist system in all its manifestations, such as the subordination of the smaller towns to the capital, the Swedish Act of Navigation of 1724, interference with foreign trade and the granting of bounties to fisheries and industries. His general doctrine was laid down in a small but very remarkable pamphlet, *Den nationnale winsten* (The national gain: Stockholm 1765; reprinted in his *Politiska skrifter*, Helsingfors 1880, p. 113–35), which is dominated throughout by the idea of a pre-established harmony based upon natural law. He argued that if everyone is allowed to follow his own interests, "private and national gain will merge into one single interest." This system will also extirpate unearned gain and unequal distribution of wealth; "all chances of living without work will be shut out, and no one except the diligent will be well off." It is interesting that he was led to take this position through his intense concern for the well-being of the lower orders, which in a country like eighteenth century Sweden, where industry was little developed, meant principally the rural poor. In the first of his published pamphlets he wrote: "To slave in the service of others so long as they are able, to be thrown away in their old age and left to die in misery: these are the laurels which are meant to kindle in the working multitude a love of their country." Chydenius is perhaps the most forceful writer in Swedish on economic and social questions. He made a great stir in his own day but was soon forgotten and exercised no influence upon his successors in Sweden or abroad. During the last two generations, however, there has been a marked revival of interest in his writings.

ELI F. HECKSCHER

Consult: Schauman, G., *Biografiska undersökningar om Anders Chydenius* (Helsingfors 1908).

CICERO, MARCUS TULLIUS (106–43 B.C.), Roman statesman. He was the leading figure of the Roman bar, the chief prose writer and the principal philosopher of the generation before the fall of the Roman Republic. He was the only Roman who wrote at length on political philosophy. Cicero was consul in 63, suppressed the Catiline conspiracy by unconstitutional means and suffered exile in 58. After his recall the success of the First Triumvirate prevented a renewal of his political career and turned his interest toward literature and philosophy. His opposition to Antony caused his proscription and death after the formation of the Second Triumvirate. He wrote two works on political philosophy: *De re publica* (51) and *De legibus* (published after his death), both of which survive only in part. Although the former disappeared after the twelfth century and was not recovered until 1822, many of its important passages had been excerpted by Lactantius and Augustine and thus the influence of the book continued throughout the Middle Ages.

Cicero's political philosophy was derived chiefly from the stoic Panaetius and the historian Polybius. Its main historical importance lay in the fact that it transmitted the stoic theory of natural law to the church fathers and thus to mediaeval political theorists. In this way the belief that justice, right, equality and fair dealing should underlie positive law became a commonplace in European political philosophy.

From Polybius Cicero adopted the theory of the constitutional cycle and the view that the most stable state is one compounded of monarchy, aristocracy and democracy. But his conception of the growth of the Roman constitution does not agree with Polybius' schematic cycle, nor does his analysis of the Roman magistracies disclose the three elements of the compound state.

The theory developed in *De re publica* includes, besides the regular magistracies, a shadowy "philosophical director" of the state (*rector rei publicae*). Eduard Meyer believes that Cicero's *rector* depicted a role which he intended Pompey to play and anticipated the theory of the principate later achieved by Augustus. It is conceivable, although not demonstrable, that Cicero wrote with Pompey in mind, but the view that he formulated in advance the theory of the principate goes far beyond the evidence.

In politics Cicero, although a *novus homo*, was a staunch supporter of the aristocratic party. He is therefore often charged with toadyism, but probably unjustly. The shortest road to power and prosperity, after the dissolution of the Sulla regime, lay through the rising popular party. Cicero was not unaware of the decadence of the old aristocracy; he complained bitterly that there were hardly enough men of "virtue" to operate the state even in time of peace. He clung to the aristocratic party, nevertheless, because it was all that survived of an earlier order which to his antiquarian mind seemed ideal. Like Demosthenes, he chose to present himself to posterity as the resolute champion of a lost cause, believing with the stoics that virtue shines most brightly through gallant defeat.

GEORGE H. SABINE

Important works: Cicero's principal works bearing on political philosophy are: *De re publica* and *De legibus* (text and translation by C. W. Keyes, Loeb Classical Library, New York 1928; *De re publica* also translated with notes and introduction by G. H. Sabine and S. B. Smith as *On the Commonwealth*, Columbus 1929); *De officiis* (text and translation by Walter Miller, Loeb Classical Library, New York 1918).

Consult: In addition to the introduction by Sabine and Smith mentioned above, Keyes, C. W., "Original Elements in Cicero's Ideal Constitution" in *American Journal of Philology*, vol. xlii (1921) 309–23; Cauer, F., *Ciceros politisches Denken* (Berlin 1903); Meyer, Eduard, *Caesars Monarchie und das Principat des Pompejus* (3rd ed. Stuttgart 1922); Petersson, Torsten, *Cicero, a Biography* (Berkeley 1920).

CIESZKOWSKI, AUGUST, COUNT (1814–94), Polish philosopher, economist and social reformer. Cieszkowski, who was the son of a wealthy landowner, graduated from Heidelberg in the faculty of philosophy in 1838, lived for several years in Russian Poland and France and in 1847 settled on his estate near Posen. There he organized the short lived Polish League, the central national organization for Prussian Poland, and for thirteen years (1848–61) was a member of the Prussian Diet and leader of its Polish Deputies Club.

The key to Cieszkowski's many sided activities is his *Ojcze nasz* (Our Father), a system of philosophy of history which, aiming to reconcile revelation and natural law, detects in the Lord's Prayer an intimation of historical development in accordance with Hegelian dialectics. Cieszkowski believed that the history of humanity displays a gradual growth of solidarity and an increasingly closer approach to God. History is divided accordingly into three periods: the epoch of physical being, or the pre-Christian era; the epoch of thought, which will end with the coming of the Holy Spirit; and the epoch of solidar-

ity, of human brotherhood, the Kingdom of God on earth, for which mankind is being prepared at present by a process of gradual change. This process, in which the Slavic nations, particularly the Polish, will take the leading role, may be accelerated by the adoption of far reaching social and economic reforms based on three general principles: general assurance to each individual of that which he already possesses; general guaranty to each individual of that which he ought to possess, e.g. the standard minimum; general association making it possible for each individual to attain that which he may possess. When the epoch of solidarity is inaugurated, social life will be thoroughly imbued with the spirit of religion and will be identical with the worship of God. All nations will enjoy freedom and self-government and will be united into a universal church managed by the universal government, which will be administered by the highest priest, the universal parliament of mankind and the universal areopagus of nations. The economic organization in this era will be based on the principle of universal association.

In *Ojcze nasz* and other works Cieszkowski specified more concretely the reforms which would accord with his general historical ideas. Influenced as he was by German philosophers, particularly Hegel and Fichte, and by French utopian socialists such as Saint-Simon and Fourier, he could scarcely advocate abolition of private property and thoroughgoing government regulation. Instead he proposed that the government be guided by the principle *aidez à faire et développez*. In respect to agriculture this principle would involve government promotion of credit cooperation and the establishment of public registration of land titles. In forestry, mining and railway transportation the government should compete with private undertakings in order to safeguard social interests. In public finance the chief reliance for revenue should be placed on the taxation of incomes, among which incomes derived from property should carry a relatively heavier burden.

In his principal economic work, *Du crédit et de la circulation*, Cieszkowski outlined a plan for a new currency system based upon his novel definition of credit. He considered credit not as an anticipation of the future but as "a metamorphosis of fixed and invested capital into circulating and liquid capital." State property is a capital which can be mobilized through a credit operation, the issue of interest bearing *billets à rente* protected by mortgages on land owned by the central government and the municipalities. The *billets* will be much superior to the usual form of currency. Both metallic and redeemable paper money are subject to fluctuation in value and tend to depreciate progressively; but the chief objection to them is that their quantity bears no rational proportion to the values existing in the national economy. He assumed that the *billets* would be free from these faults, but had no opportunity of testing his ideas by experience.

FRANCISZEK BUJAK

Important works: *Ojcze nasz*, 3 vols., written in 1833–36, revised and enlarged 1837–48; the first version of vol. i appeared as *Prolegomena zur Historiosophie* (Berlin 1838, reprinted 1908), and the enlarged version was published in 1848 (Paris, 2nd ed. Posen 1871, French translation Paris 1906); the preface to the work appeared as *O drogach ducha* (On the ways of the spirit) (Posen 1869); vols. ii–iii first published by Cieszkowski's son (Posen 1899–1903); the entire work was republished in 3 vols. (Posen 1922–23), abridged translation by W. J. Rose as *The Desire of All Nations* (London 1919). *Du crédit et de la circulation* (Paris 1839, 3rd ed. 1883); *De la pairie et de l'aristocratie moderne* (Paris 1844, reprinted 1908).

CINO DA PISTOIA (*c.* 1270–*c.* 1337), Italian jurist. Cino, or Cinus, was a poet and friend of Dante, whose Ghibelline enthusiam he shared. He belongs to the school of commentators or post-glossators. After studies at Bologna and in France and teaching at Bologna, his career for some twenty years was that of a practitioner without any settled abode, but from 1321 on he occupied various university chairs in Italy. His opinions (*consilia*), only a few of which are now known, were highly prized. His lasting influence is due to his *Lectura in codicem* (1312–14, best edition Frankfort 1578). This begins the blending of pure Roman law, at that time dominant through the Accursian Gloss in the schools and in literature, with local statutes and customary and canon law, a task for which Cinus had unrivaled qualifications. By borrowing the developed scholastic method of deduction from the school of French legists (especially Pierre de Belleperche, d. 1308) he was able to go beyond the Gloss and to combine the Roman texts with practical law, thus initiating, by a development comparable to and contemporary with that of a common Italian language and literature, the *usus modernus Pandectarum* as the common law of Italy. Despite his marked anti-ecclesiastical bias he appreciated the equity of canon law, and although he was imperialistic he recognized the claims of local law. In his hands and in those of

his successors (notably Bartolus, his pupil) the scholastic method coordinated these diverse materials under the rule of *ratio juris*. He is thus one of the founders of modern jurisprudence.

F. DE ZULUETA

Consult: Monti, G. M., *Cino da Pistoia giurista* (Città di Castello 1924), containing bibliography to date; Biscaro, G., "Cino da Pistoia e Dante" in *Studi medievali*, n.s., vol. i (1928) 492–99.

CITIZENSHIP. From the beginnings of society to the present time all forms of citizenship may be said to have had certain common attributes. As distinct from aliens, serfs, women and children or other members of the community who are passive subjects rather than active partners, citizens enjoy a certain reciprocity of rights against, and duties toward, the community. This balancing of rights and duties explains the fact that everywhere the personal concept of citizenship preceded the development of the territorial concept which, with the rise of the modern nation state, has come to prevail in international law. The ancient Roman notion of *civis* and *civitas*, from which the later concepts of citizenship derive their content as well as their nomenclature (*citoyen*, *cittadino*, *ciudadano*), was originally founded not on domicile but on personality; it was only later that the well known process culminating in the *Constitutio antoniniana* of 212 A.D. extended this personal right of citizenship to the whole area of the empire. The slow building up of the modern rights of citizenship after the renaissance of towns and cities among the Romanic and Germanic nations represents a closely analogous process. In the status of the citizen from the Middle Ages through the first half of the nineteenth century the elements of enhanced protection and freedom from feudal interference are balanced by the invariable presupposition that this status is ordinarily limited at most to a small—in the case of the English "close" boroughs, unusually small—number of landlords and householders (*Realbürger*) who share the exclusive enjoyment of economic advantages and the exclusive responsibility for the political management of the community.

The modern concept of citizenship, as inherited by the territorial and national state from the ancient and mediaeval municipality, represents a combination of two elements. One of them is the notion of liberty derived from ancient moral philosophy and mediaeval rights of personal status, while the other is the concept of membership in a political unit, involving cooperation in public decisions as a right and sharing of public burdens, chiefly military service and taxation, as a duty. Each of these components represents in its turn an extensive network of varying elements. Thus the concept of liberty has on the one hand a distinctly abstract and cosmopolitan aspect, traceable in the mutations of this concept from its origins in ancient stoic philosophy through the teachings of the Christian church to the eighteenth century secular doctrines of the "rights of man," which formed a part of the modern "law of nature." On the other hand liberty in occidental law and politics is frequently traced to peculiar national traditions, such as the birthrights of Englishmen, Franks or other mediaeval peoples, which are obviously historical recollections of the age of tribal law and its personal concept of citizenship. Even today the inextricable connection between these two derivations plays a considerable part in the controversies of constitutional lawyers as to whether the "fundamental rights" inserted into many European constitutions after the model of the Virginia Bill of Rights of 1776 are to be construed as rights of men generally or only as rights of citizens of the respective states.

As shown by the terminology of common and international law, another important source of citizenship is the allegiance of a vassal seeking the protection of a feudal lord. It is indicative of the strong feudal influence on English constitutional law that the establishment of the sovereignty of the modern state over its subjects as against that of the church was effected by means of the Elizabethan Oath of Allegiance and Supremacy. It is to be noted, however, that from the later Middle Ages onward the special duties of feudal allegiance were inseparably blended with the general duties of subjection to public rulers and governments. The factual content of liberties and duties was of course determined by a variety of historical circumstances. The rise of a new economic order of capitalistic enterprise and free markets created the need for a more energetic protection—to a considerable extent against government itself—of the citizens' lives, activities and property. Conversely, the victory of the nation state over its feudal and ecclesiastical rivals conditioned the increasing expansion of duties of citizenship through the appearance of new modes of government interference with the freedom of the citizen. The leading Anglo-Saxon countries succeeded al-

most entirely in replacing older, more concrete duties of citizenship, including above all military service, by the abstract "cash nexus" of taxation, but on the continent the great movements of liberation down to the French Revolution produced a revival of extensive imposition of compulsory service. As distinct from both the Anglo-Saxon and the Romanic states the German territorial states have proceeded, under the influence of Lutheran ideas, to enact compulsory education as an additional duty of citizenship; this is perhaps one of the most profound reasons for the peculiar emphasis which German political thought has since then placed upon the intuitive perception of the state as a reality. In the United States the concept of citizenship has been materially affected by the unwillingness of the politicians, who in the Declaration of Independence had mentioned "life, liberty, and the pursuit of happiness" as instances of the "inalienable rights," to place these and other fundamental rights under express protection in the later constitution; and this failure has strengthened still more the supremacy of the courts as final interpreters of the constitution.

The stage which the development of citizenship has reached within the past hundred years is marked by two conflicting trends. The first is an increasing welding of the manifold allegiances of the mediaeval man into a single but comprehensive bond of national citizenship. This integration is effected not only through the multiplication of the claims which the state makes upon the individual but also through the opposite process of reviving the rights of the individual to participation—primarily as voter, elector and representative—in democratic forms of government. The second trend is the continuous extension of intercourse between the citizens of different states and between the states themselves at international law. Even the main lines of this development are far from being clear cut and fixed. The dominance of England and the mediaeval structure of its law account for the all embracing character of its claims to the allegiance of its subjects, whether their citizenship be of territorial or of personal origin (*jus soli* and *jus sanguinis*). Citizenship arising from naturalization, a third and artificial source, for a long time failed, despite its growing importance resulting from an increase in international migrations, to obtain full recognition in English practise. Such recognition was denied not only in cases where it would have been to the disadvantage of England, as in forfeiture of British nationality through the adoption of a foreign citizenship (first recognized in the Naturalization Act of 1870, 33/34 Vict. c. 14), but also where it would have been to her advantage, as in the protection of naturalized British subjects against foreign compulsion to military service. The United States, as a refuge for the oppressed of the older European nations, provided in contrast to the English rigidity one of the first examples of a liberal and inclusive, but none the less careful, procedure of naturalization, enforcing through the famous Bancroft treaties (1868) protection of its naturalized citizens even against the great military powers of Europe. It is true, however, that the quality of indelibility characterizing the older English citizenships appears also in the old American as well as in the old Russian and present day Swiss law. With regard to the international law of citizenship as a whole, it may be said that much time will be required before even the worst and most frequent conflicts between the interests of the states and those of their individual citizens can be abolished by bilateral or multilateral agreements. The conflicts arising from obligation to military service have lost at least some of their importance, and those connected with taxation are being regulated more and more by treaties as to the avoidance of "double taxation." In the case of taxation, however, the shift in business organization from the personal to the corporate form and the attending international interlocking of business have replaced old difficulties with new; here also the general method of solution appears to be the gradual recognition of residence (seat of head office) as the principle determining allegiance. But new problems are turning up incessantly. Just as the German Nationality Law of 1913 attempted to eliminate the possibility of tacit expatriation through long uninterrupted residence abroad, so recent legislation in the United States and in some European countries has made it impossible for women to lose nationality through foreign marriage. Of the two classic border cases in the conflict of national citizenship laws, the overlapping of nationalities in dual citizens (*sujets mixtes*) and the existence of "stateless" or "apolides," the former is being rapidly done away with through the growing exactitude of municipal and international law. The latter, however, seems to be gaining in acuteness not only because of the great changes made by the World War in the political map of Europe but also because of the intensification in the restrictive character of

nationality laws. Moreover the artificial acquisition of citizenship through naturalization, apparently the logical concomitant of modern international intercourse, is already beginning to come under the sway of racial and other factors tending toward restriction of international migration; in this aspect also there can be no question of steady progress.

Separate mention should be made of citizenship in states with a federal form of government. In these states there may be observed a clearly marked trend toward the extension and unification of citizenship. In the United States the theoretical distinction between the citizenship of the state and that of the union has lost almost all of its practical importance. In the British Empire the Nationality Act of 1914 has theoretically unified the law of citizenship, but practically the former separate citizenship of the dominions has continued to assert itself even in questions of major importance, such as the exemption of residents in the dominions from compulsory service in the World War or the dominion restrictions of colored immigration. The new German republic also carried over from its predecessor the tradition of giving some measure of precedence to the citizenship of the states compared to that of the federation. It is quite likely that a future international confederation, which seems to be foreshadowed by the League of Nations, will also give rise to more far reaching constructions of citizenship. In this connection it is interesting to note the suggestion made by the Argentinean, J. C. Garay, that labor citizenship (*jus laboris*), not involving the loss of original nationality, be granted immigrants who have established themselves in the new country. This recommendation is paralleled by at least two groups of facts in the recent law of citizenship: the extension of the Russian franchise to alien workmen residing in the country (Order of the Central Executive Committee of Soviets, October 29, 1924) and the attempts of Fascist Italy to retain control of emigrants to South America.

The modern terminology of citizenship has not followed the distinction drawn by Rousseau between the "subject" as the passive, and the "citizen" as the active, member of the political community. The reason perhaps is that there has been no sharp differentiation in the underlying development; on the contrary, it has been marked by an ever accelerated increase of citizens and a corresponding decrease of subjects, chiefly through the extension of the franchise to ever larger groups. The concept of citizenship has thus come to be closely associated with the rise of modern democracy. Similarly, the various forms which citizenship has assumed in different countries or in different periods were obviously dependent upon the degree of participation of the average citizen in the processes of government. While the general course of development has exhibited an increase in the active collaboration of the mass of citizens in public affairs it must not be inferred that such a tendency is necessarily indicative of a rise in political standards; on the contrary, it may often lead to new forms of corruption and oppression and produce a condition similar to the ancient Greek ochlocracy. Moreover it may be accompanied by the loss of such advantages, inherent in every division of social labor, as are likely to accrue from the existence of clearly differentiated groups of specialized public officials and professional politicians. The recent reappearance of government by minority in many parts of Europe, reversing the long struggle of minorities for a better recognition in the traditional systems of representative majority rule, is worthy of note in this connection because such minority government frequently lays claim to creating a more intense and responsible consciousness of citizenship than the majority rule of mass constituencies. This contrast may be reduced in the last analysis to a diametric opposition between two views as to the essential quality of that relationship between the individual and the community which constitutes citizenship. The majority rule relies on rational processes of education and discussion leading to the adoption of a set of rational political and moral ideals; from this point of view a minority appears as a still unconvinced, but potentially conformable, part of the "general will" of the community. Minority rule, on the other hand, stresses the irrational and emotional elements of national and racial cohesion and considers the ruling minority to be either a more or less transitory or a permanent nucleus for the instilling of an emotional conformity.

It does not necessarily follow that the democratic ideals of government by express general consent do not carry within them a strong sentimental appeal. On the contrary, modern democracy has been in many cases, particularly during its struggles with the preceding absolutist governments, distinguished by the passion of its tenets and by its half religious, half poetical symbols. The fighting instinct, inseparable from deep emotions and strong convictions, may serve

not only to lead the community as a whole, regardless of internal strife and injustice, against other communities, but also to inspire a group or class inside the community with determination to effect a redistribution of social or political power. The first case is that of old and new systems of minority rule, characterized by internal rigidity and external aggressiveness, while the second is descriptive of many systems of majority rule characterized by a combination of internal flexibility and external pacifism.

The contrast between the rational appeal of majority rule and the emotional appeal of government by minority is seldom clearly evidenced. Modern parliamentary democracy, as found among the leading nations, is far from relying exclusively or even primarily on the methods of rational education for citizenship which might seem sufficient or best to promote civic adaptation in a progressive nation and in a pacifically stable community of nations. Not in vain did the French Revolution imitate in its political forms and ceremonial what it considered to have been the symbolical expressions of public spirited Greek and Roman citizenship. And at present communities like the democratic United States, Communist Russia and Fascist Italy, despite all their deep contrasts of political structure and ideology, present on the surface so many similarities because each of these communities is, in comparison to other nations, so strongly bent upon utilizing the whole range of civic appeals for the purpose of solving its particular problems of national cohesion. American democracy has developed, in addition to the latest experiments in training school children and adults in political and social thinking, a highly diversified and often romantic cult of nationality, while the minority governments of Russia and Italy are spreading the gospel of Lenin and Mussolini by means of the most refined and mechanized technique of press, cinema and radio propaganda.

CARL BRINKMANN

See: STATE; AUTOCRACY; DEMOCRACY; FEDERATION; ALLEGIANCE; OBEDIENCE, POLITICAL; CIVIL RIGHTS; CIVIC EDUCATION; PATRIOTISM; NATIONALISM; MINORITIES, NATIONAL; ALIEN; NATURALIZATION; EXPATRIATION; NATIONALITY; DIPLOMATIC PROTECTION.

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CITY. In all ages and areas, from ancient Egypt to modern America, the highest development of human mentality, initiative and achievement has been in urban communities. So long as men remained in the pastoral or agricultural stages there was little stimulus to the differentiation of economic functions; the entire energies of men were absorbed in the task of raising the food supply. But with the city came the division of labor and possibilities for economic surplus, hence wealth, leisure, education, intellectual advance and the development of the arts and sciences.

It is probable that the earliest great cities made their appearance in the valley of the Nile. The earliest city of which we have any definite record is Memphis, the capital of Egypt under the Old Empire, which came to its close about 2500 B.C. Memphis was a walled city situated on the left bank of the Nile about twelve miles south of the present Cairo. With the fall of the Old Empire a new capital was established at Thebes, which is mentioned in the Iliad as a city of a hundred gates. Meanwhile other considerable cities developed in the valleys of the Tigris and Euphrates, more particularly Nineveh and Babylon. Babylon was probably the larger of these two communities and undoubtedly the largest of ancient cities prior to the rise of Rome. It was destroyed by the Medes and Persians in 538 B.C.

During the next ten centuries the city life of the ancient world followed the shores of the Mediterranean and the Aegean. Tyre and Sidon, the seaports of Phoenicia, were perhaps the earliest examples of commercial cities, depending for their prosperity on sea-borne commerce. One of their colonies, Carthage, ultimately outgrew the mother cities in size and at her zenith probably had a population of over three hundred thousand. Carthage was the great hive of industry and trade; her people excelled in making goods which were exchanged for raw products, but apparently they had neither time nor taste for developing cultural activities.

Then arose the cities of Greece, which were city-states or self-governed communities, each the center of a vigorous political life. Athens,

Corinth, Sparta, Syracuse and Miletus were not mere palace cities or trading centers or holy places or citadels of defense; they were urban communities in the modern sense, with a high degree of economic vitality. The geography of the Greek peninsula fostered the growth of independent cities, hence most of the free population of Greece lived within the city walls. This does not mean, however, that the people of these communities were chiefly engaged in industry and trade. Large numbers of them owned land outside the city walls and cultivated it mostly by means of slave labor. Athens was of course the largest among Hellenic cities and contributed more to the progress of civilization than all the others combined. As the city grew it divided itself into two parts, Athens proper, which surrounded the Acropolis, and the port or harbor town four or five miles away, the two being connected by a road which ran between long defensive walls. Together the entire community had a population of perhaps a hundred and fifty thousand. Syracuse came next with an estimated population of something over a hundred thousand. Corinth was slightly smaller and Sparta appears to have had not more than fifty thousand. When Alexander the Great proceeded to Asia he took with him the best features of Greek municipal civilization. Greek cities were founded everywhere within the conquered areas, particularly in regions where urban life had hitherto been lacking. Seleucus also established many Greek cities in the East, especially in the region between the Euphrates and the sea. In a word the Greeks demonstrated that what Aristotle called "a common life for a noble end" could be better lived in a city than anywhere else.

Finally, among great ancient cities, there was Rome. Rome as a city was scarcely less wonderful than Rome as an empire. She was the largest and best governed municipality that the world possessed at any time during the first fifteen Christian centuries. Geographically the place had few natural advantages, being twenty miles away from the sea, with no mineral resources near at hand and no large expanse of fertile territory within easy reach. Nevertheless, through the extraordinary courage and virility of her people, Rome developed from a small city to a world dominion. First of all, various small settlements were combined into a unified community; then alliances were made with tribes which inhabited the Italian peninsula; these alliances paved the way to subjugation; finally the power of Rome made itself dominant, chiefly by means of conquest, through the whole Mediterranean region and indeed over a large part of western Europe. This expansion of Roman power, which resulted in enormous payments of tribute to the capital city, had its natural reaction upon the city's prosperity, making it in time a great metropolis. Rome's maximum population is not accurately known, for curiously enough no census of all the people was ever taken. At regular intervals a census of Roman citizens was compiled, but large portions of the population did not possess the privilege of citizenship. Likewise there was a count of houses but not of their occupants. Estimates for the first Christian century vary from 800,000 to 1,200,000 people; it is probably safe to say that Rome at her zenith contained not far from a million people, which made her by far the largest city of antiquity; and although her population dwindled to less than a half million in the fourth Christian century she was still the world's largest urban community. From that time on, however, Rome steadily declined and in 1377 a census disclosed a straggling town of only 17,000.

Ancient Rome was badly congested, probably more so than any city of modern Europe. Most of the people lived in tenements often four or five stories high. The lack of efficient public sanitation must have made the overcrowding more irksome to everybody, but fortunately the habits of the people led them to spend the greater portion of their time out of doors. In spite of the congestion, however, Rome was a well administered city and achieved a remarkable development in the way of public utilities. Some of the streets were paved; there was an adequate water supply drawn from mountain springs and reservoirs; there were great sewers which emptied into the Tiber. Rome, moreover, was famous for its public baths, of which there were many hundreds, most of them free to the people. In the reign of Augustus an elaborately organized system of police and fire protection was established, with a prefect at its head.

It was in the art of government, in the framing and enforcement of laws and in the technique of public administration that Rome contributed most to world progress. Some of these contributions endure to the present day. Half the world in the twentieth century is governed by codes of law which preserve the fundamental principles of Roman jurisprudence. It was in Rome, moreover, that the concept of a municipal corporation first evolved. The Romans devel-

oped in a large way the legal ideal that a body of men might be clothed with a corporate personality and thus become an artificial person. This idea they applied to their provincial cities, the hundreds of small cities scattered throughout the Roman Empire, which became municipal corporations with a right to hold property.

The centuries following the collapse of Roman power demonstrated to the world what happens to civilization when city life breaks down. The tribes from the north and east which overran the imperial territories knew nothing of urban amenities and were averse to urban restriction and confinement. So the centers of population which had developed a vigorous municipal life in Roman times were pillaged and oppressed. Many of them dwindled into small villages and some disappeared altogether. London, for example, was a place of extensive commerce in the time of Tacitus, but within fifty years after the Romans evacuated Britain the metropolis on the Thames was a heap of ruins, its people scattered, its trade gone and even its streets blotted out. The economic collapse was so complete that it cut all the arteries of commerce. Rome had built up a great system of roads and communications which now went to pieces, and the cities found their chief source of support taken away.

On the continent of Europe many cities owed their immunity from destruction to the intervention of the Christian church. Being the seats of bishoprics they were protected. The invading tribes respected the church when they showed little respect for anything else that was Roman. Everywhere else, during the period from the fifth to the tenth century, the cities of western Europe declined in population, in importance, in trade, in security and in the provision which they made for the comfort and convenience of their citizens. During this period no European city made any substantial progress. Each lived to itself, supplied its own needs as best it could and had almost no intercourse, either economic or cultural, with its neighbors. They were lacking in the two prime essentials of city growth, security against disorder and an economic base from which to draw sustenance.

Beginning with the eleventh century, however, city life showed signs of reviving. These indications appeared first of all in the cities along the shores of the Mediterranean, where the opportunities for the revival of trade were greatest. The crusades, when they came, gave new impetus to the trade of these centers by stimulating intercourse between East and West. Florence, Venice, Genoa, Pisa and the other Italian cities took advantage of the opportunity to develop important industries, the products of which they marketed in the coast towns of the Near East. A similar revival of municipal life took place in the northwestern portions of Europe, especially in the towns along the Baltic and the North Sea and in the Rhine region. These cities, banding themselves together for mutual aid and protection, became members of the Hanseatic League and by their mutual efforts promoted a revival of trade. Throughout central Europe the renaissance of the cities was not so rapid, but in England the towns achieved considerable growth during the latter part of the Middle Ages and began to play a much larger part in the national life.

This urban revival continued in all parts of Europe throughout the sixteenth, seventeenth and eighteenth centuries, although it was seriously interrupted from time to time by commotions in the city-states of the Italian peninsula, the religious wars in France and such conflicts as the Thirty Years' War in Germany. Meanwhile the discovery of America and of a new all-water route to the Far East gave a marked impetus to all the cities along the western seaboard from the Straits of Gibralter to the Baltic. Great progress toward urbanization was made during those three centuries in Spain, Holland and England. But it was not until the industrial revolution that the cities really came into their day. The utilization of steam power vastly intensified the drift of population into the cities. In England, for example, only ten or fifteen percent of the entire population was concentrated in cities of ten thousand or more when the industrial revolution began. By the beginning of the nineteenth century this ratio had increased to more than twenty percent and at the end of the nineteenth century it had nearly quadrupled. In the United States at the beginning of the nineteenth century only four percent of the population lived in cities of more than eight thousand. The census of 1930 will probably show a percentage more than ten times as large. The ancient world was one of cities; the modern world is rapidly becoming so.

In early centuries most cities owed both their original location and subsequent growth to considerations of defense. In later centuries London, Paris, Berlin, Vienna, Madrid and Washington have owed much of their growth to political factors, but for the future neither

defense nor politics is likely to play much part in the location and growth of great communities. Among the ten largest cities of the world today there is not a single one that owes its location to a defensible position and only three are political capitals. Trade and industry are the determining factors in the growth of the twentieth century municipality. This is true of city growth in the Orient as well as in Europe and America. The expansion of urban life in Japan, for example, has kept pace with the industrialization of that country. In China and in India the growth of cities has been less rapid than in the West except in the case of those which are located on navigable waters and depend for their prosperity upon the promotion of trade. This is because the industrial organization of the Orient, save in the case of Japan, continues to be for the most part as it was in Europe before the industrial revolution. Each urban community is a relatively autonomous economic unit, supplying its own industrial products and those of the rural areas immediately surrounding, but carrying on little interchange of products with other cities.

In all parts of the world, therefore, cities depend for their expansion on the progress of agriculture, industry and commerce. It may sound paradoxical to say that agricultural advancement is a factor in urban growth, but better agricultural machinery and methods are steadily releasing farm labor from the land and thus promoting migration to the city. It is estimated that by reason of these improvements in agricultural machinery and methods about ten percent of the farm labor in Europe and more than fifteen percent in the United States has been divorced from the soil during the last twenty-five years. It is to be remembered, moreover, that every day's work on the farm gives employment to one or more workers in the city. The man who raises wheat or cattle provides work for men in the flour mills and packing plants; indirectly he also affords employment for workers on railroads, in banks and in the various institutions of credit and exchange.

Industry, however, is a much more important factor in city growth. Since the industrial revolution a large part of the world's industrial production has been concentrated in the cities. Factories go to the larger communities, and where the factories go the workers must follow. Probably nine tenths of the drift from the rural districts to the cities is inspired by the quest for profitable employment. The city provides industry with superior transportation facilities, an elastic labor supply and a considerable market for its goods close at hand. New factories go where older establishments of the same nature are already located and subsidiary trades congregate around the main industries. Automobile factories, for example, attract various smaller concerns which make batteries, magnetos, tires, tubes, bodies, cushions and a great variety of automobile accessories. Rapid industrial progress in any great city is the outcome of various forces which operate together—transportation facilities, proximity to raw materials, an abundant and flexible labor supply and nearness to a large market.

Commerce is also an important element in urban growth, more important than most people realize. Look at a map of the world and see where the big cities are. With the exception of the national capitals practically all of them are located on navigable waters. That is not a mere coincidence. It proves that facilities for water-borne trade are virtually essential to growth beyond a certain size. The chief reason is to be found in the fact that most great industries desire to bring their raw material by water rather than by rail, inasmuch as water transportation is usually cheaper in the case of materials which are bulky in proportion to their value. Commerce also necessitates the use of credit and secures for the city an expansion of its banking, brokerage and other financial activities.

Agriculture, industry and commerce are thus the primary causative factors in urban growth, but there are secondary causes as well. The city draws heavily upon the leisure class, upon those who have accumulated a competence and desire to be where comfort and luxury prevail. Strangely enough, at the other end of the social scale, most workers and their families prefer to live in large cities despite the higher cost. Educational institutions, historic attractions, climatic conditions and a host of other cumulative allurements have helped to build up certain communities, such as Oxford and Cambridge in England, Florence and Rome in Italy, Miami and Los Angeles in the United States. Every city develops its own individuality; in no two of them are the conditions of urban life and growth exactly alike.

Fundamentally, however, every city is related to what may be called its "economic base," that is, to the source or sources from which it derives the means of livelihood for its people.

As this economic base broadens the city grows and acquires strength; but if by any mishap the base narrows the community stops growing and may even lose ground. Thus we have seen some cities come into existence as the result of a mining or oil boom and thrive mightily for a time on this slender economic base, but with the exhaustion of the oil wells or metal mines they have become blighted almost overnight. Cities, like men, must have steady nourishment.

Thus, beginning with the simplest municipal organisms and passing to the more complex, it is possible to make a general classification of cities according to their economic base. First, there is the community which depends upon a single source of livelihood, for example the large provincial town which serves merely as a local distributing center, gathering up agricultural products and distributing manufactured goods in return. It is not a place of production but of local distribution. Thousands of cities throughout the world fall into this category. They can never become large communities because their economic base is not broad enough.

Second, there is the city which has become or is becoming industrialized. To the function of providing a local point of distribution it adds the role of a producer on its own account. Industrial cities fall into two subdivisions: those which concentrate for the most part upon a single industry and those which have industrial diversification. Essen, in Germany, provides a good example of a one-industry city. Manchester, Sheffield and Leeds in England are of the same general character, although not completely so. Detroit, Gary, Grand Rapids, Fall River and Troy in the United States are heavily dependent upon industries of a single type. On the other hand, a much larger number of industrialized cities have developed on a multiple basis with numerous and diversified manufacturing establishments. Broadly viewed a diversified industrial base is the more secure and better stabilized.

In this connection mention should be made of what has come to be known as the satellite city. Land in the downtown industrial areas of great cities has become so expensive that the factories are drifting to the outskirts where they can obtain all the advantages of a metropolitan location while avoiding the disadvantages of costly sites, high taxes and inadequate room for expansion. These satellite cities usually begin with the establishment of a single industry; then others, usually of the same type, are attracted and ultimately the place becomes a full sized town with houses for the workmen, stores and places of amusement. A few decades ago the usual expansion of the city was by the creation of new residential suburbs; now we are creating industrial suburbs as well.

Third, there is the city which combines commerce with industry. There is, of course, a close relationship between industrial and commercial expansion. No large city can produce its own raw materials or market all its industrial products locally. It must build up commerce, by artificial stimulation if need be. This further broadening of the city's economic groundwork is of great importance in promoting urban growth. When any city, in addition to being a distribution point for a prosperous territory, adds a few great industries, or a number of smaller diversified industries, together with commercial opportunities, it can have legitimate aspirations to an ultimate population of several hundred thousand. It has been found by statisticians that if one takes such figures as the value of manufactured products in any large city, the car loadings, the harbor tonnage, the bank clearings and the building permits, one can work out a fairly correct estimate of the population.

Finally there is the metropolitan city; in other words, the community that dominates a whole great region and becomes a planet around which various residential and industrial satellites revolve. Smaller communities within the metropolitan orbit have their own specialties, but they distribute through the metropolis for the most part and the agencies which manage the exchange and credit facilities of the whole group are there. Size alone does not make a metropolitan city. There must be a hinterland in economic tutelage to it. Richmond is smaller than Providence, for example, yet Richmond can properly be termed the metropolitan city of its region, which Providence cannot. The economic growth of a metropolitan city usually outruns its political organization. Industrially the whole place is a unit, but politically it often remains a mere aggregation of cities, towns, communes or boroughs. Hence it is in metropolitan cities that the most difficult problems of municipal administration are encountered.

In short, the modern city is an endlessly complicated phenomenon. It is sometimes defined as "a large body of people living in a relatively small area"; but this definition is altogether inadequate. It conveys no intimation of the fact that the city has a peculiar social structure, a

specialized governmental organization, a unique legal status and a highly intricate economic life. A comprehensive definition of the modern city must indicate that it is a social, political, legal and economic unit all rolled into one. It is a concentrated body of population possessing some significant social characteristics, chartered as a municipal corporation, having its own system of local government, carrying on multifarious economic enterprises and pursuing an elaborate program of social adjustment and amelioration.

The significant social characteristics of an urban community can be disclosed by taking as one unit the individuals who constitute the population of any large city and comparing this with another unit made up of an equal number of individuals drawn at random from the rural areas of the same region. The two units will show very marked differences at all points where their respective social characteristics can be statistically compared. They differ in the numerical proportion of the sexes, the city as a rule having an excess of females. They differ in the distribution of their respective populations according to age, the city being stronger in persons of the productive age, that is between twenty and sixty. They differ likewise in the variety and nature of their occupations, their respective birth rates and death rates, the average earning power of individuals, in the proportion of the propertied to the non-propertied classes, in the relative prevalence of illiteracy, pauperism and crime, in the strength of the illiterate element and in their tendency to radicalism of thought.

Compared from any single point of view these differences are not of much consequence, but taken together the variations show a dissimilarity that is both great and important. Everywhere, in all countries, both the individual psychology and the mass psychology of the urban dweller can readily be differentiated from that of the scattered thousands who dwell upon the land. The city is a place where people live in physical proximity but at a social distance. In the rural areas this situation is reversed. Physical distance does not prevent social proximity. The bigger the city the more unsocial it becomes. Between the East Side and the West End of a metropolis there is greater social distance than almost anywhere else on earth.

The city has more wealth than the country, more skill, more erudition within its bounds, more initiative, more philanthropy, more science, more divorces, more aliens, more births and deaths, more accidents, more rich, more poor, more wise men and more fools. It is characteristic of city life that all sorts of people meet and mingle without in the least understanding one another. The industrial disputes, so frequent in all large industrial communities, testify to this lack of understanding. The slums and fine residential areas may be separated by only a few hundred yards geographically, but by thousands of miles in point of view, aspirations and conditions of life.

This social disintegration, this complete absence of psychological homogeneity, is what burdens the city with many of its most difficult problems. It makes virtually impossible the securing of a consensus on any project or program of civic betterment. What the business interests propose is usually viewed with suspicion by the industrial workers. Intelligentsia and middle class, politicians and reformers, stand-patters and go-getters pull apart in the city, not together. Unified social leadership becomes next to impossible and group leadership takes its place. The city dwellers think in groups; they become strongly group conscious; hence many of the community's social problems have to be handled by makeshift and compromise rather than by vigorous, unified, constructive effort.

Moreover the city is a unit of government, an agency used by the nation or the state for the better government of the people who live within its bounds. Everywhere the city is the creature of the higher authorities, holding a delegated power to perform certain governmental functions on their behalf and for the sole reason that such functions can be more conveniently performed by the municipality than by the higher government itself. Usually this devolution of power is embodied in the city's charter, but it may be by general municipal code, as in the countries of continental Europe.

In order to carry on the work thus delegated to it the city is provided with a frame of government. It has both legislative and executive organs of government and usually a variety of administrative boards and appointive officials as well; likewise a large number of subordinate employees. The methods of election, powers and duties of these various officials are prescribed by the city charter or by the general statutes. In European countries the devolution of power is by general grant; in the United States it is usually specific, point by point, with

safeguards to prevent any excess or misuse of power by the city. In Europe as a corollary the control exercised over the city by the higher authorities is administrative control, while in America it is chiefly legislative in character.

In the cities of the Orient there has been much slower progress in the delegation of authority from the national and state governments. The municipalities have been held under the close supervision of the higher powers and this has retarded the development of local democracy. But it has not stood in the way of municipal self-consciousness, which is as strongly developed in the East as in the West, perhaps more so. Japan has copied, without essential change, the French system of centralized control over her cities through prefectures and a ministry of the interior. In China the government of the city differs considerably from province to province but in no case is it, under normal conditions, much more than a subdivision of the provincial administration. Both in a political and in an economic sense, however, the oriental city plays a large part in the national life. It supplies most of the leaders and is the starting point for virtually all movements in the direction of liberalism. In their political methods the cities of the Orient are more responsive to Western influences than are the rural areas.

To a larger extent in Europe and America than in Eastern countries the city is an agency of economic enterprise. It is engaged in work which is by no means governmental in its nature. It is a purveyor of water (and sometimes of gas, electricity and transportation), an employer of labor, a purchaser of supplies and material, a seller of service. A large part of what the modern city does is business not government. It consists in furnishing services which would be provided by private enterprise were it not for the fact that the municipality has seen fit to assume the task. It is a self-evident proposition that these economic functions ought to be performed in strict compliance with business principles, but usually this is not wholly practicable because the work is vested in the hands of officials who are under the continuous pressure of political influence. Much of the friction in city government arises from the conflict of economic and political considerations. Efficiency and economy are sacrificed to politics and patronage.

Through other channels, moreover, the city comes into contact with economic enterprises and organizations which it does not directly control. It is concerned not only with its own municipal water service but with the supervision or regulation of privately owned utilities, such as street railways, bus lines and telephone companies operating under municipal franchises. It has dealings with banks and other financial institutions, for it is a collector, depositor, spender and borrower of money. It enters into relations with contractors and sellers for work and supplies of many sorts in street construction and public buildings; likewise for coal, oil, fire apparatus and so forth. It regulates by ordinance a long list of trades and vocations. It grants permits for the erection of privately owned buildings, for the storage of explosives and other dangerous merchandise and for the placing of signs on or over the streets. All in all, the city, through its government, plays a considerable part in the economic life of the community.

The city is also a corporation at law, a "municipal corporation," as it is usually called. It is invested with an artificial personality, may sue and be sued, own property, make contracts and do in its corporate capacity most of the things that an individual or private corporation may do. It employs officers or agents and in some cases must assume legal liability for what these employees may do; in other cases it is immune from such liability. In general it is immune from liability for the torts of its agents or employees when they are engaged in the performance of a strictly governmental function (such as policing, fire protection or education), but as a rule the city becomes liable for the negligence or default of its agents when these are employed in semicommercial civic enterprises such as municipal gas or electric plants. As a municipal corporation, moreover, the city has the power to tax, borrow money and give in pledge the private property of its citizens. It has the right of eminent domain; that is, the right to take private property for public use on payment of just compensation.

Finally, the city is an agent for the promotion of social welfare. Its officers are busy not only in governmental and economic enterprises but in the work of social amelioration as well. The city provides from the public taxes free education, health protection, poor relief and various types of public amusement. Nearly one half the city's annual expenditure in the United States is now devoted to these social welfare undertakings, including public education. These social welfare functions, moreover, are constantly expanding. Year by year the city is trying to do

more for its people along lines of education, philanthropy, health protection and social amelioration in general. Neighborhood centers, athletic fields, band concerts, mothers' pensions, community dances—these prefigure a score of social outlays which the municipal treasury is making nowadays. The city has become our premier philanthropist. Responsibilities are steadily being transferred from the home to the school, to the public playground or to the civic center. There is no forecasting where this absorption of new welfare activities will ultimately lead.

In a word, therefore, the modern city is not merely a unit of government but a problem in law, in economics and in sociology. It is a many sided affair. It is a place where material motives fill the minds and govern the acts of men; a place of excessive individualism where neighborhood feeling is almost wholly absent, because neighborhood traditions are hard to stabilize with such an incessant shifting of the population. Easy means of communication tempt the city dweller to find his friends and intimates in several neighborhoods. The city man's friends are not, for the most part, his neighbors. They are persons of his own profession, temperament or tastes who live all over the city, sometimes miles apart. Every occupation in the large cities, even that of the mendicant, tends to become a profession, a highly developed profession. The city dweller leads a life so crowded with impressions that little time is left to him for reflection. These impressions are quickly and easily made, but just as quickly and easily erased, for the city mind craves novelty and is impatient of repetition. Its yearning is always for something new, something strange, something bizarre. Thus the urban mentality is restive, impulsive, intolerant of delay, although it is docile enough in its continued submission to public abuses.

Many of the most difficult problems in the modern city arise from the absence of planning. Large communities have grown by accretion without taking much thought for tomorrow. The result is an intolerable congestion in their downtown areas. Nowadays they are making an attempt to ease this problem by replanning the older sections and building new suburbs in accordance with prearranged plans. City planning fundamentally is an enterprise designed to reduce the friction of space. Its outstanding purpose is that of adjusting activities to areas and resources. Industries buy accessibility just as they buy raw materials and labor. They pay for it in site cost and high taxes. City planning undertakes—by improved methods of transportation, by street widening and by intelligent zoning, as well as by the regulation of traffic—to increase this accessibility without increasing the cost of it. The result is an economic as well as a social gain.

But city planning is not merely a matter of widening streets and creating civic centers. It has legal, social and economic implications as well. It includes within its scope not only architecture and engineering, but law, finances and education. Ordinances often need to be straightened even more urgently than streets. And provision must be made for proper expansion of recreational and educational facilities. Very important also is the planning of ways and means; in other words, planning to use the city's financial resources in such way that all the physical ends may be accomplished without too great a tax burden.

Steam, steel and credit have made the modern city possible. Transportation and storage have made it practicable to keep millions of people supplied with perishable commodities such as meat, vegetables, fruit and milk. Structural steel has made the skyscrapers a possibility. Credit has allowed one generation of citizens to construct and the next generation to pay its share. Rapid transit is centrifugal in its influences; it encourages decentralization in the abodes of the people. But progress in the technique of construction (especially with the aid of structural steel) is centripetal; it encourages the massing together of people in hotels and apartment buildings of massive size. Whether centralizing or decentralizing forces will get the better of the situation depends in part upon the direction which progress in technology will take in the next generation.

The city, in any event, is bound to be a controlling factor in the national life. As the city is, so will the nation be. Its population supplies most of the national leadership. Through its daily press the city dominates public opinion far outside its own bounds. It is stronger in its influence upon political thought than its ratio of population warrants. It sets the fashions—in morals and in manners as in attire. The demeanor of the city is not, therefore, a matter of concern to itself alone. It is of vital concern to all who desire high national aspirations to be established and maintained, for the ideals of a nation are determined by the most influential

among the various elements of its population. Being so determined, they are constantly in process of change. Hence the saying that although men may make cities, it is equally true that cities make men. He who makes the city makes the nation, and indeed it is the cities of the future that will determine the character of the world.

WILLIAM B. MUNRO

See: CITY-STATE; COMMUNE, MEDIAEVAL; URBANIZATION; MUNICIPAL GOVERNMENT; MUNICIPAL CORPORATION; CITY AND TOWN PLANNING; CIVIC ART; HOUSING; SANITATION; GARDEN CITIES; SUBURBS; METROPOLITAN AREA; REGIONALISM; COUNTY-CITY CONSOLIDATION; COMMUNITY; SOCIETY; CULTURE; CIVILIZATION.

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CITY AND TOWN PLANNING. City and town planning may be defined as the art of planning the physical development of urban communities with the general object of securing healthy and safe living and working conditions, providing efficient and convenient forms of circulation and advancing the general public welfare. It aims at the preservation of natural beauty as essential to healthy living conditions, and leads to the promotion of beauty in building as a by-product of sound social and economic growth. The art of planning cities and towns has varied both in importance and in the extent of its development as the city has vacillated between positions of comparative supremacy and subordination in the social system. The periods of urban ascendancy have not, however, always paralleled the periods of greatest activity in planning; and it is impossible to trace much, if any, real progression toward perfection of the physical arrangement of the civic structure. Many early examples of the conscious designing of cities have been revealed by historians. Kahun, and Babylon, Asshur and Nineveh in western Asia had interesting plans. Piraeus, Rhodes, Thurii, Selinus and Cyrene were planned cities of the fifth century B.C. While most of these early cities were constructed in the rectangular form, similar to the gridiron plan now prevalent in America, a few were laid out in fan shaped form with diagonal arteries. Priene, Miletus, Alexandria and Pergamum are all important examples of Greek planning; the best known early Italian examples are Marzabotto and Pompeii. As a rule the fundamental feature of these cities was the construction of main streets running north and south and east and west to a forum. Between the second and fourth centuries a number of planned settlements were built for discharged soldiers; Timgad and Carthage originated in this way. In the Far East town planning seems to have been pursued by the Chinese in the twelfth century B.C., the form being similar to that of the earlier Roman plans.

The extension of the Roman Empire resulted in the construction of many planned cities. In England, for instance, Roman influence is visible in the well known rectangular plans of Lincoln, Silchester and Chester. F. J. Haverfield has pointed out that the distinctive gridiron plan was the mark of conscious efforts at the improvement of cities, in contrast to their irregular growth in more barbaric periods. Just as we do today the Romans often leveled uneven land to fit their plans; in many cases, however, they apparently selected appropriate sites to which they fitted their plans. As is well known they made drainage and water supply primary considerations. What would now be called zoning was practised with the object of keeping some industries out of central areas and of controlling building heights. In Rome heights of buildings were limited first to seventy feet by Augustus and later to sixty feet by Trajan and subsequently to twice the street width by Nero. These regulations, however, were frequently disregarded.

The chief characteristic of mediaeval cities was their irregularly shaped places, street lines and widths. Instead of long distant vistas, places and streets were closed in, although as a rule the scales of buildings and streets were adapted to each other. A school of German town planners claims that some of these picturesque towns, several of which remain in a good state of preservation, present evidences of having been planned. It is more likely, however, that there

was no definite plan of the street system except to the extent enforced by the necessity of conformity to conditions of military protection. Thus a common feature of mediaeval as of ancient cities was the circular roads following the lines of the fortifications. In the mediaeval towns these lines influenced radial street penetration from the circular walls to the center. The living conditions of the poorer citizens were disregarded in mediaeval times perhaps even more than in Roman cities. In all these early cities there were beautiful public buildings and fine main thoroughfares, but also mean streets and courts in which people lived in overcrowded conditions.

As learning and art were revived in the sixteenth and seventeenth centuries the classical tradition that influenced architecture influenced also the planning of cities, leading to more conscious planning on a grand scale. Princes built great castles and palaces with magnificent processional ways leading to them. In some cities the classic and Gothic types were merged and blended, as for example in Nancy, France, where an interesting plan for a handsome government center was drawn up by Emanuel Here in 1750–57 as part of an extension plan of the city.

Mannheim and Karlsruhe (1715) are two examples of completely formal treatment. The plans of both towns show the effect of the Renaissance spirit and of royal influence. Inside the Ringstrasse Mannheim is almost completely rectangular with, however, diagonal treatment in the suburban areas. Karlsruhe is of the same geometrical type but is fan shaped with many diagonals converging to the castle.

London lost its opportunity after the great fire in 1666 when it failed to adopt Christopher Wren's plan based on a skilful combination of radial and rectangular lines. In America William Penn made his rectangular plan for the city of Philadelphia in 1682, with streets and squares amply spaced to meet the conditions of his time. Washington, laid out by L'Enfant in 1791 under the leadership of Washington and Jefferson, remains, however, the monumental example in the United States of the advantage of comprehensive planning. Its form is primarily rectangular with a diagonal system of main thoroughfares superimposed on the right angled pattern. The Capitol replaces the castle as the dominant feature.

French influence was important also in shaping the plan made in 1767 for the new part of the city of Edinburgh. Edinburgh combines an old and a new city, separated by a valley and the high rocky hill occupied by the dominating castle. The old is mediaeval in its characteristics, with narrow, irregular streets; the new is classical in feeling and has straight streets, squares and crescents as its main features. All of these eighteenth century efforts represent the beaux arts type of planning. The coming of the railroad and the machine age interrupted for a time the practise of the art of planning. An exception, however, was the rebuilding of Paris by Haussmann under Napoleon III, one of the most ambitious schemes of replanning and reconstruction that has ever been undertaken. Here too in the rebuilt Paris are the combinations to be found in other old cities that were replanned —the combination of the Gothic, the Renaissance and the modern type.

The rapid urbanization which set in toward the end of the nineteenth century and has continued since at an accelerated pace has given to city planning a new significance and direction. Modern civilization has produced not only the city but the metropolitan region; at the same time smaller towns are increasing in number. The power of the city, based on concentration of wealth and population, makes newly important its construction on lines conducive to health and social welfare.

The modern city planning movement had its origins in a reaction to the rapid and disorderly growth that characterized the latter part of the nineteenth century. One of the best known of modern plans, the Chicago plan, begun soon after 1900, was based on the desire for more order and beauty in one of the most rapidly growing of modern cities. It is the best example of the type of planning, then the dominant type, which frankly called itself "city beautifying." Even within the subsequent development of the Chicago plan itself emphasis was soon shifted from external beautification to the achievement of desirable living conditions, of efficiency in the whole urban structure and of beauty and order as growing out of desirable social arrangements.

Some time before this new type of city planning had become prevalent or even recognized the legal foundations for its development had been laid in both the United States and Europe. The growth of municipal consciousness to which this legislation owed its existence was the result of a reaction against the evils and abuses, especially in regard to sanitation, prevalent in most cities during the nineteenth century. And

it was the demand, increasingly strong after 1870, for improved sanitary conditions and more control of land development in the suburban areas of cities which influenced the form of early city planning legislation.

The effective basis of such legislation in the United States is to be found in the greatly increased responsibilities, giving many a large degree of home rule, which during the past hundred years cities have assumed under special charters and under an extensive series of state enabling acts. The growth of municipal functions has been especially evident in connection with such questions as the control of building development, the increase of facilities for transit, the extension of water supplies, the acquisition of land for public open spaces and improvement in methods of sewage disposal. Abuses of private ownership of property and injuries to health, safety and morals of the inhabitants of cities have been more and more actively controlled through exercise of the police power. It has been necessary to devote increased attention to problems connected with excess condemnation, traffic control, preparation of official city maps, employment of special assessment and many other features connected with the land uses and ways of communication of cities. As William B. Munro points out in *The Government of American Cities* (4th ed. New York 1926), however, the prolonged battle to overcome governmental inefficiency in municipal affairs did not lead to a substantial improvement until after 1900.

In 1891 the first general planning act of Pennsylvania was passed; and in Massachusetts at about the same time a start was made toward the planning of regional systems of parks, water supply and the like in the Boston metropolitan region. Frederick Law Olmsted's influence, first in New York from 1857 onward and later in planning the Boston park system, had much to do with the development of city planning as an art and a profession in the United States. It appears, however, that general state and municipal activity in planning, as in promoting general municipal improvements, did not begin until after 1900. The work of the succeeding ten years included not only the preparation of the Chicago and other plans for city beautification but the passage of such significant laws as the New York City and Village Planning Law in 1913 and the Zoning Law of New York City in 1916.

Planning legislation began even earlier in Europe than in the United States. In 1865 Italy passed a law enabling communities having a population of at least 10,000 to make regulatory and extension plans. In 1874 Sweden made statutory provision for the preparation and execution of city plans; this law was revised in 1907 and again in 1917. The first town planning law in Prussia dealing with streets and building lines was passed in 1875 and subsequently amended.

In England the first of the series of public health acts was passed in 1875. These acts have since been gradually developed as the basis for the present public health and town planning laws of England, all of which are predominantly for the purpose of improving housing conditions. Thus the general object of the Town Planning Act (1909) is to improve sanitary conditions, convenience and amenity in connection with the development of the land. When first passed the act was a portion of another act dealing with the housing of the working classes.

Thus the way was prepared for the development of a new awareness among architects and planners of the basic importance of good housing and improved sanitary conditions. The necessary socialization of certain public services with the increasing size of cities has made possible a continuous widening of the scope of city planning. Still all too prevalent, however, is the misplanning which results from combining the piecemeal subdivision plans of real estate developers as the basis for the city plan and from failing to provide master plans for the whole city.

The increasing industrialization of the countries of South America and of the Orient may be expected to lead to new experiments in city planning. In Europe and the United States, however, comparatively few opportunities now arise for planning cities from the beginning, as was done in the case of Washington or St. Petersburg. More frequently opportunities are presented for making plans of village communities and complete suburban neighborhoods, such as the villages developed during the war by the United States government through the agency of the Housing Corporation and the Shipping Board or the numerous examples of model industrial villages planned by individual manufacturers. But the kind of plan most required and most conducive to social improvement is that for the extension and development of an existing city or town. In recent years it has been found essential to extend the scope of city planning so as to deal with regions comprising the total area

having an economic or commuting relation to a central city. The proper development of means of communication in such urban regions involves the planning of areas comprising a large number of adjacent communities. Perhaps the countries which have been most active in official planning in Europe are Germany and Sweden. Here there are active city planning authorities dealing with both the development of new areas and the improvement of existing centers.

The extent of the improvement of social conditions resulting from city planning in Germany has varied as provincial or local habit has encouraged closer or more open development of building. In the largest cities, such as Berlin, the tendency has been toward an improved apartment house development, and the fine tree planted thoroughfares too often screen crowded courts where the people live in two or three-room dwellings.

In France where planning traditions have always had a firm hold on the more cultured classes much has been achieved in the creation of beauty in cities. But of late years carelessness and disorder have set in, particularly in connection with the development of suburban areas. One finds that the charm of Paris may be credited to the work done seventy years ago and earlier, and observes with disappointment the new growth that is taking place all around the environs of the city.

In England achievements have been in the direction of improving social conditions. The modern town planning movement in England, which dates from the beginning of this century, had a distinctly social aim. The benefits obtained from the public health acts of 1875 in the matter of sanitation had been accompanied by ugly monotonous forms of development. The Town Planning Act was devised to secure not only improved sanitation and convenience but more space and beauty in new building developments without increased cost to the communities. At about the same time the tendencies toward increased urbanization led to what was known as the "garden city movement," which has since become the chief force behind town planning developments in England. At Bournville and elsewhere manufacturers had laid out model villages, bringing into relief the cramped and unnecessary ugliness of the modern manufacturing districts. In 1898 Ebenezer Howard published his book advocating garden cities (*Tomorrow*, London) and in 1903 the first garden city was built—a city planned for better social and living conditions, restricted in size and surrounded by a permanent agricultural belt. Since then, with the interruption of the war, town planning has made rapid progress in England and in the British dominions.

Whereas in some countries town planning encourages the erection of the apartment house and tenement type of building, in England it has had the contrary effect. For example it is now difficult for a community to get authority to permit the erection of more than twelve houses, on the average, to the gross acre of land in its undeveloped areas; and the London County Council is devoting large funds to promoting the dispersal of industries and population outside its own borders and is less aggressive in the work of reconstruction of central areas. Authorities are attacking the slum problem in two ways: one directed toward rebuilding the slums, and the other toward the settlement of new communities within the open fields of the adjacent counties.

In the United States in the last twenty years city planning and zoning have spread all over the country and resulted in great improvements in city building. Other cities have the inspiration of the great example of Washington and of the early work of Alexander Hamilton, the first American to unite city planning with industrial development when he retained L'Enfant to plan Paterson, New Jersey. In a sense the plan that was made for Manhattan in 1811 was a comprehensive plan, but unfortunately it was prepared without regard to the existing levels of the land and without adequate diagonal lines of communication. It also took little account of the uses to which land might be put, and cut up the island into a series of blocks suitable for narrow residential lots rather than for the varied functions of a city.

The lapse in planning which took place in the second half of the nineteenth century in America was part of the world wide decadence of the movement concurrent with the development of the railroad, machinery and manufacturing. As in Europe, America entered what appeared to be a period of renaissance at the beginning of this century, and the movement has been developing strength ever since.

The Chicago plan, prepared by Daniel Burnham under the leadership of prominent business men in the Commercial Club, is one of the finest architectural presentations for improvement of a city in the entire history of city planning. Charles D. Norton and Frederic A. Delano, who later became identified with the Plan of New

York and Its Environs, were among its promoters. Notwithstanding criticisms of this plan as a mere conception of the "city beautiful" it has resulted in enormous improvements in the city and has greatly influenced city planning activity in America. This activity has taken two main forms, first that of comprehensive planning of the ways of communication and land uses, including park systems and civic centers, and second, that of zoning. In 1930 there were about 850 communities in the United States which had prepared zoning plans and ordinances and more than 300 planning agencies at work on general city plans.

The most popular form which partial city planning has taken in America has been that of zoning, particularly of areas built upon. Zoning is concerned with the establishment of districts for the purpose of regulating the use of property and the height area of courts and yards of buildings. It is based primarily on the right of the state to regulate those uses or abuses of property that are injurious to the health, safety and general welfare of the community. Zoning restrictions were somewhat resented at first by the courts and property owners as being an interference with liberty to a greater degree than was necessary for public health. As experience has been gained and zoning extended both the courts and the owners have come to appreciate the necessity of zoning, and the former have shown a growing liberality of interpretation of what is reasonable under the police power.

Zoning in itself is inadequate as a means of guiding the growth of cities. It is an essential part, but only a part, of a well conceived plan. It should not be used separately from such a plan except when and where it is expedient to prepare tentative regulations pending the preparation of a more complete plan. Nevertheless zoning deals with perhaps the most fundamental problems of city development since it fixes by law the qualities of the land for different bulks, heights and uses of buildings. All the zoning that has been done in America may be regarded as an experimental or preliminary phase of planning. It is a temporary expedient to prevent further injury from congestion or indiscriminate mixing of industry, business and residence, pending the development of more complete and scientific planning of cities.

It cannot be said that any definite set of principles for city planning has yet been formulated. In relation to the problems of the modern city the art and science of city planning is in its infancy. Certain principles, however, have become clear. Thus it is increasingly evident that a thorough study of all the economic, social and physical factors in the city is a necessary foundation for a plan, and the principles that apply to the making of any scientific investigation have to be followed in making such a survey. In the application of the art of planning the same principles of truth, of proportion, of fitness to purpose and of coordination of parts apply to the design of cities as to the design of buildings. The economic phases of city growth are primarily concerned with the distribution and space requirements of its industries. There is a growing appreciation of the necessity of an understanding of the relations between such economic problems and engineering problems. Perhaps it is in respect of social problems that least knowledge exists regarding city conditions, a natural result of the human factors that make accurate knowledge regarding the causes and effects of bad social conditions very difficult to obtain. No city planning can be satisfactory, however, unless it has as one of its main objects the improvement of the housing and neighborhood conditions of the poorer population as well as the prevention of pollution of water and of bad sanitary conditions.

As a science city planning purports to discover the truth about the city in respect to its economic, social and physical conditions. As an art city planning seeks to obtain an economically and socially wholesome arrangement of the ways of communication, of land uses and of building and other structures. More specifically in one important respect it seeks to get that degree of space about buildings which is necessary for health (such as space for light, air and recreation) and simultaneously that degree of building concentration which is necessary for efficiency. Its purpose is best served by resisting congestion or development that is so scattered as to be wasteful.

The survey of a city that is made for the purpose of preparing a plan must cover a wide variety of facts. It should deal with topographical conditions, particularly in relation to industry and transportation; climatic and soil conditions and other natural features. It must include studies of the interrelation between land and building developments and the mapping of all existing physical features. Very important are the surveys of the major economic activities and of problems of distribution of industries, population and land values, problems of transporta-

tion, transit and traffic and their relation to land uses, public recreation and the relation of private and public open spaces. The uses, densities and heights of buildings must be known, as also the methods of plotting and subdividing land and the development of neighborhoods. Sanitary conditions, including sewage disposal, water supply and pollution of water, must be considered. It is also essential to have an analysis of the functioning of the existing government, particularly as it affects planning activities or land development.

Provisions in a city plan vary, of course, according to the law under which the plan is prepared. In general it should include proposals for improvement of rail and water terminals and industrial areas, new and widened highways with classifications of their width and character, public and private open spaces for all recreation needs, civic centers and general location of public and semi-public buildings, treatment of waterfront and other special areas, principles governing control of subdivision of land and zoning regulations. Every plan should also include proposals with regard to the methods of its execution. Perhaps the greatest difficulty at present is the lack of sufficient power to enforce plans and make them permanent.

There can be no hard and fast rule as to the methods which should be employed in planning cities of different size. Differences between the problems of cities, however, arise not so much from differences in size as from differences in functions. If a city is predominantly industrial and self-contained it will require one type of plan; if it is mainly a commuting city it will require another type and should be part of a regional plan. The special problems that have to be considered in a manufacturing city differ from those in a city which, like Washington, is mainly given over to government; similarly a city where education is the main reason for its being must be planned differently from one that is predominantly a pleasure resort. Every city has its own characteristics although the same principles and objects must govern the preparation of all plans.

The chief difficulty in city planning is that of getting adequate public support for a movement dealing with what are usually regarded as intangibles. As a rule cities have no difficulties in appropriating money to investigate specific planning problems however extravagant in conception—such, for instance, as the planning of a great bridge or tunnel—but the planning of the city as a whole is too general a thing to appeal to the mass of people. At present much money is being wasted in cities in investigating traffic congestion as a distinct and separate problem, although its solution depends on making a comprehensive city plan. People see the traffic congested and they imagine the solution lies in a direct attack on the immediate location of the congestion, whereas it is a local symptom of widespread congestion and wrong distribution of functions and facilities.

The chief pitfalls in planning probably lie in two directions. The first of these is that of making city planning a mere branch of the real estate business and of seeking the stability of real estate values as its main objective. Much zoning is defective and lacks permanence because it is designed on the basis of what the owner of property wants and not with regard to what is best for the welfare of the community. The second pitfall is the expenditure of money on extravagant improvements and on schemes of ornamentation of the physical features of the city while the appropriation of adequate funds for the conservation of public health and amelioration of living conditions is neglected.

The underlying economic principle that justifies city planning is expressed in the commonplace that prevention is better and cheaper than cure. Its purpose is to know the city, including all its defects, and then to seek by planning to preserve what is good, to remove what is bad and above all to prevent the recurrence of the bad. In many cities conditions have to be tolerated that are recognized as injurious to business interests and to the health and safety of the population only because they have been so firmly established as to be too costly to cure. A city plan will inevitably save large sums of money to a community—always assuming it is well conceived—merely by preventing bad conditions at their inception.

An important part of a city plan is the preparation of a budget of expenditures over a period of years which should provide in reasonable proportions for all major expenditures on different municipal undertakings. Indeed planning of a municipal budget can be satisfactory only when it is based on a comprehensive city plan. New ways of communication involve considerable expenditure of money and it is important that the plan direct that expenditure along wise lines; new parks cannot be obtained without purchase, and in planning a park system the problem is to show the best locations for parks in advance of

development so that they can be selected in the right place at reasonable cost. On the other hand all the benefits of zoning that are held to be "reasonable" by the courts can be obtained without any cost; for this reason, among others, when zoning is used in combination with a complete plan it is perhaps the most important phase of city planning.

Obviously the social values of a city plan depend on its being prepared, as it should be, with the primary object of improving social and living conditions. The mere preparation of such a plan, preceded by an ample investigation of conditions and public discussion of facts and projects, has a high social value. But its greatest social values can be obtained only if it is carried into effect. If a plan is well conceived and well proportioned, if it is supported by adequate state laws and intelligently administered, it should result in promoting social values unobtainable by any other means. It should not only secure a well balanced distribution of buildings, more space about dwellings for penetration of light and air, and larger areas for public and private recreation in proximity to dwellings, the lessening of congestion, more convenient transportation facilities and greater freedom of movement for traffic; but it should lead also to the development of a wholesome community background for social life as a result of well planned neighborhood units, and greater sense of order and regard for beauty on the part of the entire population. Finally it is important to recognize that the planner cannot build the city but can only show the citizens how they should build it. In an important sense, therefore, city planning is an educational process.

THOMAS ADAMS

See: CITY; ARCHITECTURE; ZONING; BUILDING REGULATIONS; CIVIC ART; CIVIC CENTERS; SUBURBS; GARDEN CITIES; PARKS; URBANIZATION; HOUSING; PUBLIC HEALTH; SANITATION; REAL ESTATE; CONSTRUCTION INDUSTRY; PUBLIC WORKS; PUBLIC FINANCE; MUNICIPAL GOVERNMENT; REGIONALISM.

Consult: Hughes, T. H., and Lamborn, E. A. G., *Towns and Town Planning, Ancient and Modern* (Oxford 1923); Gantner, Joseph, *Grundformen der europäischen Stadt* (Vienna 1928); Haverfield, F. J., *Ancient Town-Planning* (Oxford 1913); Tout, T. F., "Mediaeval Town Planning" in *Town Planning Review*, vol. viii (1919–20) 7–36; Brinckmann, A. E., *Deutsche Stadtbaukunst in der Vergangenheit* (2nd ed. Frankfort 1921); Geddes, Patrick, *Cities in Evolution* (London 1915); Robinson, C. M., *The Improvement of Towns and Cities* (4th ed. New York 1913); Unwin, R., *Town-Planning in Practice* (new ed. London 1919); Aldridge, H. R., *The Case for Town Planning* (London 1915); Lewis, N. P., *The Planning of the Modern City* (2nd ed. New York 1923); Thompson, F. L., *Site Planning in Practice*, Oxford Technical Publications (London 1923); Lanchester, H. V., *The Art of Town Planning* (London 1925); James, H., *Land Planning in the United States for the City, State and Nation*, Institute of Land and Public Utility Economics (New York 1926); Nolen, John, *Twenty Years of City Planning Progress* (Cambridge, Mass. 1927); *City Planning*, ed. by John Nolen (2nd ed. New York 1929); Heiligenthal, Roman, *Deutscher Städtebau* (Heidelberg 1921); Sierks, H. L., *Grundriss der sicheren, reichen, ruhigen Stadt* (Dresden 1929); Rey, A. A., Pidoux, Justin, and Barde, C., *La science des plans de villes* (Lausanne 1928); Prost, Henri, and Monsarrat, G., *L'urbanisme* (Paris 1927); Dikanski, M. G., *La ville moderne* (Paris 1927); Maxwell, Bertram W., "City Planning in Soviet Russia" in *National Municipal Review*, vol. xix (1930) 604–09; McBain, H. L., *American City Progress and the Law* (New York 1918) chs. iv, v and viii; Munro, W. B., *Municipal Government and Administration*, 2 vols. (New York 1923) vol. ii, chs. xxvi-xxviii; Williams, Frank B., *The Law of City Planning and Zoning* (New York 1922); United States, Department of Commerce, Advisory Committee on Zoning, *A Standard State Zoning Enabling Act under which Municipalities may Adopt Zoning Regulations* (rev. ed. Washington 1926); Hubbard, T. K., *Manual of Planning Information* (Cambridge, Mass. 1923–28); Burnham, D. H., and Bennett, E. H., *Plan of Chicago* (Chicago 1909); Town Planning Conference, London 1910, *Transactions* (London 1911); Committee on Regional Plan of New York and its Environs, *Regional Survey and Plans*, 10 vols. (New York 1927–29); Duffus, R. L., *Mastering a Metropolis* (New York 1930). See also the *Proceedings* of the National Conference on City Planning (Boston 1910–) and *Papers and Discussions*, of the Town Planning Institute of Great Britain (London 1915–24), published since then as *Journal*.

CITY COUNCILS. *See* MUNICIPAL GOVERNMENT.

CITY-COUNTY CONSOLIDATION. *See* COUNTY-CITY CONSOLIDATION.

CITY GOVERNMENT. *See* MUNICIPAL GOVERNMENT.

CITY MANAGER. The "city manager plan," or, more accurately, "council manager plan," was instituted in Staunton, Virginia, in 1908 and became nationally important in 1914 following its adoption by Dayton, Ohio. The number of municipalities adopting this plan has grown steadily until in 1930 there were more than 400. After 1918 it spread into the larger cities, including Cleveland, Cincinnati, Rochester, Fort Worth, Miami, Grand Rapids, Kansas City (Missouri) and Norfolk. Full data concerning it are published annually in *Public Management* (Chicago), the official organ of

the International City Managers' Association.

The essence of the plan consists in the appointment by an elected council of an administrative official called the city manager, whose term of office is indefinite and in whose hands is placed responsibility for managing most city business. Specifically, the manager is authorized: to appoint without confirmation of the council the highest administrative officials and, with or without the assistance of a civil service commission, the subordinate personnel; to direct them in the performance of their duties; to discipline and remove them when necessary; to plan and guide business operations; to prepare and submit to the council the annual budget; to recommend to the council policies and programs. In short, the council manager plan theoretically places all responsibility for administrative and business operations on the manager, except that the school system is usually separately administered by a board of education.

The responsibility for making decisions concerning municipal policy, for defending such policies before the public and for furnishing the political leadership of the community is vested in the council and the mayor. The council retains full authority to enact ordinances, to make appropriations, to develop comprehensive plans for municipal development and to select and discharge the manager. The mayor loses administrative power but remains to preside over the council, to participate in its deliberations, to represent the city on ceremonial occasions and for the service of legal writs and to assume, if he chooses, the political leadership of the city. The charter usually directs that the manager be chosen without reference to political affiliation or local residence and frequently forbids the council to interfere with his duties.

This form of government, therefore, in sharp distinction to the commission plan, makes a clear separation between politics and administration and establishes a single responsible head for all business operations.

With a few exceptions it has been notably successful. A body of professional city administrators has been developed, substantially free from political considerations, governed by a high sense of obligation to the community and alert to improve their technique. Adequate popular control is insured by recurrent election of the council and by the frequent provision of the initiative, referendum and recall.

LEONARD D. WHITE

See: MUNICIPAL GOVERNMENT; ORGANIZATION, ADMINISTRATIVE; CIVIL SERVICE; COMMISSION SYSTEM OF GOVERNMENT.

Consult: Toulmin, H. A., *The City Manager* (New York 1915); *Selected Articles on the City Manager Plan of Government*, compiled by E. C. Mabie (New York 1918); Rightor, C. E., *City Manager in Dayton* (New York 1919); White, Leonard D., *The City Manager* (Chicago 1927); see also articles in *City Manager Magazine*, succeeded in 1928 by *Public Management*; and the yearbooks of the International City Managers' Association.

CITY-STATE. The term city-state is applied to an autonomous state composed of a city and its outskirts and revealing a more or less clearly defined distinction between a bourgeois and a peasant class. The outstanding examples of the city-state of antiquity were in Phoenicia, in Greece and in Italy; in the Middle Ages the most typical city-states were in Italy and on the coast of the North Sea.

At first sight the *polis* or ancient city-state seems to have been constructed according to a definite plan; in Rome, for instance, there were three ethnic tribes, thirty curias, three hundred senators. But this superficial uniformity conceals profound social variations. In many cases the tribes or clans, from whose amalgamation the city developed, had widely different customs and religions. This is true of the Albans and the Sabines, two of the constituent elements of Rome. Moreover the centuries of warfare which preceded the foundation of the *polis* left ineffaceable distinctions between victors and vanquished. The institution of helotry and the peculiar form of agrarian organization in Sparta were perhaps survivals of the Doric invasion; and it is not yet determined to what extent the line between patricians and plebeians in Rome indicates an ethnic difference.

The *polis* retained in weakened form many institutions of the larger clans: fraternities of warriors (phratry); large family associations (*genos* in Greek, *gens* in Latin); age groups; communal banquets (*syssity* in Sparta and analogous customs in Carthage and in southern Italy). The ancient division into ethnic tribes of common origin persisted in Athens until the time of Clisthenes and in Rome until the royal epoch, when they were replaced by local tribes organized on the basis of domicile. Another great change made by the *polis* in the course of its development was the liberation of the individual from the tyranny of the *genos*. The *polis* thus destroyed the essential characteristic of primitive law: family solidarity which, in making the family as a whole responsible for the wrongs

committed by each member, had been an important source of feuds and internal disturbances. G. Glotz (*La cité grecque*) divides the entire history of the city-state into three periods, determined by the changing relations of the family, the individual and the state: "In the first, the city is composed of families who guard their primordial rights jealously . . . ; in the second, the city suppresses the families with the aid of liberated individuals; in the third, the excesses of individualism ruin the city, making necessary the establishment of more extensive states."

The origin of the ancient city, the force which was responsible for its establishment, has been the subject of much dispute. In the nineteenth century Fustel de Coulanges set forth the theory that the foundation of the city was essentially a religious phenomenon. The nucleus was the family, centering about the hearth, before which the father of the family, who was also a priest, conducted the worship of the ancestors. The union of several families established the hearth of the phratry; and the union of the phratries established the hearth of the tribe. "As soon as the families, the phratries and the tribes had agreed to unite and have the same worship, they immediately founded the city as a sanctuary for this common worship" (Fustel de Coulanges, *La cité antique*, p. 177). In reality the *polis* was the result of an economic evolution. At the foot of a citadel, dating perhaps from the Mycenean age, a market was established and artisans settled. Out of two elements, therefore, the *acropolis* (with which the word *polis* was originally synonymous) and the *astu* (group of business and residence buildings located on the plain), the city developed. The progress of the cities is inseparably bound up with the development of commerce. In Phoenicia and in Greece the regime of city autonomy developed in trading cities near the sea and the achievements of these mercantile cities served as models for the communities which were still mere agricultural markets.

The institutions of a large number of ancient cities show a parallel course of development, the various stages of which may be correlated both with changes in economic structure and with the evolution of the army. At first the city was controlled by the heads of the genos, who composed an oligarchic senate, limiting the action of the king; these were the rich and noble warriors who went to battle in chariots. Later on, with the rise of a class of propertied peasants and with the growth of movable wealth caused by the progress of commerce, a timocratic constitution was established, placing power in the hands of the rich without consideration of nobility; this change coincided with the organization of phalanxes of hoplites. The difficulties involved in the transformation of a state primarily agricultural into a state primarily mercantile explain the appearance of the tyrannies. Partly as a result of the increase in personal wealth (or the lowering of the tax qualification), partly as a result of the organization of a fleet and the growth of a class of sailors, political control was transferred from the tyrants to the people. Then came into existence those direct democratic institutions which constitute the chief political peculiarity of the *polis* in this stage of its evolution and which were made possible by its narrow territorial limits: the drawing of magistrates by lot, rotation in public functions, state bounties to assist citizens in the fulfilment of their public functions, recall constantly threatening magistrates, and the power of the popular assembly both to issue decrees having the force of laws and to act as sovereign judge.

The *polis* has its mediaeval counterpart in the free commune of Italy and Flanders. While the evolution of the institutions of the commune constitutes a problem in itself the commune and the *polis* show such striking similarities in so many of their characteristics that a comparison throws light upon the inherent tendencies of the city-state. Both developed under essentially the same conditions. Just as the *polis* had its inception after the period of invasions called the "Greek Middle Ages," so the commune appeared after the Carolingian period, springing up like the Ionian and Phoenician cities near the sea or at the centers of traffic networks. Just as the constituent parts of the city-state of antiquity were the *acropolis* and the *astu*, so the commune was the product of the castle-fortress (*burgus*) and the market (*portus*) and in both cases the sanctuary was in the heart of the city. Geographical conditions played their part in the liberation of the commune from the feudal lord as they had in the protection of the autonomy of the *polis*. It was not by accident that the *polis* flourished in mountainous Greece and in the island or cape settlements of the Phoenicians; or that the free communes were usually located on strategic sites, around canals as in Flanders or on an archipelago as in Venice.

The mediaeval commune, like the city of old,

was a liberal force: as the *polis* had released the individual from the tyranny of the genos, so the commune destroyed the monopoly of freedom which the nobility had formerly enjoyed. Both ancient and mediaeval cities engendered a rigorous patriotism. The class of hereditary citizens constituted a kind of nobility, united by a strong feeling of solidarity, which found practical expression in social legislation, stipends for children orphaned by war and pensions for invalids. Such celebrations as the Panathenaean festival or the worship of St. Mark at Venice were not merely religious but patriotic. There were, however, powerful elements of disintegration, important among which was the conflict between the military and the commercial interests, resulting usually in the victory of the latter and eventuating in the replacement of the soldier citizens by mercenaries. The rival free cities were constantly in arms against one another, while family feuds were a cause of frequent civil wars. As a result of the impetus toward economic and social legislation the poorer classes tended toward communism. Abolition of debts and division of land became part of the program of the most radical groups. The social conflict was more serious in the mediaeval cities, where the artisans were organized in guilds. Another source of internal disturbance arose from the attempt to subordinate the city to the country. The struggle between the urban class and the farmers, which was developing during the autonomy of Athens and was perceptible in Carthage, became acute in the mediaeval cities.

The free commune of the Middle Ages, like some of the mercantile cities of antiquity, was not a self-sufficient organism. Because of excessive population resulting from the growth of industry and commerce the city was obliged to import most of its necessities. The state met this problem by seeking to gain control of certain imported commodities. The Athenians were permitted to load ships with wheat for Athens only and the Venetians were compelled to transport commodities exclusively to Venice. The foreign policy of the ancient and mediaeval cities was dominated by the desire to open markets for trade; their efforts were directed toward establishing fortified trading posts in foreign lands, multiplying their colonies and founding empires by levying tribute on foreign cities. Thus the commercial city became consciously imperialistic.

The city was so constituted as to render its development into a large state very difficult. Even Rome did not altogether succeed in adapting her municipal institutions to the administration of an empire. The Greek cities sought to solve the problem through the instrument of confederation. The reason for their failure is well illustrated by the case of the Boeotian cities, which in trying to extend the institutions of direct democracy outside the city-state rendered the central authority almost powerless. No less serious than these political difficulties was the weakening effect of the restrictive economic policy, which finally resulted in curbing progress and in fettering exchange. The free city, unable to withstand the accumulated strain, declined and finally disappeared.

Ancient political theorists described the city-state as agrarian rather than mercantile, and thus seriously misunderstood its essential nature. Plato subordinated the producing class to warriors and philosophers; he regarded proximity to the sea as dangerous and desired to abolish private property and even money. Aristotle considered virtue and not wealth to be the true goal of the city. As their model city-state both Plato and Aristotle unreservedly accepted Sparta, which was no more than a camp piously preserving the customs of prehistoric times and hardly deserves to be classed as a city-state. Only in modern times has the true nature of the city-state been understood. It is the modern theorists who have recognized and appreciated the importance of the merchants in the organization of the mediaeval communes. The economic factors in the development of the *polis* are more difficult to determine because of the nature of the sources available, but there is no doubt that the merchants exercised a determining influence in the growth of the cities of Phoenicia and of many of those of Greece, while in Rome the enfranchisement of the people was perhaps due in part to the activity of the merchant colony established in Aventine.

ANDRÉ PIGANIOL

See: SOCIAL ORGANIZATION; COMMUNE, MEDIAEVAL; CITY; CITIZENSHIP; TYRANNY; OLIGARCHY; STATE; GOVERNMENT; FEDERATION; COMMERCE.

Consult: Fustel de Coulanges, N. D., *La cité antique* (28th ed. Paris 1924), tr. by W. Small (12th ed. Boston 1901); Glotz, G., *La cité grecque* (Paris 1928), tr. by N. Mallinson, History of Civilisation series (London 1929), and *La solidarité de la famille dans le droit criminel en Grèce* (Paris 1904); Busolt, G., *Griechische Staatskunde*, Handbuch der Altertumswissenschaft, sect. iv, pt. i. vol. i (3rd ed. by H. Swoboda, Munich 1920–26); Francotte, H., *La polis grecque; recherches*

sur la formation et l'organisation des cités, des ligues et des confédérations, Studien zur Geschichte und Kultur des Altertums, vol. i, nos. 3–4 (Paderborn 1907); Wilamowitz-Moellendorf, Ulrich von, *Staat und Gesellschaft der Griechen und der Römer*, Die Kultur der Gegenwart, sect. iv, pt. ii, vol. i (2nd ed. Leipsic 1923); Vinogradoff, Paul, *Outlines of Historical Jurisprudence*, vols. i–ii (Oxford 1920–22) vol. ii; Mommsen, T., "Römisches Staatsrecht" in *Handbuch der römischen Alterthümer*, ed. by J. Marquardt and T. Mommsen, 3 vols. (3rd ed. Leipsic 1887–88); Pöhlmann, R. von, *Geschichte der sozialen Frage und des Sozialismus in der antiken Welt*, 2 vols. (3rd ed. by F. Oertel, Munich 1925); Barker, E., *Greek Political Theory* (London 1918); Gsell, S., *Histoire ancienne de l'Afrique du nord*, vols. i–viii (Paris 1913–28) vol. ii; Pirenne, H., *Medieval Cities, their Origins and the Revival of Trade* (Princeton 1925), and *Les anciennes démocraties des Pays-Bas* (Paris 1910); Arias, Gino, *Lo sistema della costituzione economica e sociale nell' età dei comuni* (Turin 1905).

CIVIC ART is a term which is most properly applied to the entire aesthetic aspect of the city. Many of the most important elements of civic art, such as the pattern of the streets, the grouping of buildings in functional zones, the provisions for open spaces and parks, the entrances for various means of transportation, are fundamental considerations in programs of city and town planning. But there are many other factors. These include not only the specifically monumental parts of the city, such as its statues, memorials or public buildings, but also many of its more strictly utilitarian features such as street names, lighting fixtures, transportation facilities, letter boxes, fire alarms. The character and harmony of residences and public buildings and the nature of street advertising are other important aspects of a city's appearance. It is the nature of the entire composition, including all such elements as these, that determines the quality of civic art.

In the classic city the importance of local deities and other gods caused a concentration of temples and monuments on a dominating site, usually a place of final refuge in war, and other civic structures such as theaters, choragic monuments, basilicas, were grouped about the same site. The residential districts were aesthetically of relatively small importance. In the mediaeval city the market place or the cathedral square or the castle hill were the places where civic pride was concentrated; great resources were lavished on the guild hall or the cathedral, toward whose towers or spires the animated silhouette of domestic roofs and chimneys drew the eye. Except in the classic cities of the Alexandrian period or bastides of the fourteenth century the street pattern was informal and the simple vernacular buildings served as a sober background for a splendid public art.

The Renaissance made several distinct changes in the appearance of cities: it created the open plaza; it made the formal garden an accessory of civic architecture; it grouped the finer types of residence around small parks or squares; and by opening up and formally arranging the avenues it created a street picture of perspectives and distances. These avenues often terminated in squares, crescents, circles and stars; and the proper embellishment of the plan with statues, monuments and public buildings became of great importance. The impulse responsible for the civic art of the Renaissance was that of an oligarchy seeking to embody in public building the good manners and humanistic cultivation of the gentleman. What lay behind the façades was neglected, however, and hence the imposing residential quarters of seventeenth century Paris or eighteenth century London often concealed dilapidated workers' houses, dingy backyards and mews.

In the nineteenth century, with the rise of machine industry, the proportion of urban space dedicated to industrial enterprise was increased. The little handicraft shop was replaced by the large factory, supplied with fuel and materials brought in by rail; large sections of the new city were brought hastily into existence without any consideration for the relation of the prevailing winds to smoke, the isolation of noxious industries, the zoning of manufacturing and commercial areas or the segregation of noisy and dirty industries. With occasional exceptions the new railway stations, factories, office buildings, department stores and iron bridges, though they often occupied dominant sites, were erected with as little thought for group harmony as for architecture. The mere push of enterprise brought into the very heart of the industrial city vast railroad yards which occupied valuable land, cut across the natural lines of growth, broke up the coherence of the civic whole and contributed noise, dirt and congestion. With paleotechnic industry came a large population on the margin of subsistence, the housing of which in tenement houses like those of Glasgow, Berlin and New York, in monotonous rows as in London, Manchester and Philadelphia or in boxlike shacks as in the smaller middle western towns, was a final negation of civic conscience.

The first self-conscious attempts at civic art in America were in devising cities of Renaissance

pattern, as in Penn's original plan of Philadelphia and L'Enfant's Washington; but the most successful examples of the actual existence of civic art occurred before 1800 in New England towns like Sharon, Amherst, Newburyport, Stockbridge, where open spaces, public buildings like the church and the school, dwelling houses and the mill or tannery were unified by a coherent pattern, the common quality of the building and the connecting arcades of trees. The effort to achieve such beauty in design disappeared early in the nineteenth century, and by the middle of the century the chaotic ugliness of the new quarters of cities called attention to the need for a deliberate program of civic art. This was first manifested in the planning of Central Park, New York, 1856; later of Fairmount Park, Philadelphia; and finally in the masterful metropolitan park systems of Kansas City and Boston. Another important influence was the Chicago World's Fair in 1893. This gave an impetus to a widespread effort to achieve the order and dignity of Renaissance planning, particularly through the creation of civic centers, such as those subsequently erected in Cleveland, San Francisco, Denver and Springfield, Massachusetts. Meanwhile some of the essential problems of modern civic art were being altered. The skyscraper introduced a new dimension into the city plan which had no relation to Renaissance scale and design; and the preemption of desirable sites by such monuments of business enterprise as office buildings and hotels often made more difficult the problem of the grouping of important public buildings.

In the actual administration of civic art projects commissions for city planning and civic centers are necessarily concerned to some degree, but there are also many agencies whose activities are directed primarily toward improving the aesthetic aspect of cities. This cannot be done with any measure of success unless the fundamental requirements of utility, convenience and sanitation are also taken into account, but where officials and laymen work together with artists there is little likelihood that these considerations will be forgotten. Municipal art commissions have been founded in nearly all cities of the United States since the early years of the twentieth century. Almost invariably the scope of their activities is limited to advice and judgment concerning land and structures "of a permanent character intended for ornament or commemoration" and belonging to or about to belong to the municipality. Thus limited, the activities of such commissions can come within the police power, but their interference on purely aesthetic grounds with any objectionable use of private property is almost unanimously overruled by the courts. A typical decision of this character argues: "However desirable it may be to encourage an appreciation of the beautiful in art and to cultivate the taste of the people of the state, still it has never been the theory of our government that such matters could properly be enforced by statute when not connected with the safety, comfort, health, morals, and material welfare of the people. . . . The courts of this country have, with great unanimity, held that the police power cannot interfere with private property rights for purely aesthetic purposes" [Haller Sign Works *v.* Physical Culture Training School, 249 Ill. 436 (1911)].

Whether the police power may eventually be extended to include offenses to the eye within its jurisdiction, as offenses to other senses are now included, whether a constitutional amendment will be necessary in order to achieve such supervision or whether the people of the United States will continue to insist on this expression of personal liberty, is not yet clear. There have been occasional signs, however, that the concept of police power may be found once more to be extensible to the uses in hand. A significant indication of possible future trends is the fact that the Planning Act of 1927 in California, in addition to the customary provisions for general city planning, provides also for "the improvement and control of architecture and general embellishment of the area under its jurisdiction."

Another impediment to the success of municipal art commissions is their tendency toward stale "official" art. Usually their membership includes not only ex officio municipal servants but also a representation of artists and competent laymen. This provision, however, has not always resulted as satisfactorily as might be hoped. The earlier commissions frequently tended to favor the feeblest kind of classic or Renaissance design for civic monuments and this attitude did much to undermine their authority. Their attempts at the "City Beautiful," as their movement was called, were further discredited by the superficial character of many of their projects and their indifference to civic art as a whole.

Great strides have nevertheless been made in recent years and there are indications that a more informed taste is being directed toward the

problems of civic art. There has been no more effective contribution to civic art in America than the New York ordinance for limiting the heights of buildings and ensuring a modicum of sunlight and air in crowded skyscraper areas; nothing could further modern civic art more than an attempt, such as has been suggested by Le Corbusier in France and Raymond Hood and Henry Wright in America, to space and limit high buildings in relation to the needs of traffic, transportation and full access to sunlight. The improved design of stations on the new subways of Boston and New York, the improvement of both color and design in the modern gas tanks of New York, the unified design of the municipal piers of Manhattan and the Army Supply Base in Brooklyn, are the earnest of a civic art that springs directly out of contemporary needs.

The interests of civic art have also been served incidentally by institutions of a non-official or semi-official character. These are of various types: neighborhood business organizations such as the Association for the Protection of Fifth Avenue in New York; local civilian organizations concerned with good pavements, clean streets, trees and standard quality in residences; professional societies of architects, painters, sculptors and landscape gardeners; national associations such as the American League for Civic Improvement; women's clubs; and periodicals devoted to municipal affairs and public improvements. Sometimes the activities of such organizations are impelled largely by real estate interests or town boosting and in many cases their success also has been limited by the artistic incapacity of their members, but altogether their activities are doing a great deal to improve the aspect of urban communities and also to convince the public of the need of such improvement.

European countries, less hampered than the United States by constitutional restrictions, have been considerably in advance of the United States in control of matters relating to civic art. The movement began there earlier and has made further progress. Official supervision of private building is a matter of course in European cities and frequently professional artists serve as expert advisers. City planning commissions are particularly aware of the artistic possibilities of their activities, an attitude which is not always conspicuous in the United States.

In the future efforts toward the improvement of civic art will probably be concerned with the development of the city as a whole and not merely with grand avenues, civic centers or monuments. Among the objectives of such a program will be the full utilization of natural features, such as hills and waterfronts, making them subserve health and recreation as well as such commerce as is necessary; the planning of neighborhoods as units, related to playgrounds, parks, schools, libraries and local shops, instead of as a nondescript part of a larger unit; the establishment of a high standard of group housing; the zoning of factory districts and commercial districts and their maintenance at a high level of cleanliness and order; the electrification of railways that enter the heart of the city and the appropriation of the space above the tracks for building or parking space; the elimination of every form of competitive advertisement in public places and the limitation of necessary signs to a height and color harmonious with the street picture; the planning of new parts of the city with relation to their aspect from the air as well as the street and the establishment of important functional centers and building sites in advance of the street plan; the insulation of residential sections from main traffic arteries; and the provision of more or less continuous park belts free from vehicular traffic for the use of pedestrians and children at play. Most of these objectives are now incorporated in the English garden cities, Letchworth and Welwyn, and in the new American exemplar, Radburn; and they have been adopted in part by other cities. In such a program the monumental aspects of civic art are reintegrated with the development of the city as a whole.

LEWIS MUMFORD

See: CITY AND TOWN PLANNING; ARCHITECTURE; ART; PUBLIC WORKS; BUILDING REGULATIONS; ZONING; CIVIC CENTERS; GARDEN CITIES; CITY; URBANIZATION; REAL ESTATE; CIVIC ORGANIZATION.

Consult: Unwin, Raymond, *Town-Planning in Practice* (new ed. London 1919); Robinson, C. M., *Improvement of Towns and Cities* (3rd rev. ed. NewYork 1909); Jeanneret-Gris, C. E. (Le Corbusier), *Urbanisme* (8th ed. Paris 1929), tr. by Frederick Etchells as *The City of To-Morrow and its Planning* (London 1929); Hegemann, Werner, and Peets, Elbert, *The American Vitruvius: an Architects' Handbook of Civic Art* (New York 1922); Maltbie, M. R., *Civic Art in Northern Europe* (New York 1903); Sitte, Camillo, *Der Städtebau nach seinen künstlerischen Grundsätzen* (5th ed. Vienna 1922); Wolf, Paul, *Städtebau* (Leipsic 1919); New York City Art Commission, *Laws Relating to Art Commissions* (New York 1914); Freund, Ernst, "Some Inadequately Discussed Problems of the Law of City Planning and Zoning" in 21st National Conference on City Planning, *Papers and Discussions; Planning Problems of Town, City and Region* (Phila-

delphia 1929) p. 79–96; Stanton, Stephen Berrien, "Private Rights and Civic Beauty" in *Unpartizan Review*, vol. xiv (1920) 130–40.

CIVIC CENTERS represent one of the earliest forms of civic achievement. The Forum and the Acropolis were the civic centers of Rome and Athens, respectively, and there was scarcely a city in the ancient world without what might be called a civic center, in which on important occasions the people assembled. The finest examples of modern civic centers are to be found in Europe, such as the new civic buildings in Vienna and Stockholm and the town centers in the modern English garden cities like Letchworth and Welwyn. In the United States, too, are several notable civic centers. In many American cities plans have been prepared for civic centers in connection with comprehensive city planning projects. Among the more notable are those of Cleveland, Ohio; Hartford, Connecticut; Denver, Colorado; the Gateway Park of Minneapolis; San Francisco, California; Springfield, Massachusetts; the Art Museum and other cultural buildings on the Philadelphia Parkway; the capitols of Minnesota, Nebraska and other states. The crowning achievement in the United States in the planning and construction of public buildings is the National Capitol at Washington.

Civic centers are not necessarily confined to public buildings for strictly governmental purposes but often include buildings devoted to art, music and the drama. As such they constitute an essential element in city development, and of first importance is their location with regard to the city as a whole. They may be grouped as one center or as various centers, formally or informally, according to the local requirements and the opportunities for convenient and interesting development. Public buildings forming the civic center are rightly placed when grouped in economically suitable locations readily accessible to the public. The great increase of traffic in modern cities necessitates avoidance of excessive centralization of buildings, especially if they include large assembly halls.

As one of the chief problems in the planning and development of cities is the provision for their growth, the location of public buildings should be designed with reference to the expansion of the city. Municipal buildings, court houses, halls of record and buildings of similar character are naturally located near or within the central business district. Custom houses and post offices, however, are more closely connected with the railway and waterway terminals, although it is important that a branch post office should be readily accessible from the shopping district. Public libraries, law courts, municipal auditoriums and other buildings of like nature may be suitably located on the edge of the business district, and in some cases within important residential districts. In any case these buildings should be somewhat removed from the downtown business center.

The location of public buildings naturally depends upon the general structure of the city, especially the street system and transportation. While civic centers may be advantageously placed on prominent streets in a rectangular system or composed with principal intersections in an irregular system of streets, yet for the most important groups the best location is at a focal point where more than two thoroughfares come together.

Civic centers gain from a well ordered and attractive grouping of buildings numerous and varied advantages. They include such factors as additional convenience in the transaction of both public and private business; the reduction to a minimum of the interference of public buildings and grounds with private business property and general business interests; recognition in the location of the civic center of one of the most important features of a natural zoning system carrying with it incidental advantages in building requirements and fire protection; economy in the purchase of a larger tract of land which can be acquired at lower rates; better use of the same amount of land as a result of a skilful grouping of buildings; more permanence of the civic center and therefore greater stability of land values in the zone in which the public buildings are located; the securing of a margin of land for future expansion and adjustments without unnecessary expense as the need for additional public buildings develops. The grouping of municipal buildings in one center serves also as a check upon speculative interests and reduces or eliminates much of the delay and bitterness which often result in clamoring over the selection of a site for each new public building. A logical place having been selected, the erection of buildings from time to time follows as a matter of course in accordance with a preconsidered scheme. A municipality also gains financially from increased taxes due to the higher value of property near a permanently established civic center. This provides a neighborhood for the erection

of hotels, theaters and office buildings, which naturally seek locations adjacent to an attractive civic center group with its surrounding open spaces and parks.

Again, an attractive and well planned civic center brings large dividends in aesthetic pleasure when the city invests in architecture and other forms of outdoor civic art. A better effect can be secured for the same money, or an equally good effect for less money, than would be possible in the case of buildings without orderly relation to each other. An effective combination of architecture, sculpture, landscape architecture and gardening in a single harmonious composition is possible in such a center. This grouping permits municipalities to engage more highly qualified and experienced men to make plans. A unified civic center can be made to provide not only suitable locations for civic sculpture and the appropriate adornment of open spaces but also facilities for the incidental requirements of parking space for automobiles, convenient trolley car and bus transfer points and public comfort stations.

A civic center needs a dominant feature or building and should be so placed as to provide for a good vista along the main street or axis of the plan. There should be a proper sense of scale in the relation of the shapes and sizes of the open spaces to the shapes, sizes and locations of the surrounding buildings. Good results require harmony of materials and of architectural styles and unity of the composition as a whole. The problem of protecting the integrity of civic centers against the encroachment and greater height and dominance of commercial buildings is particularly difficult in the United States. The principal measures that can be used by municipalities are zoning and the acquisition of sufficient property by the city to control the outlook and environment of the civic center.

Civic centers cannot be standardized. They should be distinctive and individual and expressive to some extent of the special character of the city itself—its climate, its population, its needs. The problem of a city's buildings is always a local one and must be worked out, if it is to be successful, from a careful survey of local conditions. In all cases, however, the problem must be stated with regard to the conditions as a whole and with a foresight that takes into account the city's growth. Above all, a civic group should be so placed and designed as to stimulate local patriotism and civic pride. It nourishes civic life, without which a city cannot truly grow and flourish. A well conceived civic center aids a city in its competition with other cities. It gives form to community efforts and inspires and guides the development of private property.

JOHN NOLEN

See: CITY; CITY AND TOWN PLANNING; CIVIC ART; COMMUNITY CENTERS; MUNICIPAL GOVERNMENT.

Consult: Bennett, Edward H., "Public Buildings and Quasi-Public Buildings" in *City Planning*, ed. by J. Nolen (2nd ed. New York 1929) ch. v; Koester, F., *Modern City Planning and Maintenance* (New York 1914) p. 20–36; Robinson, C. M., *Modern Civic Art* (4th ed. New York 1918) ch. v; Unwin, Raymond, *Town-Planning in Practice* (new ed. London 1919) ch. vi; Warner, J. de W., "Civic Centers" in *Municipal Affairs*, vol. vi (1902) 1–23; Lewis, Nelson P., *The Planning of the Modern City* (2nd ed. New York 1923) ch. viii; Mawson, Thomas H., *Civic Art* (London 1911) ch. vii; Hegemann, Werner, and Peets, Elbert, *The American Vitruvius: an Architects' Handbook of Civic Art* (New York 1922) p. 133–51.

CIVIC EDUCATION, in the broader sense, is the process of passing on to successive generations the traditions of a community. As in other social processes there is in education a tendency to supplement and replace habitual and unconscious procedures by conscious and rational methods. Such an increase in rationality and purposefulness of education may be detected even in the more or less elaborate religious cults which succeeded the cults of the tribe and the family. These religious influences were an important factor in the development of the political homogeneity in antiquity and the Middle Ages. In antiquity they were felt through the absorption of all religious cults in the city-state, and in the Middle Ages through the intellectual and moral predominance of the church over all political communities.

Civic education, in the narrower sense of the term, dated from early modern times when with the destruction of the world wide citizenship of the Christian *Civitas Dei* the secular governments became concerned with fostering, on a markedly secular plane, the tradition of civic allegiance. The task was difficult. For a long time governments failed to develop a school system of their own which should replace or at least compete with the age old educational institutions of the church. The churches, on the other hand—even the Protestant cults—clung tenaciously to their first claims on the minds of men, in England and in America perhaps more forcefully than in Lutheran Germany and Scandinavia. The chief difficulty, however, was found in the fact that "nationality" as the basis

of the modern secular state was often a doubtful and artificial aggregate of smaller but older racial and territorial communities. The new education in that period, just as after the World War, was therefore forced to assert itself against two opposing forces. It conflicted not only with the older allegiances to communities whose sovereignty, merged in that of the nation state, might be revived in regional, sectional or "pluralistic" aspirations but also with the newer allegiances to cosmopolitan ideals: the pacifist strivings for a *comitas gentium* or the more realistic attachments to various red, gold, black and green "internationals."

While the early modern state as the absolutist guardian of its subjects was scarcely aware of this struggle, a complete realization of its import was inevitable with the progress of modern democracy. For democracy as such not only involves a considerable advance in the rationalization of social and political relations, but the revolutionary triumphs of democracy—from the French Revolution to the revolutions at the close of the World War—have brought about a shift in the opposite direction—the first great transference to the political field of passions that were previously virtually monopolized by religion. The state, however, made but slow progress in asserting its supremacy. In France the revolutionary program for the *laïcisation* of education was not carried out until legislation at the end of the nineteenth century effected the separation of church and state. Even at present there are in France both advocates and critics of secular education, and, paradoxically enough, the cult of nationalist ideals is particularly pronounced among the proponents of religious education, who combine it with loyalty to the Catholic church. In post-war Germany the multiplicity of conflicting ideals led the National Assembly of 1919 to embody in the Weimar constitution a remarkably comprehensive provision (article 148) enjoining all schools to develop "moral education, civic sentiment [*staatsbürgerliche Gesinnung*] and personal and vocational efficiency in the spirit of the German national character [*Volkstum*] and of international conciliation [*Völkerversöhnung*]." It provides also for the introduction of civics and manual training as compulsory subjects and for the distribution of copies of the constitution to graduates of the schools.

Modern governments encounter a still further difficulty in attempting to utilize civic education for their exclusive benefit. Instead of succeeding as sole heirs to the educational monopoly of the church they have had to divide the inheritance with a large number of other spiritual powers, likewise bent upon molding the modern secularized communities. Among these powers political parties and the press, which was at first almost entirely in the service of parties, were of quite special importance, because the less they shared the views of the government and the ruling classes the more strenuous was their devotion to questions of civic education. Thus the liberal bourgeoisie of Europe and America, when in opposition to the older aristocratic systems of government, had the formidable advantage of directing civic education along lines of modern scientific training. The next wave of political opposition, that of the more or less socialistically minded working classes, lacked this new educational content, but it had the compensatory advantage of securing the adherence of the masses through an elaborate technique of open and secret agitation, supplemented by the training of speakers and itinerant lecturers. The continuous development not only of the press but of the cinema, radio and many other vehicles of public education and propaganda into self-sufficient and self-supporting services seems to open an ever widening competitive market where all types of old and new creeds, political and non-political, can hope to win public attention and government support and thus to become fairly important factors in the molding of national types.

At present the question of the educational supremacy of the modern state, already foreshadowed in the principle of state control of all education, appears to have reached a new and critical stage. The non-European governments, particularly that of the United States, confront the necessity of building up out of innumerable racial and social groups at least a likeness of the European nation state. In Europe the governments created by the political revolutions, like the Bolshevist or the Fascist, face the task of tightening the reins of educational freedom in order to extinguish in the germ counter-revolutionary ideologies and to foster new mental attitudes. In each case, however, the requirements of the situation may be totally different. In America the assimilation of immigrant stocks and colored races is complicated by the relative absence of social stratification and the excessive mobility of the population. In Russia the task is to educate rapidly by "American" methods of organization and publicity an illiterate and not

easily accessible peasantry to a rationalistic creed like Marxism. In contrast to this, the Fascist government in Italy is attempting the emotional training of a western nation, half liberal and half Catholic in temper, for an all inclusive form of proud, conscientious and combative nationalism. In addition many other features of modern civic education may be shared in common by various countries, for example the constantly recurring contrast between militarist-nationalist and pacifist-internationalist programs, the general trend away from differentiated social and regional types toward a stereotyped mass, and the significance of modern preventive and educative repression of crime as an agency in the healing of social conflicts. Even the newer, least established parts of modern civic education exhibit the restless activity of society in substituting new allegiances and ideals for old.

CARL BRINKMANN

See: CITIZENSHIP; OBEDIENCE, POLITICAL; LAW ENFORCEMENT; PATRIOTISM; NATIONALISM; INTERNATIONALISM; REGIONALISM; ANTICLERICALISM; ASSIMILATION, SOCIAL; AMERICANIZATION; EDUCATION; PROPAGANDA; CONFORMITY; BOYS' AND GIRLS' CLUBS; CIVIC ORGANIZATIONS.

Consult: Weber, E. A., *The Duk-Duks, Primitive and Historic Types of Citizenship* (Chicago 1929); Hayes, Carlton J. H., *France, a Nation of Patriots* (New York 1930); Scott, J. F., *Patriots in the Making* (New York 1916); Gaus, J. M., *Great Britain, a Study in Civic Loyalty* (Chicago 1929); Sloane, William H., *Die politische Erziehung des jungen Amerikaners*, Schriften der Wheeler-Gesellschaft zur Erörterung von Fragen des deutschen und ausländischen Bildungswesens, no. i (Berlin 1914); Eckert, Christian, "Staatsbürgerliche Erziehung" in *Jahrbuch für Gesetzgebung, Verwaltung und Volkswirtschaft im deutschen Reich*, vol. xxxvi (1912) 1321–63; Clough, Shepard B., *Making Fascists* (Chicago 1930); Harper, S. N., *Civic Training in Soviet Russia* (Chicago 1929).

CIVIC ORGANIZATIONS. Civic organization is the generic term applied to any nonpartisan group of citizens who have associated themselves for the furtherance of some public cause or enterprise. Such organizations multiply their numbers in accordance with the increasing complexity of political, social and economic relations; hence they are most numerous in urban areas where this complexity is greatest. In large communities the individual citizen feels a sense of helplessness in the protection of interests which may be affected by public action. His business, his property, his means of getting to and from his work, his family life, his health, his recreation and his personal liberty may be adversely touched by the laws and ordinances unless he has organized to forestall such action.

Nearly all civic organizations, therefore, are pressure groups. This does not mean, however, that their purposes are necessarily selfish. On the contrary, the aims of many civic organizations are related to the ideals and not to the self-interest of their members. The objective may be one immediately to be reached, such as the voting of bonds for a new city hall, or it may be some distant goal, such as the carrying out of a new city plan. It may be an objective which concerns only a small section of a single municipality or it may be one which attracts support on a nation wide scale.

In some measure the growth of civic organizations has been due to the shortcomings of democratic government under the party system. It is the theory of democratic government that the individual citizen can exert a sufficient influence upon the direction of public policy through his membership in a party organization supplemented by his right to a free exercise of suffrage at the primaries and at elections. This assumption may have been warranted in earlier days, when the public authorities concerned themselves with relatively few, simple, easily comprehended problems of a political nature. Under the conditions of today, however, the problems of public policy are neither few, simple nor easily comprehended. This is especially true of the cities. What we call problems of politics are for the most part problems of economic and social amelioration. On such issues the membership of a political party is divided and subdivided into almost innumerable smaller groups of interest and opinion which do not feel that they can function effectively through the major organization.

Many civic organizations, indeed, owe their existence to the perversions of party government, especially in the large municipalities. Party machines, when they get control, place the advantage of the politician above the interests of the citizen. The result is that men devoid of administrative skill and training are put into positions of large responsibility. Popular distrust in the capacity of municipal and state officials is the mainspring of that host of civic organizations whose objectives are to keep taxes down or to prevent needless borrowing on the public credit or to endorse candidates or to insure honest elections or to keep close tab on the award of contracts or to secure the publication of assessment lists.

While it is possible to group American civic

organizations under several headings, it must be borne in mind that no classification can be hard and fast, for there are many organizations which shade over the line from one type into another. It is also to be remembered that while an organization may profess a certain creed of aims and purposes its activities may be in fact considerably removed from the purposes declared. The Tammany Society or Columbian Order, to take a conspicuous example, is still by profession an organization engaged in work of social benevolence.

First, there are certain organizations which may be called semi-official because their membership consists entirely or almost entirely of persons who hold positions in the public service. Sometimes they are intercity organizations such as associations of mayors or of city managers. Within individual cities, moreover, there are organizations of public school teachers, policemen, firemen, street employees and so on. The activities of these organizations are in part constructive but in larger part protective. They aim to acquaint their members with new developments in their respective fields of work and thus to promote group efficiency, but they are more deeply concerned as a rule with the securing of increased pay, fewer hours of work and the protection of their members against unjust dismissal.

In many cases these organizations are to all intents labor unions and some of them are affiliated with the American Federation of Labor. This affiliation is regarded as unobjectionable in the case of street employees and workers in the other physical departments of municipal administration such as buildings, parks and sanitation. But in the case of school teachers it has sometimes been frowned upon by the educational authorities, and as respects policemen the objections to outside affiliation are deemed so strong that in many cities it is forbidden. In the United States there is no general federation of municipal employees' organizations similar to that which has been built up in Great Britain as the National Association of Local Government Officers.

The higher administrative officials in American cities have, however, created various national organizations for the discussion of their own special problems. Thus the International City Managers Association includes most occupants of this position in the cities of the United States and Canada. Heads of municipal departments have such associations as the American Institute of Park Executives, the American Society for Municipal Improvements, the International Association of Street Sanitation Officials, the International Association of Chiefs of Police, the American Association of Port Authorities and many others of the same sort. These organizations hold meetings annually or oftener with papers and discussions on matters of professional interest. Some of them have their own periodical publications.

Other semi-official organizations draw their membership in part from the higher administrative officers of the cities but in larger part from those lay professions which come into frequent contact with municipal administration. Such, for example, are the National City Planning Conference, the National Conference of Social Work, the American Waterworks Association, the National Tax Association and the American Public Health Association. These bodies draw into their conferences large numbers of professionals and laymen who are especially interested in landscape architecture, social work, water supply, taxation and public health respectively.

One of the notable developments of the past quarter century has been the new emphasis placed upon scientific research as a pathway to civic betterment. This development began in 1906 when the organization which was incorporated the next year as the New York Bureau of Municipal Research began to undertake thorough studies of various civic problems chiefly of a technical nature. The results of such studies were used in two ways: first, to show public officials the opportunities for improvement within their own departments, and second, to educate the municipal citizenship in matters which are too complicated for the average voter to understand without guidance. The success of the work of the New York Bureau soon led to the establishment of similar research bureaus in other cities, some of them supported by private contributions, others maintained by regular appropriations from the public treasury. Most of the larger American cities have now provided themselves with organizations of this character although they are sometimes known as Bureaus of Public Efficiency or Bureaus of Public Administration. Meanwhile the New York Bureau undertook to carry on investigations and to make surveys in other cities when requested to do so. In this way its work enlarged to a national scale and it changed its name to the National Institute of Public Administration.

The value of research as the initial step in any proposed civic betterment became recognized by some of the larger chambers of commerce, taxpayers' associations and citizens' leagues. In most of the larger cities the chamber of commerce now maintains a committee on municipal or on metropolitan affairs with research facilities as a basis for its work. Some taxpayers' organizations, such as the California Taxpayers' Association, make research their chief activity and devote to it large appropriations each year. Various state leagues of municipalities have also provided themselves with research departments. Finally, there has been set up in Washington an Institute for Government Research maintained by private contributions with the object of making thorough studies into the mechanism and methods used by the national government in carrying on its varied activities. It has published a large number of books and service monographs embodying the results of its studies.

The rapid development of these institutions of governmental research all over the country disclosed the need for some central organization which would serve as a clearing house to prevent needless duplication of work by the individual bureaus. For this purpose the Government Research Association was organized. It is made up of governmental research bureaus and institutes throughout the country, holds an annual conference and endeavors to correlate the work of its constituent members.

A third and very large group of civic organizations consists of those which are maintained for the purpose of promoting specific measures of governmental reconstruction and reform. These specific purposes cover a wide range and are of such variety that it would be impossible to make any comprehensive classification of them. A few examples, however, will serve to indicate their scope and methods.

Nearly all problems of government have financial implications and most of them have a bearing upon the tax rate. Hence the largest single category of civic organizations is made up of those which have as their principal aim the continuous scrutiny of public expenditures with a view to inducing economies and keeping the tax rate within bounds. There are taxpayers' leagues or associations in most of the states as well as in nearly all the larger cities. These leagues differ greatly in organization and in the methods which they employ. Some are mainly concerned with the definite and immediate problem of keeping the tax rate down, others with a reform of the tax laws, still others with the task of getting better returns for existing public expenditures. In this connection mention should be made of the real estate exchanges and realtors' associations whose members have a special interest in the rate of taxation on real property and in the methods by which special assessments are levied to pay for public improvements. A few taxpayers' organizations have as their objective the substitution of one type of tax for another, particularly the substitution of income taxes for taxes on intangibles. A few are propagandists for the adoption of the single tax.

Another large group of civic organizations is composed of those which are concerned with the specific problem of improving the personnel of public administration by the more extensive use of the merit system. They are known as civil service reform leagues or auxiliaries, and most of them are affiliated with the National Civil Service Reform League. Unconnected with these organizations but with much the same ends in view is the Bureau of Public Personnel Administration, a privately supported institution which renders advisory assistance to state and local civil service commissions in the administration of the merit system.

Nearly every serious problem in state or local government provides the incentives for a civic organization to help deal with it. Thus the problem of securing a wieldy ballot at elections has given rise to the Short Ballot Association, while the quest for an adequate representation of minorities has resulted in the formation of the Proportional Representation League. There are national organizations to promote the adoption of the initiative and referendum (National Popular Government League) and to prevent the granting of too favorable franchises to public utilities (Public Franchise League). Another national organization is engaged in promoting the cause of municipal ownership (Public Ownership League of America). There are also a National Smoke Prevention Association, a Playground and Recreation Association of America, a National Housing Association and a National Highway Traffic Association.

In individual cities, moreover, there are local problems which seem to call for organized effort on the part of those interested; hence the large number of civic associations with aims which are specific, local and immediate, such as harbor improvement, the abolition of grade crossings, the launching of a publicity campaign to make

the city better known, the annexation of some neighboring municipality, the adoption of an improved system of traffic regulation, the abatement of some specific nuisance and so on. From city to city these organizations differ greatly in number and in their specific aims. Many of them, moreover, have objectives which concern only a small portion of the municipality, usually some outlying section.

Chambers of commerce, boards of trade and merchants' associations are organized primarily to promote the interests of business within their respective communities. They endeavor to attract new industries, to exploit the commercial advantages of the region and to enhance the local business prosperity by every legitimate means. To secure these results, however, it becomes essential that the local tax rates shall not be excessive and that the borrowing power of the municipality shall not be injudiciously used. Hence these commercial organizations find themselves drawn into contact with the public authorities on questions relating to budgeting, borrowing and new sources of public revenue. Usually they maintain special committees which represent the interests of the organization in all such matters and the part which they assume in the molding of public policy is often a very large one, especially in the smaller cities. The same is true of the so-called service clubs—Rotary, Kiwanis, Lions, Optimists. Although their aims are not primarily civic in the customary sense of the term they are often mobilized to promote some public proposal, such as a bond issue or a new charter. Since the adoption of woman suffrage, moreover, there has been a rapid growth of women's civic leagues and similar organizations.

Finally, there is the broadly reformist type of civic organization, including all those which do not seek to bring about some individual or specific result but are impartially concerned with the improvement of public administration in its manifold phases. The National Municipal League and the American Civic Association are examples of such organizations on a national scale. Similarly there are many state organizations whose function is to procure betterments in the structure and methods of state and local administration. Virtually all of the larger cities and many of the smaller ones have civic organizations of this type which function within the municipal boundaries. Such are the Good Government Association of Boston, the Municipal Voters' League of Chicago, the Civic League of Cleveland and the Municipal League of Los Angeles.

A word ought to be added concerning those titular civic organizations which merely serve as screens behind which self-seeking private interests are able to operate in the name of moral uplift or civic patriotism. Such bodies, with alluring names, are active in all parts of the country. They are financed in each case by a few corporations or individuals with selfish ends to serve but who naturally find it advantageous to push their propaganda under the cloak of altruism while they themselves remain out of view.

Comparing the situation in the United States with that which exists in the countries of Europe one finds that American civic organizations are much more numerous, more varied in their activities and more energetic in their work. The reasons for this may be found partly in the American penchant for organization and partly in the strong individualism which characterizes American public policy. In European countries the tendency is to let officialdom take the initiative rather than to have it assumed by groups of private citizens. The collectivist and paternal spirit in European government has procured for the people at the hands of the public authorities many things which in America have been left to private auspices. Of considerable importance, moreover, is the European practise of using lay citizens on official boards and commissions to represent such business or sectional interests as may be directly or indirectly involved. Finally, the need for group pressure upon government in the interest of economy, honesty and decent administration has not been so great in Europe as in the United States. Civic organizations to cope with such sinister phenomena as the spoils system, police corruption, public extravagance, dishonesty at elections, the debauchment of local politics by public utility corporations, tax evasion, crime waves, ring rule, bossism and the rest—such organizations have not been urgently needed in Europe because the conditions which called them into existence here have rarely existed there.

The methods used by civic organizations in the United States are as varied as their names and purposes. But in general there are three channels through which they all seek to operate. The first is by a liberal use of printers' ink. Some of them have their own regular publications which are sent free to their members. Others get out pamphlets, circulars and booklets from time to time and distribute these widely. This activity

is customarily known as a campaign of education. A second method is the focusing of direct pressure upon congressmen, members of state legislatures and city councilmen. Through paid officials or by delegations of members the various civic bodies appear before legislative committees or at public hearings to urge their aims or to voice their protests. Most of them make it a point to follow closely all projects of legislation and the larger organizations often retain salaried legislative agents or lobbyists for this purpose. Pressure is also exerted upon the legislators through indirect channels—by stirring up voters in their home districts to send telegrams and letters of advocacy or protest, by communications to the newspapers, by the procurement of editorials and often by enlisting pressure service from financial institutions which can influence individual legislators. A third method is by active participation in the nomination and election of candidates for public office. Some civic organizations inspire and arrange candidacies; others content themselves with endorsing or publicly stating their disapproval of such candidates as are put forward by the party organizations. This action may be and usually is followed up by campaign work and contributions to secure the election of those who have been endorsed.

The civic organizations of the United States run far into the thousands. Their combined membership must mount into the millions. Together they spend a very large amount of money each year. Yet the results which they have obtained and are obtaining do not seem to be commensurate with their strength and financial outlay. For this there are several reasons. To begin with, civic effort is overorganized in America. There is a considerable duplication and overlapping of work, involving a waste of energy and funds. There has been much working at cross purposes. Many organizations have purposes which clash with one another—for example, one of them seeks to shorten the ballot by reducing the number of elective offices, while another by promoting the use of the initiative and referendum would inevitably lengthen the ballot. One civic organization works energetically for some public improvement which would put taxes up, while another is equally vigorous in its efforts to keep taxes down. Much organized civic effort is thus dissipated through activities which merely neutralize one another.

Another reason may be found in the relatively ineffective leadership which many civic organizations have had. This leadership has not combined idealism with practicality. The leaders of reform in all its branches are for the most part men and women who do not depend for their livelihood upon the success of their adventure and hence do not usually make it their first care in life; they rarely become masters of the subject with which they are assumed to be concerned and they sometimes devote to one another a good deal of animosity which ought to be concentrated upon a common foe. The tactics employed by civic organizations, moreover, have often been unwise. They have lacked adroitness and political sagacity—seeking often to gain in a year what requires a decade of time or endeavoring to attain the whole of a reform without patiently taking the preliminary steps. The work of civic organizations, moreover, has often been spasmodic, going by fits and starts, while the opposing forces stay on their task continuously. Nevertheless these organizations have accomplished much. It is to their activity that we owe a large part of the improvement which has taken place in the temper of American public administration during the past generation.

WILLIAM B. MUNRO

See: GOVERNMENT; MUNICIPAL GOVERNMENT; POLITICS; POWER, POLITICAL; INTERESTS; LOBBY; CHAMBERS OF COMMERCE; PROPAGANDA; RESEARCH; CIVIC EDUCATION; GROUP; ASSOCIATION; PLURALISM.

There is no book on American civic organizations. A list of the more important ones, with a brief statement of their purposes, may be found in the Municipal Index and Atlas, published annually in New York since 1924.

CIVIL DISOBEDIENCE. *See* INDIAN QUESTION; OBEDIENCE, POLITICAL.

CIVIL LAW. The term civil law has been understood in various ways. Generically it designates all the rules of law governing the members of a given political state (*jus civitatis*). In this sense civil law comprises all the juridical rules which govern the relations of men in civil society. It is thus practically synonymous with the concept of law itself, and in this aspect it will be treated in the general article on law (*q.v.*) and in the articles devoted to the various branches or systems of law. The term civil law is used here in the sense which it began to have in the Middle Ages when it was applied to the revived but transformed Roman law which was being introduced into the continental countries. It was not long before civil law meant to Europeans "private" law (the law governing the

ordinary relations of private individuals), probably because the Roman law which formed the basis of their civil law was particularly distinguished by its great degree of development in dealing with private relations. The basis of this civil law, while fundamentally Roman, will be seen, nevertheless, to contain many other elements derived chiefly from the canon law, Teutonic laws and feudal laws as they gradually underwent modification in the course of the centuries. The civil law has "common law" as well as statutory phases. But to the common law lawyer it means simply the Romanized system of continental law in contradistinction to the system of common law which developed in England. It is only rarely that he uses the term civil law in the sense of private law.

Civil law has received not only its fundamental elements but its name *jus civile* from Rome. When the barbarian invasions began to sweep over the Roman Empire, the Roman law had entered upon a period of codification by means of imperial constitutions, a process which was comparatively unimportant in the classical Roman law. Although the Twelve Tables have usually been considered the origins of Roman private law, it had in reality been developed less by legislation than by the magisterial edicts and the *responsa prudentium*. But in 437 A.D. the Byzantian emperor Theodosius II proceeded to carry out a codification of imperial law, since known as the Theodosian code, which was promulgated not only in the western empire but in the eastern as well. In 533 A.D. the emperor Justinian published the great code which has ever since borne his name. Both these codes integrated as positive law those portions of the older law which it was felt desirable to preserve. These codifications of Roman law at the dissolution of the empire were probably fortunate, but neither became accepted directly as the law of the invaders until the passage of many centuries.

In the sixth century, after the first wave of the barbarian invasions, the Roman subjects of the empire were allowed to live under their own law as far as their relations among themselves were concerned. This was perhaps the most important factor in keeping the Roman law alive, making intercourse with Byzantium possible and keeping more or less alive a knowledge of the Justinian compilations until the Roman schools in Italy began to flourish. Indeed, for the conquered Romans debased statements of Roman law were made which in time began to subvert the law of the barbarians. Examples of these bodies of law are the edicts of the Ostrogothic kings, the *Lex romana burgundiorum*, the *Lex romana visigothorum*. The last, also known as the *Breviary of Alaric*, compiled in 506 by order of King Alaric II, consisted chiefly of extracts of the Theodosian code, and while in force only in Gaul and, until 642, in Visigothic Spain it was for centuries the chief source of Roman law in great parts of Gaul.

Probably to meet the competition of the written Roman law the Teutonic invaders proceeded at the same time to reduce their own laws to written form, the so-called *leges barbarorum*. Such codes of Visigothic, Salic, Frankish, Burgundian and Longobardic law date from the fifth, sixth and seventh centuries, but since they were already permeated with Roman law they can hardly be called barbarian laws. Although in the great Frankish empire which extended over the greater portion of western Europe there was a rebirth under the Carolingians of the essential notions of public law, which seemed to have disappeared completely with the decline of the Roman Empire, the application of law remained personal and local. Indeed, under the Franks grew up that regime of the personality of laws which was so prominent in the early Middle Ages. While this idea of the individual being entitled to his own law may have theoretically permitted along with the Roman law a parallel development of national systems of law, so that a barbarian law, particularly a Germanic law, could arise, first to compete with the Roman law and then to fuse with it, actually no such process was likely to take place. The *leges barbarorum* themselves were actually written in Latin. Even in the important *Lex salica*, the most purely barbarian document, characteristically primitive procedures can be found, such as tables of penal rates existing side by side with the private vengeance so widespread among all peoples at this stage of development, as well as some institutions of private law which are nowhere to be discovered among the ancient Germans. Other of the *leges barbarorum* are certainly not codifications of ancient popular customs. Indeed, the greatest code of Visigothic Spain, which took form in the seventh century, was a compound of Roman, Gothic and canon law elements and governed the whole population until the coming of the Moors. This code came to be known as the *Forum judicum* or the *Fuero juzgo* (the law of the judges).

Yet, despite the regime of personal law, it was in the Frankish empire that the peoples of this

time came closest to developing a coherent system of national law. New law was being created by imperial capitularies, and a system of imperial courts to which appeals were running was acting as a unifying and centralizing influence. It was the absence of central royal courts and a process of continuous legislation which made the legal systems of this period so unsatisfactory and explains the eagerness for the books containing the system of Roman law. Had the empire of Charlemagne not collapsed, the legal history of western Europe would have taken an altogether different course. As it was, even the *leges barbarorum* became inapplicable as the tribes merged and lost their separate identities. A period of local jurisdiction was inaugurated, and the population of Europe began to live by local customary law. Due to the necessities of feudalism, each body of customary law became uniform at least within its region, and the regime of the personality of law yielded to that of the territoriality of law.

The Ostrogoth kings of Italy ruled their subjects with Roman law. The laws of the Lombards became more and more Romanized and Christianized. Thus in northern Italy the law was preponderantly Teutonic while in central and southern Italy it was preponderantly Roman. The same was true in France where the south was known as the *pays du droit écrit* and followed Roman law, and the north was known as the *pays du droit coutumier* and lived by a new local law. However, the Roman law served to fill the gaps in the customs. The customary law under which mediaeval Germany lived was born and developed on Frankish soil. By the thirteenth century many of the bodies of customary law compounded of various elements were put into written form either by private compilers or upon royal command. Among the most celebrated of these customs are the *Coutumiers de Normandie*, the *Établissements de St. Louis* and the *Coutumes de Beauvaisis* in France and the Sachsenspiegel and Schwabenspiegel in Germany.

Several unifying influences in the law of mediaeval Europe must, however, be taken into account. These were feudal law and canon law. While the former tended to integrate the law within the limits of each territorial state, the latter tended to give it universal validity. Feudal law took its place beside civil law because it dealt with the relations prevailing between members of groups (suzerain and vassals) and with the conditions of tenure. But since the feudal system flourished free from admixture with previously existing laws and feudal laws very seldom became incorporated into statutes, when the feudal system finally broke up it left traces merely in the economic system. The fiefs, manors and other tenures were gradually assimilated to the law governing the divided domain. The feudal land concepts of *dominium eminens*, or eminent domain (the political and economic right of a feudal superior in land not under his direct and immediate control), and of *dominium utile*, or beneficial ownership, were modified and received into the civil law by the Romanists of the thirteenth century. The feudal law was substantially uniform, despite the lack of central judicial or legislative organs, due to the force of similar underlying conditions leading to the evolution of the *Libri feudorum*, a code of feudal law that became authoritative in many parts of Europe. In the final analysis, however, it cannot be said that feudal law was of significance in organizing a land holding system destined to be supplanted.

The canon law, on the contrary, played a far more important and permanent part in the evolution of the civil law. It supplemented and enriched the civil law with conceptions lost during the early Middle Ages and thus served as a link between Roman and modern law. Apart from its revival of true concepts of public law the canon law made great contributions to the development of family law, which was organized as a corollary of the Christian sacrament of marriage, much as among the Romans it had been made to depend upon the ideas of the *patria potestas* and the *justae nuptiae*. Furthermore, the canon law stimulated the development of the law of contracts and obligations, impregnating it with the ideas of equity and good faith; and to the influence of the canon law must also be attributed the creation of a coherent rational system of procedure. With the decline of the canon law the civil law fell heir to great portions of modernized Roman law.

Moreover, with the growing importance of commerce at the end of the Middle Ages it became evident that seigniorial customs and institutions were juridically incapable of coping with the situation. Thus a new field was opened for the civil law. Municipal charters and statutes laid the rudimentary basis of what was to become a *jus mercatorium*. But it was again the Roman law which provided the necessary variety of contracts and agreements, from which new types could be created. The system of com-

mercial law which was developed was not, however, absorbed as part of the general civil law as in common law countries. It was treated rather as a separate branch of law and stated in special codes of commerce.

Under the impetus of the new integrating forces in the life of Europe the civil law reached the height of its development in the twelfth century when the law books of Justinian, which had hitherto been in force only in the Byzantine Empire, were received in the west. Their acceptance was assured by the work of the great schools of law in Italy, of which the most famous and important was the school of Bologna. These schools reworked the whole body of Justinian legislation with the exception of the Greek *Novellae*, and the compilation of Justinian became the generally accepted *Corpus juris civilis*. The first school that arose was that of the glossators (*q.v.*). They looked upon the Roman law as the civil law par excellence, almost as a kind of revealed law. Their work culminated in the great gloss of Accursius. By their exegetical method they sought to establish the pure Roman law and make it applicable to their own time. But unfortunately they regarded their jurisprudence as universal and permanent when in fact it did not fit the needs of mediaeval life. The school of the glossators was followed by that of the commentators (*q.v.*), whose greatest exponent was Bartolus. They sought by a dialectic method to meet the needs of their own time, but soon they too fell into a subtle and sterile scholasticism. It was not until the rise of humanism that a new historical school of jurists began to study the texts simply as philological and historical documents against their real classical background. Theirs was a protracted labor, which in the course of four centuries was to succeed in making the Roman law the common law of Europe.

The vogue of the Roman law as expounded in the schools was so great in mediaeval Europe that its influence was even felt for a time in England. Vacarius came to England from Bologna in 1149 to teach it but was forbidden to do so by King Stephen. A writ of 1234 forbade that it be taught in London. Nevertheless, numerous traces of it can be found in the common law. Bracton's famous treatise on the laws and customs of England written about 1236 exhibits a great deal of Romanic learning. Chairs of civil law existed in both Oxford and Cambridge, and the "civilians" left their mark upon the practise of the ecclesiastical courts, the admiralty and the chancery. In the sixteenth century conceptions from the Roman law helped to remold the common law in accordance with the needs of a modern state. The existence of a centralized system of courts ready to deal with controversies according to established methods made possible, however, the assimilation of alien materials in accordance with the native system.

But the work of the schools of Roman law made all but inevitable its general reception in all but the remote continental countries. In Italy, the home of the schools, the result was never in doubt. Yet paradoxically the Roman law was often officially repudiated precisely where its influence on institutions and customs was greatest. As a result of the claim of the German emperors to extend their authority over all territories where Roman law prevailed its teaching was forbidden in Paris from 1219 to 1679. Nevertheless, it may be said generally that the Roman law was nowhere more completely naturalized than in France. At first common usage had filled in the gaps in the territorial laws, copying completely whole sections of Roman law, but beginning with the end of the thirteenth century attempts at a fusion of these sources became evident. It was the jurists who, not capable of openly appealing to Roman law, undertook this synthesis. Thus customs were modified so much in the direction of Roman law that the latter as well as the customs conforming to it were named *droit commune*; while those which were contrary to it were named *droit haineux*, meaning that they were incapable of being extended by analogy. At the time of the official redaction of the customs certain commentators did not let slip by the opportunity of introducing as much civil law as possible.

During this period the term civil law was used more and more specifically to designate private law. By the seventeenth century under Cartesian and classical influences the law gained in clarity and precision. Along with the usual commentaries the jurist Domat offered a synthesis of the law in the guise of abstract, purely rational regulations actually derived from Roman law and applicable to private law (*les lois civiles dans leur ordre naturel*) as well as to public law, constituting perfect types of the juridic conceptions prevailing at the time of Louis XIV. Others, for instance Claude de Ferrière, and Pothier in his *Pandectae*, busied themselves with a methodical study of the content of Roman law, enabling its

utilizable portions to become incorporated into French law. The other works of Pothier definitely brought about the fusion of that which was best in custom and in the Roman law. His treatises on obligation, property, servitude, etc. seem to be based exclusively upon Roman law. The edict of St. Germain in 1679 made this possible by ordering the teaching of the civil law and by creating, parallel with it, instruction in French law. Royal legislation full of the same spirit carried on the work of codification—the *grandes ordonnances*, or codes, of Louis XIV concerning civil procedure (1667), criminal procedure (1670), waters and forests (1669), commerce (1673) and maritime law (1681); and those of Louis XV concerning gifts (1731), wills (1735), entails (1747).

In Spain, despite a certain disposition adverse to the Roman law in favor of the indigenous law, which was partly derived from it, the Roman law made itself felt, if not in all the local *fueros* at least in the common codes, as, for instance, the ancient *Fuero juzgo*. The Roman law triumphed definitely in the great code of Alfonso X of Castile, called the *Siete partidas*, a restatement of Romano-canonical law which took form between 1256 and 1265. It was promulgated by the *Ordenamiento d'Alcala* of 1348 as subsidiary law in cases where the local or royal *fueros* were insufficient. The history of the development of the civil law in the Iberian peninsula is as yet little known. But on the whole the codes or collections of later law both in Spain and Portugal, i.e. the Spanish *Ordenanzas reales de Castilla* (1484), *Leyes de Toro* (1505), *Nueva recopilación* (1567), and the Portuguese *Ordenaceos alfonsinas* (1456), *Manuelinas* (1514) and *Filippinas* (1603), confirm the view that Spanish juridical institutions drew their inspiration from Roman law.

The reception of Roman law was delayed in Germany until the fifteenth century, when it was finally adopted as the general subsidiary law. The causes of the reception may be said to have been the inadequacy of the existing judicial system, the influence of the learned jurists who came to displace the lay judges in the courts and the theory of continuous empire which fitted in with the political aspirations of the times. The law of Justinian, already theoretically the legislation of the Holy Roman Empire, was received *in complexu* as the common law of all its dependencies. The imperial chamber of justice (*Reichskammergericht*), created in 1495, thus accepted only the Roman-canonical procedure, the decrees of the emperors and the *Corpus juris civilis* solely according to its interpretation by the Bartolists. The civil law was accorded primary authority, and the municipal and national statutes which in principle should have been given the preference were interpreted as strict law, not extending beyond the cases expressly under their terms, the burden of proof being put upon whomsoever relied upon them. This law extracted from the gloss, interspersed with elements of custom, with commentaries made by German jurists, called variously *Usus modernus pandectarum*, *Heutiges römisches Recht*, *Pandektenrecht*, was far removed from the law of Justinian. The influence of the historical school, however, did a great deal to elucidate and reject the incoherent elements in the law. Attempts were also made to remedy the situation by codes such as the Bavarian codes of 1616 and of 1756, based upon Roman law, the code of Joseph II completed in 1811 and the Austrian *Codex theresiana*, which, however, was never applied. In Prussia Frederick the Great ordered the compilation of a code which was later to have great influence in Germany, the *Allgemeine Landrecht* finally completed in 1794. By the nineteenth century German philosophy and nationalism brought about a reaction. Romanists and Germanists were in conflict. But Savigny and his disciples, by pointing out the difference between the pure Roman law and the *Pandektenrecht*, hastened the coming of the codes which they opposed.

It was the nineteenth century which marked an era of codification (*q.v.*) in the civil law. Already begun in some countries it assumed during the French Revolution a new importance and significance. Louis XI had dreamed of a code based on custom; Henri III had caused the preparation of a code of the law contained in the *ordonnances*. Since Dumoulin the jurists had labored to establish a common law based on usages. In the time of Louis XIV Lamoignon had drawn up a project for a civil code which came to naught; it was the celebrated *Arretés*, of which the ordonnances of Louis XV were a fragmentary realization. But in 1791 the Constituent Assembly decreed that "there shall be made a code of civil laws common to all the realm." After many attempts emerged the famous *Code civil* (*q.v.*) in 1804, at various periods also called the *Code Napoléon*.

The *Code civil*, expounded by a series of remarkable commentators, opened an era of codification in France. The *Code de procédure*

civile appeared in 1807, *Code de commerce* in 1808, *Code d'instruction criminelle* and *Code pénal* in 1811, *Code forestier* in 1827; an attempt is now being made to supplement these by a *Code du travail* and a *Code rural*. The *Code civil* has also been more imitated in other countries than any other legislative work since the Roman laws, upon which, indeed, it is partly based. Troplong called it the common law of the nations and Thiers the law of civilized nations. Many regions of Europe which then formed parts of the French Empire accepted it almost as soon as it appeared, either in its original form or closely copied. Such countries as Holland, Poland and Rumania owe much to it. Egypt has been for half a century a country of French law, which constitutes the common law of foreigners in the valley of the Nile. But particularly countries of Latin civilization have yielded to its influence; the codes of Belgium, Italy, Spain and Portugal derive from it. The Latin American countries of the New World have based their jurisprudence upon it. The province of Quebec has naturally adopted many of its provisions. In the United States Louisiana provided herself after 1825 with a civil code very closely resembling that of France.

The Germanic countries at first drew in large part from French codes. The *Code civil* was in force in Westphalia, Hanover, Frankfort and Nassau during the Napoleonic era, and a modification of it was retained in Baden under the title of *Badisches Landrecht*. The Saxon Civil Code (1863), the Prussian law of bankruptcy (1855) and the Code of Commerce (1861) adopted by all the German states in 1866 were later models of French codes. But with the renaissance of jurisprudence in Germany under the empire appeared more original German codes. After many years of discussion among German jurists there was finally created the *bürgerliches Gesetzbuch*, or German Civil Code (*q.v.*), of August 18, 1896, put into effect on January 1, 1900. It represents an attempt at a scientific code based upon logical categories. After its introduction the German civil code competed with the French code for adoption in other countries. It influenced revisions or drafting of codes in whole or in part in Switzerland, Greece, Turkey and Japan. The Japanese civil code of 1896, especially, is drawn upon the model of the German civil code. The French and German civil codes, while resembling each other in their arrangement, differ doctrinally in many respects.

Scholars have often lamented the absence of any general history of European law. For, however diverse particular rules of law may be in different European countries, the civil law is a system with common characteristics and an autonomous spirit. With its rival, the common law, it is one of the two great legal systems which have competed for juristic supremacy all over the world. The great codifications of the nineteenth century may be said to express the maturity of the civil law as a system. Codification itself was in harmony with its spirit. Deriving from the Roman law, which in its final shape had been reduced to written form and given imperial sanction, the civil law lent itself readily to authoritative restatement. Developing under political conditions which made for disunity, in order to continue to exist it had to become itself a bond of unity. In the absence of central court systems it could appeal less to authority than to reason, and thus it became a law of the books. Its strength has thus lain in the logical development of general concepts, and philosophy has always played a great part in its continuous development—for instance, the idea of natural law and of equity and the idea of the individual will as the basis of all legal transactions. Expecially has the civil law placed greater reliance upon the activity of the jurist than of the judge. Quite naturally therefore decisions in civil law countries have had no direct force as precedents, being regarded at the most as persuasive. The legislator, not the judge, has been regarded as the creator of new law. Politically the civil law, developing under the absolutist traditions of monarchy and empire, has tended to encourage the supremacy of the legislative and administrative rather than the judicial organs of the state, and no doctrine of the "rule of law" has entered into the legal system as a guaranty of individual freedom. The state has tended thus to maintain a position of supreme competence.

But certain new tendencies are now appearing in the civil law. Despite the theory of the primacy of the state with its corollary that all law emanates from the general will, jurists have admitted such a multiplicity of legal sources, consisting not only of written law and custom but of case law and doctrinal authorities, that uncertainty and arbitrariness have been introduced into the objective legal order. The result has been a growing movement in favor of giving obligatory force to judicial precedents. On the other hand, as a result of German

influence, there has appeared a prejudice in favor of applying the geometric method to juridic technique and especially to the codifications. Treated in this way the latter have ceased to be regarded as literary texts and they take on the scientific appearance of axioms and theorems. Thus, as a result of an excess of logic, difficulties have begun to impede the acceptance of jurisprudential sources at a time when they should preponderate. Closely connected with this has been the revival of a certain formalism in the substantive law, intended to permit the more rapid consummation of legal transactions. This is contrary, however, to the individualism of the civil law.

Indeed, the civil law is undergoing a marked transformation in the direction of socialization. In their demagogic character the changes in the codes generally approach the imperial constitutions of the Byzantine Empire, tending to bring into existence a law of classes. They are the result of socialist doctrines impregnating the minds of legislators with a romanticism hostile to an objective moral and juridical order. Due to the rupture of the ideal of juridic equality these socializing laws often have antisocial effects. There is an increase everywhere in the types of laws to the advantage of the state and the masses but to the detriment of the individual. Civil law in the sense of private law is in danger of disappearing. Private legal transactions, because of their socialization, are on the verge of being absorbed into public law.

J. DECLAREUIL

See: LAW; RULE OF LAW; COURTS; ROMAN LAW; CUSTOMARY LAW; CANON LAW; RECEPTION; CODIFICATION; CORPUS JURIS CIVILIS; CODE CIVIL; GERMAN CIVIL CODE; LEGISLATION; JUDICIAL PROCESS; CASE LAW; COMMON LAW; COMMERCIAL LAW; CRIMINAL LAW; FAMILY LAW; ADMINISTRATIVE LAW; PUBLIC LAW.

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CIVIL LIBERTIES. Civil liberty is a concept, basic to modern political thought, which in its most general usage connotes the freedom of the individual with respect to personal action, the possession and use of property, religious belief and worship and the expression of opinion. This freedom is conceived to imply a right to protection against both governmental and private interference, but it is essentially a right of the individual as against the authoritarian state.

The despotisms of the ancient world, in which an absolute ruler exercised unrestricted power over the lives, property and actions of his subjects, had no room for the concept of civil liberty. Even under the sophisticated governmental systems of the Greeks and Romans the concept was unknown. Greek democracy at its height and Greek political philosophy as expounded by Plato and Aristotle subordinated the individual to the state. The state did not exist for the citizen but the citizen for the state. For its good no sacrifice imposed on the individual was too great. And while the Greek democracy endowed citizens with a wide measure of political control by placing ultimate governmental power in their hands, it accorded the individual no civil liberty beyond the reach of that power. In like manner the Romans approached at times a political democracy. But the power thus popularly exercised knew no limits set up by any concept of individual right or civil liberty.

Nor could a conception of individual liberty find place in a feudal society, where the important rights, duties and obligations were those mutually obtaining between lord and vassal and where the social order was essentially founded on contract. Liberty could mean only immunity from burdens or duties, but as such it could frequently be secured by barter or purchase. The development within the feudal system of the technique of bargain and contract undoubtedly influenced to some extent the methods by which civil liberty was later secured.

Civil liberty is essentially a modern concept, closely allied ideologically with the philosophies of individualism and liberalism, intimately bound up in its development with the circumstances of the growth of the middle class and its economic and social dominance. Two forces at work during the Middle Ages helped lay the foundation for this development. Christianity emphasized the doctrine that the citizen himself might have duties and obligations higher than those imposed by temporal rulers and thus created a philosophy which could regard resistance to constituted authority in certain cases as an act of piety rather than of heresy. Thus it prepared the way for the development of a natural rights philosophy. Secondly, the growth of the national state, with an area so large and interests so heterogeneous that resort to the principle of political representation was inevitable, emphasized the fact that the individual citizen was a person distinct and apart from the state and with interests and privileges of his own.

The struggle for civil liberties began in England as a phase of the struggle of the feudal lords to maintain a degree of autonomy in the face of encroaching centralization; it became bound up with the fight for representative government, and the privileges and rights won by limited groups were gradually extended in their application to all classes within the nation. In this generalized form the idea of civil liberty became embodied in doctrine and spread to other countries. Most important for the influence of the doctrine was the fact that the principles of civil liberty were embodied in documents which later provided the rallying cries so necessary to the cause of civil liberty propaganda.

The earliest and most notable of these documentary statements of English civil liberty was

Magna Carta. Wrung from John by the barons of the realm in 1215 it did not purport to set up new rights but was rather a statement of the existence of certain rights, mainly those of the feudal nobility. It pledged the king to refrain from certain clearly arbitrary acts; it forbade the sale of justice; and it provided that no man should be deprived of his property, imprisoned or banished save by the legal judgment of his peers and the law of the land.

The meager list of civil liberties protected by Magna Carta was enlarged by the Petition of Right reluctantly signed by Charles I in 1628 at one of the crises of his long struggle with Parliament. This also was limited in the scope of its guaranties to the actual liberties which had been infringed. It proscribed the billeting of soldiers upon the people, the trial of offenders by martial law, the collection of loans or taxes not sanctioned by Parliament and the imprisonment of any person without specific charge and orderly trial. It purported not to create new rights but merely to reaffirm existing rights which must not be violated.

A third great charter of English civil liberty emerged from the Revolution of 1688. The conditions under which William and Mary ascended the throne of the deposed James II were embodied in the Bill of Rights of 1689. Its most important provisions were the denial of royal authority to dispense with any law; the affirmation of the right to petition the crown with impunity; the forbidding of standing armies in time of peace without parliamentary consent; the declaration that elections to Parliament must be free from royal control or influence, that such elections must occur frequently and that the members of Parliament must have complete freedom of speech and debate in that body; and the denunciation of excessive bail in criminal cases. It was out of such specific provisions that the general doctrine of civil liberties developed.

During this very period the colonization of America gave a new force to the growth of civil liberties. The atmosphere of the new world was congenial to the preservation and enlargement of civil liberty. Many of the colonists came protected by charters or definite contracts, to which they could appeal as defense against arbitrary or oppressive measures. The British policy of making the colonies financially self-supporting, raising by local taxation the cost of administration as well as of colonial defense, contributed to this end. For the financial control thus resting in the elected representative assemblies enabled the colonies to bargain with royal governors and agents and to secure a measure of autonomy which exceeded in its generous proportions the orthodox "rights of Englishmen." By custom, by prescription, by bargain and acquiescence, the range of civil liberty grew apace and, when under a changed administration and a sterner policy the mother country sought to regain in the colonies the measure of control which English statesmen urged had never been lost, revolution burst forth. Thus the struggle for individual liberty connected itself with a struggle for national autonomy. This struggle was defended by a philosophy so compelling and embodied in a document so conspicuous that its influence in the world wide spread of civil liberty can hardly be exaggerated.

The philosophy of natural rights thus given prominence in the Declaration of Independence was an old doctrine. But when a philosophical defense was needed for the Revolution of 1688 it had been elaborated and given new form by John Locke with a cogency and skill which made it the basis for the political philosophy of succeeding centuries. The theory postulated the existence of an original state of nature in which all men were entirely free; government arose through the necessity of restraints upon freedom of action involved in community life and was based upon contract amongst the members of society. By this social compact certain rights, natural and inalienable, are forever reserved to the individual. All government rests on popular consent, and when government invades the natural rights of the individual the people are fully justified in overthrowing it and replacing it by one which will properly safeguard civil liberty.

It was the flexibility of this doctrine which made it so serviceable to the colonists in 1776 and so generally useful in developing the range of civil liberties. For the number of particular rights regarded by popular consensus as natural rights could always be enlarged, and in the course of time new rights or immunities have come to be deemed fundamental. The Declaration of Independence and the bills of rights of the various state constitutions of the United States contained lists of rights much broader than those in the three English charters of liberty. The Constitution of the United States, however, established as it was under the influence of a conservative reaction against the more radical leadership and philosophy of the revolution, did not originally contain any statement of

the civil liberties of the individual beyond the meager protection against bills of attainder, ex post facto laws, punishment for constructive treason and laws impairing the obligation of contracts, and the assurance of jury trial in criminal cases. And when political expediency made the addition of a formal bill of rights desirable the list of guaranties comprising our first ten amendments contained few if any more than the recognized civil liberties of the Englishmen of that day.

In embodying their guaranties of liberty in written constitutions which could be changed only by the difficult procedure of constitutional amendment the American statesmen of the eighteenth century made an important contribution to the technique of protecting civil liberties against encroachment. The peculiar development in the United States of the doctrine of judicial review gave the courts the final decision as to the scope of civil liberty. Through that power to invalidate legislative acts deemed to be unconstitutional they could virtually define natural rights and liberties. In the due process clause of the Fourteenth Amendment, which eventuated from the struggle to abolish slavery and secure civil liberties to the Negro, the courts found a new and most effective device for the extension of their power. It is a device which can work, however, toward the restriction as well as the extension of the scope of civil liberties, depending upon the opinions of the members of the court. No other technique, however, has proved more effective in safeguarding the accepted civil liberties.

Democracy does not guarantee the maintenance of any group of liberties for the individual. A government founded upon the doctrine of majority rule must show unremitting care and self-restraint if that majority is to respect at all times the civil liberties of the minority. Within recent years there has been a clear tendency, especially in the United States, to a relaxation in the interest in civil liberty and a loss of many specific rights. The increasing governmental control necessitated by the complexities of modern social and industrial life results in continuous encroachments upon rights fundamental to the older philosophy of individualism. Under the guise of protecting health, morals and safety the majority has found opportunity to write into law its views of morality, decorum, religion and political orthodoxy in such a way as frequently to impair the civil liberty of the individual. The unintelligent censorship of books, plays and moving pictures; the prohibition of the teaching of evolution and other unpalatable doctrines in the public schools; the breaking up of meetings held to expound unpopular political beliefs; the exclusion from the country under the immigration laws of European political offenders and the denial of citizenship to pacifists under the naturalization laws—all are outstanding examples of violations of once generally recognized individual rights.

The course of the labor movement in the United States has been largely influenced by the necessary struggle of American labor against similar violations. As a result of its policy of non-political action and reliance on the strike and boycott it is peculiarly liable to assault from this side. In numerous strikes in recent years the rights of assembly and free speech for the strikers and their representatives have been suppressed in most flagrant violation of the doctrine of civil rights. The use of the injunction and the yellow dog contract have also frequently resulted in abrogations of civil liberties.

The presence of the American Negro has always been a challenge to respect for civil liberty in the United States. Under the judicial theory that segregation is no denial of equality he is segregated on common carriers and in public places. He is subject to racial discrimination exercised by private persons. His civil rights are impaired, when they are impaired, not so much by discriminatory laws as by the unequal administration of laws nominally fair. All too often complete breakdown of governmental protection results in a lynching.

One of the heaviest prices paid by the United States, and indeed by many other countries, for the World War was the decline in popular regard for civil liberty. War always means a restriction upon individual freedom of action. But the repression of freedom of opinion, utterance and press under federal and state sedition laws in the United States and similar laws in other countries went in many instances far beyond military necessity or the demands of national safety. In the United States the state laws for the repression of sedition, syndicalism and anarchy which followed upon the cessation of the war, while legitimately applicable to genuine dangers to peace and order, are so broadly drawn and have been so generously interpreted that most of the revolutionary leaders of 1776 could be sent to jail for long terms under their provisions. At the same time there have sprung up organizations

for the promotion of patriotism which devote money and energy to the attacking and suppressing of unconventional and unpopular political and economic views. These attacks on specific civil liberties have been accompanied by a lessening of faith in the doctrine of civil liberty itself. To counteract such onslaughts various organizations have sprung up. Most important is the American Civil Liberties Union, which attempts to extend legal and financial aid to persons whose liberties it believes are being invaded. Its work undoubtedly helps to fortify the belief in the social importance of the maintenance of civil liberties as well as to right specific injustices. Somewhat similar organizations exist in France and Germany.

In Europe civil liberties have been successively attained and lost. During the late Middle Ages various rights and privileges, virtual liberties of the individual, were acquired by the citizens of many towns and cities. But the rapid centralization of governmental power prevented the working out of these tendencies. Many of the German principalities of the eighteenth century developed both a philosophy and a tradition of individual liberty, but for Europe as a whole it was not until the French Revolution that civil liberty became an important issue. The Declaration of the Rights of Man of 1789 embodied the natural rights philosophy and avowed the equality of man, the political rights of the citizen, freedom of religion and utterance, protection from arbitrary arrest and imprisonment, and taxation only by representatives of the people for known purposes. But under the Napoleonic dictatorship these civil liberties were largely lost. The very theory of natural rights was in abeyance. It was kept alive, however, by radical and dissatisfied groups in France, Germany, Austria and Italy, and with the revolutions of 1848 it came again to the front. While none of these revolutions achieved permanent reforms they kept alive the spirit of liberty and laid the foundations for more substantial and lasting achievements in the future.

Until the period of constitutional upheaval which followed upon the World War the protection of civil liberties in European countries rested in general upon sound tradition and practise rather than upon enforceable guaranties. Thus there is no bill of rights in the constitution which established the French Republic in 1875. In contrast all the post-war constitutions contain bills of rights, copied more or less freely from that of the United States constitution. These guaranties of civil liberty are frequently a bit elusive, being coupled with exceptions and provisos which rob them of most of their effectiveness. In the main they are protections against executive rather than legislative interference with individual rights, and when they do purport to restrict the law making bodies they are not mandatory in nature, since the American concept of constitutional provisions judicially enforceable against the legislature did not find a place in the new constitutions of Europe.

In the Far East the concept of civil liberty has made but small headway. It is too foreign to the fundamental political assumptions of oriental philosophy to be easily or fully assimilated. Certain of the specific substantive or procedural rights common in western countries have been adopted by the modernized oriental governments, but the ways of thought of the peoples have been but superficially affected. Thus Japan has been a constitutional monarchy since 1889 and at present enjoys complete religious freedom; jury trial was introduced in 1928. Although China has been a republic since 1911, the successive revolutions and wars have provided little opportunity for the spread of individual liberties.

This spread of some of the incidentals of civil liberty but heightens the significance of the attacks upon the fundamental basis of the doctrine. Since the World War two distinct systems and philosophies of government frankly inimical to the postulates of civil liberty have emerged. The one, communism, subordinates all rights and interests, economic, civil, political, to the welfare of the communistic state. The citizen, as in Plato's Republic, is but a means to an end. He has no rights which can be asserted against the state but must achieve his development through the common welfare. Fascism, although it stands, in contrast, for the maintenance of private property and the abolition of class struggles, is also based on a conception in which the individual has no rights as against the state.

Communism and Fascism are but extreme illustrations of the modern collectivist tendency. The same trend is manifested in the widespread attempts to strengthen the legal and political status of groups and associations, to the general interests and welfare of which the rights and liberties of the group members are often ruthlessly sacrificed. Such groups—labor unions, trade associations, churches—are attempting to secure for themselves, as against the political

state, rights similar in effect to those which the individual gained over the course of centuries and enjoyed in most complete form during the nineteenth century. Whether those individual civil liberties can be adapted to the forms of a pluralistic state and an increasingly complex and interrelated social and economic order is one of the major problems of modern political theory and modern statecraft.

ROBERT E. CUSHMAN

See: RELIGIOUS FREEDOM; FREEDOM OF SPEECH AND OF THE PRESS; FREEDOM OF ASSOCIATION; CIVIL RIGHTS; BILLS OF RIGHTS; MAGNA CARTA; DECLARATION OF INDEPENDENCE; DECLARATION OF THE RIGHTS OF MAN; NATURAL RIGHTS; NATURAL LAW; STATE; CITIZENSHIP; INDIVIDUALISM; LIBERALISM; UTILITARIANISM; DEMOCRACY; CONSTITUTIONS; GOVERNMENT; REPRESENTATION; JURY; ARREST; RETROACTIVE LEGISLATION; CONTRACT; CENSORSHIP; INTOLERANCE; ANTIRADICALISM; NATIONALISM; IMPERIALISM; DICTATORSHIP; COLLECTIVISM; ASSOCIATION; PLURALISM; COMMUNISM; FASCISM.

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CIVIL LIST. *See* MONARCHY.

CIVIL RIGHTS. The term "civil rights" is sometimes used by the courts in the broad sense of rights enjoyed and protected under positive municipal law in contrast with so-called "inherent rights" vesting in the individual by virtue of a supposed "natural law"; more frequently it is used in the United States in a narrower technical sense acquired in constitutional discussion concerning the legal rights of free Negroes in the years before and immediately following the Civil War. It was often coupled by way of contrast with the term "political rights," as by Kent: "In no part of the [United States] do [free colored persons of African blood] in point of fact participate equally with the whites in the exercise of civil and political rights" (*Commentaries*, 3rd ed., 1836, vol. ii, p. 257, note). The distinction between these two classes of rights was suggested in an early case where, in dissenting from a decision that the right to vote and hold office was essential to citizenship, one of the judges, expressing the view which later came to prevail, said that the mistake arose "from not attending to a sensible distinction between political and civil rights" [Amy *v.* Smith, 11 Kentucky 327 (1822)]. Such a distinction was doubtless facilitated by the habit of contrasting civil and political "liberty," which dates back at least to Christian's edition of Blackstone (1803): "No ideas or definitions are more distinguishable than those of civil and political liberty; yet they are generally confounded. . . . Civil liberty . . . is nothing more than the impartial administration of equal and expedient laws . . . " (Blackstone's *Commentaries*, vol. i, p. 127, note). Blackstone used the term "civil privileges" to describe the private rights protected by municipal law and reduced these to "three principal or primary articles; the right of personal security, the right of personal liberty, and the right of private property" (*ibid.*, vol. i, p. 129). The term was also used in the constitution of the American Anti-Slavery Society (1833), which demanded equality of "civil privileges" for whites and blacks (MacDonald, William, *Select Documents of United States History, 1776–1861*, p. 305). The term "civil rights" came to be used to describe the legal rights and immunities which were enjoyed by white persons under municipal law of the various states but which were often denied in whole or in part to free blacks. In Mississippi, for example, it was held in 1859 that "free negroes or persons of color . . . here in violation of our laws and policy, are entitled to no such rights. They are to be regarded as alien enemies or strangers *prohibiti*, and without the pale of comity, and incapable of acquiring or maintaining rights of property in this State" [Heirn *v.* Bridault, 37 Miss. 209 (1859)]. In Georgia free Negroes were permitted to acquire and hold real estate except in certain cities, but it was declared by the courts that "the African, in Georgia whether bond or free . . . has no civil, social or political rights or capacity whatsoever, except such as are bestowed on him by statute" [Bryan *v.* Watson, 20 Ga. 480 (1856)].

In the interval between the Thirteenth and Fourteenth Amendments Congress passed the first of the so-called Civil Rights Acts (1866),

which undertook to confer federal (in distinction from state) citizenship on all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, and provided that the classes thus made citizens should thereafter in all the states have the right to make and enforce contracts, to sue and be sued and give evidence, to inherit, purchase, hold and sell real and personal property; should have "full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens"; and be subject to no other or greater punishments than white citizens. It was made a federal crime for any person, acting under state legislation, to deprive any citizen of any of the rights thus guaranteed him. The act was passed over the veto of President Johnson, who expressed the opinion that it was an attempt to invade the sphere of exclusive state action unwarranted by any provision of the constitution. To remove such doubts the Fourteenth Amendment made all persons born in the United States citizens not merely of the United States but also of the state where they reside, and provided that no state should abridge the privileges and immunities of citizens of the United States or deny to any person within its jurisdiction the equal protection of the laws. Congress was given power to enforce the amendment by appropriate legislation, and under this authority the provisions of the act of 1866 were substantially reenacted by the second Civil Rights Act (1870). The Supreme Court has said that "the words of the [Fourteenth] amendment, . . . contain a necessary implication of a right, most valuable to the colored race—the right to exemption from unfriendly legislation against them distinctively as colored—exemption from legal discriminations implying inferiority in civil society, lessening the security of their enjoyment of the rights which others enjoy" [Strauder *v.* West Virginia, 100 U. S. 303 (1879)]. Therefore a conviction under state court procedure which restricts jury service to white men is void (*ibid.*); and Congress may make it a federal offense for a state official, either in pursuance of a state statute or otherwise, to discriminate against Negroes in the selection of jurors [*Ex parte* Virginia, 100 U. S. 339 (1879)].

But it is only direct discriminatory action by states or discrimination incident to the exercise of their authority that the amendment prohibits; and therefore those provisions of the third Civil Rights Act of 1875 which made it a federal offense for innkeepers, carriers and proprietors of places of public amusement to deny Negroes full and equal accomodations with white persons are unconstitutional [Civil Rights Cases, 109 U. S. 3 (1883)]. Further, state statutes requiring carriers to furnish separate and equal accomodations for white and colored passengers [Plessy *v.* Ferguson, 163 U. S. 537 (1896)] or establishing separate but equally well equipped schools for the children of the two races [U. S. *v.* Buntin, 10 Fed. 730 (1882)] are not unconstitutional as a denial of the equal protection of the laws, but are justified as a legitimate exercise of state police power under the doctrine of reasonable classification. In Buchanan *v.* Warley [245 U. S. 60 (1917)], however, a city ordinance which forbade colored persons to move into a city block in which a majority of the residents were white was held unconstitutional as depriving the owners of the right to dispose of their property to willing purchasers. The ordinance was said to transgress the legitimate limits of state police power because by basing the discrimination on color it was at variance with the obvious purpose of the Fourteenth Amendment. But since the amendment does not forbid discrimination by private action owners may lawfully covenant with one another not to sell their property to Negroes [Corrigan *v.* Buckley, 271 U. S. 323 (1926)]. Many state constitutions and statutes contain provisions against discriminations on account of color.

It was apparently thought by the framers of the act of 1866 and of the Fourteenth Amendment that the rights of holding property, making and enforcing contracts and the like were incidents of federal citizenship and would therefore fall within the purview not only of the "equal protection of the laws" clause of the amendment but also of the clause which forbids the states to abridge the privileges and immunities of citizens of the United States. The Supreme Court has rejected this view, holding that the "privileges and immunities of citizens of the United States"—i.e. those attaching to federal citizenship—include only such rights as "owe their existence to the federal government, its national character, its constitution, or its laws"—as the right to use the navigable waters of the United States, the right to protection abroad, the right of free access to the national capital and the right to become by residence a citizen of a state [Slaughter House Cases, 83 U. S. 36 (1872)]. They do not include such political rights as the right to vote [Minor *v.* Happersett, 88 U. S. 162 (1874)] nor such rights as the right to bear arms

contrary to the prohibition of a state statute [Presser *v.* Illinois, 116 U. S. 252 (1886)].

JOHN DICKINSON

See: CIVIL LIBERTIES; SOCIAL DISCRIMINATION; NEGRO PROBLEM.

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CIVIL SERVICE

HISTORY. The term civil service was used for the first time in 1854 when Sir Charles Trevelyan borrowed it from the British administration of India and applied it to English conditions. It included simply the professional body of officials employed by the state in non-military and non-judicial services. It is in this sense that the term is used here, although we must also exclude teachers, who are sometimes members of continental civil services. It should be observed that this definition is very broad and makes no specifications as to technical preparation (which might be none at all), methods of recruitment (which might be simple patronage) or social and political character. But it does establish the professional character of the service and consequently eliminates the ill defined group of unpaid public servants, lay, voluntary and enslaved, who in the past performed and still perform a considerable amount of work requested or commanded by the state. One of the great remaining problems to decide is at what point unprofessional officialdom should cease so as best to satisfy the need for technical efficiency and at the same time obtain the positive civic value of lay cooperation in government. It is only in comparatively recent times that the professional element has become the larger and now the vastly preponderating part of public administration.

There is little to be learned from the civil service history of ancient and classical states since detail is insufficient and untrustworthy. But a broad general view reveals some interesting sociological facts. In ancient Egypt three factors determined the nature of the administration—the dependence upon wheat, the difficulty of transport and the nature of the Nile. The results were: a body of officials and scribes for the registry of land; a forced period of rest during inundations, when compulsory and unpaid service for the public works was feasible and directors of inundation were required; the splitting up of the country into small communities located at short intervals since none could be out of range of the nearest wheat reserves; and the establishment of judicial offices as well as directorships of houses, treasures, police, audit, wheat stores, desert land and the hunters. There was much unpaid and hereditary work, especially in the higher ranks. In the small cities the administration was a little more complicated.

Athens in her maturity knew no civil service in the modern sense, for as a result of her passion for democracy all offices, administrative as well as legislative and judicial, were elective for short terms and practically all citizens had the right to be nominated and elected thereto. This system was possible provided three conditions were satisfied: that men should be ready to serve the city although their standard of living be adversely affected; that the problems of administration should not require the mastery of a difficult technique; and that the city should be small enough to allow the administrators to plan, calculate, supervise and bring home their commands to the population.

Republican Rome exhibited much the same basic organization in its administration as did Athens and for similar reasons. But one observes the constant tendency to specialize functions by dividing the labor of different offices, this tendency being concomitant with the growth in civic activities. Then, as Rome's dominions extended, elective offices, especially those in foreign parts, were held for longer and longer periods. The empire could no longer support haphazard, amateur officialdom, and the chief classes of administrators, the census officials, the officials of the fiscus, the prefects of the city, the regulators of grain supply, the superintendents of the aqueducts, the public buildings and the sewers and the administrators of the local regions were appointed by the emperor. Radiating too from the emperors directly were the governments of the provinces with the governors at the head of each.

Under the mediaeval feudal system political authority was disintegrated and settled in small territories the chiefs of which, by a system of fiefs, owed allegiance to a central authority and in turn received support and fidelity from lesser vassals. Thus officialdom was concentrated around a number of poles represented by local lords, barons, *comtes*, *ducs*, *Grafen*, with the prince or king at the center—a point which did not become permanently fixed until revenue could be easily carried to it. The primitive state of communications and the absence of a monetary and credit system paralyzed the central authority, and the military, judicial and economic administration of a large territory could be based only upon the grant of land in return for service. Extreme decentralization set in, punctuated by violent anarchy and fitful attempts to vindicate central authority. The governors of districts and provinces, the peacetime successors of the original conquerors, acquired hereditary tenure, invented titles for themselves, became ennobled and thus established a class which monopolized office, often as a private hereditary property. Even in the modern services the hereditary title, the *adelig* cognomen, although legally divested of its privileges, still retains their traces in practise.

Administration was mixed: the same counselors at the center were concerned with military, financial and judicial affairs, while the private estate of the prince was indistinguishable from the state. This was possible as long as the volume of public work was small, that is, until the sixteenth century; war, treaties with foreigners, occasional courts of justice, the collection of revenues in their then curious form, were the main activities of the center, and in the localities occasional work upon the roads, drainage, house building. The former group of activities was carried on by the great lords whose ability or property made them indispensable, by learned churchmen who could afford to go without pay, by minor clerks in orders who could be paid in various forms by the church, by certain lay clerks whose numbers increased as education and wealth ceased to be the monopoly of the church, and by lawyers, who in France and Germany became after the "reception" especially skilled in Roman law and were employed to supply authority for the absolute prince now arising from the wreckage of the feudal system. Gradually exchequers and chancelleries assumed a separate and public form while a number of advisers and clerks clustered about the privy councils of the crowns. In the localities the royal power was represented by such officers as the sheriff and the justice of the peace in England, the *missi dominici*, the *enquesteurs* and *gouverneurs* in France, the *Viztume* and *Landeshauptmänner* in the Germanic states. These offices, comprising administrative, judicial and military functions, were originally at the royal pleasure and later tended to become hereditary or to die out except as forms. In the rural localities the principle of elective, unpaid, compulsory office prevailed; it was seen that the duty of attending to works of public utility rested somewhere, and in the peculiar communal environment of the Middle Ages the neighborly theory of "take-it-in-turn" was institutionalized.

In addition to the feudal organization the Middle Ages were characterized by the gradual assumption of wide political powers by the towns. They were more active than the central authority or the small rural communities. Population thronged; regulation was necessary. That which the great state was to experience and do after the sixteenth century the towns experienced and did until that time. There was community based upon neighborhood, intertown rivalry, a common religion, common industrial and commercial aims and organization managed by the guilds, as well as a compact area and population surveyable by the early statisticians and easily inspectable by a few men. Courts and officers were established by the municipal authority— inspectors, tax collectors, managers of almshouses, clerks—while the multifarious duties of industrial regulations and social welfare were carried on by the guilds and their officers. The higher decorative and directive officers were elected by the governing council of the municipality and the members of the guild, while the councils themselves appointed to the executive positions.

The church, ruling over wide territories, was the great model of hierarchy, discipline, specialization of functions and professional and corporate life. Until the sixteenth century and in some spheres for a long time afterward it administered vast fields of what are today state activities such as poor relief, education, law and order.

Under the absolute monarchies which succeeded feudalism the great states of the West evolved civil administrations to meet their peculiar requirements. In England the Norman conquest had established an invincible central authority, and the only remaining need was to

cover the country with local justices of the peace. These officials held royal commissions, but having been automatically designated for office by the localities of their birth and by their social connections they exercised their power with a generous regard to these factors. In the parishes the principle of unpaid office was in force; the minor officers of the town corporation were sometimes paid salaries which they supplemented with the gratuities of the age—fees, gifts and *pots-de-vin*. In the English county the offices of the quarter sessions were also subject to patronage. The central authority continued to divide itself into separate departments and to distinguish itself from the royal household—a process brought about by the increasing necessity for expertness, full time work and permanence, as the state undertook further and more complicated duties. Colonizing, commercial enterprise, the domestic administration of the mercantile system, poor relief, customs and excise, the postal monopoly, everywhere caused a large growth in what later came to be called the civil service and stimulated the development of its modern features. This growth marked the beginning of the golden age of patronage, which lasted until 1850. The recipients of this patronage were all above the lower middle class or hangers-on of more lowly birth. No one in England, until Burke in 1780, showed any real regard for "civil service reform" in its modern sense. The potent reformers of the time were kings and if they were otherwise preoccupied there was no reform.

In Prussia and France there were vigorous monarchs who ruled and caused great administrators to rule. Prussia under Friedrich Wilhelm I inaugurated a civil service the expertness of which was unparalleled during the succeeding century and a half. Competence proved by written and oral tests in prescribed subjects—the *Kameralwissenschaften*, a peculiar combination of economics and public administration—was a prerequisite for office, limiting the privileges of the nobility. Two factors contributed to this result. First, the continuous necessity for war organization and discipline, both in defense and in breaking down the Estates, caused a premium to be placed upon hierarchy, discipline, technical skill and rational organization. The Kriegscommissariat extending over the country was converted into a tax organization and then into a more comprehensive civil service. The spirit of the original military organization remained and was fostered. The second factor was the unusual administrative ability of three Prussian kings, whose autocratic regimes fell within a single century and were characterized by unprecedented state activity, with the monarch regarding himself as the "first servant of the State." The organization and the spirit of "bureaucracy" tided over the crises of 1789 and emerged into the nineteenth century.

France was delocalized by Richelieu, Louis XIV and Colbert. Their instruments were the Conseil d'État and the secretaries of state. But luxury and the pursuit of military glory ruined the administrative edifice they built; for, taxes being insufficient, offices were sold and the *vénalité des charges* caused the creation of a pluto-bureaucracy manned by the nobility and by the moneyed bourgeoisie, which could acquire a title upon the purchase of office. England's decentralization, the self-government of the justices of the peace and the patronage system were the direct results of a longer experience of unchallengeable central government and of smaller need for national discipline due to immunity from attack. England's bureaucracy flourished not at home but in India and the American colonies; and it was not until long afterward that the cries of an outraged population could be heard in the mother country to the extent that they were heard in France and Prussia.

Toward the end of the eighteenth century there set in those tendencies one aspect of which was represented by the French Revolution and another by the industrial revolution. "The career open to the talents" was proclaimed and came to mean "no privilege" in Europe and "rotation of office" and "spoils" in America. But these tendencies had a deeper significance. The idea of progress stimulated men to contrive an instrument of release from the conditions of their day; and the most potent was the machinery of government. It was soon discovered that parliaments were less competent servitors than civil servants. Two things were recognized. First, the necessity for a rational order in industrial effort and organization, for the utilization of all the elements most skilled to do the work required, regardless of their social position, religious beliefs, political party and (more recently) their sex, and for the exclusion from the administrative apparatus of all candidates with merely adventitious qualities. Economic rationalism has not entirely excluded other considerations but it has secured an almost complete triumph in the civil service. Second, it was

perceived that mastery of skill could be achieved only through exclusive devotion and that consequently division of labor was socially advantageous. Management or administration came to be considered a specialized vocational pursuit.

On the material side the industrial revolution compelled society to equip itself to meet new obligations on a vast scale. Health, poverty, education, communications, trade, agriculture, colonies, manufactures now disclosed elements which demanded large scale regulation and compulsion. The political philosophies of the utilitarian school, the Tory humanitarians and the socialists stimulated inquiry into these elements and brought about the adoption of necessary measures. At first only the dead environment—drains, buildings, factories, roads—was to be altered, but it soon began to be seen most vividly in the sphere of public health that men were no less important parts of one another's environment. There resulted a broad and deep extension of state activity involving of necessity an increase of civil servants. They furnish the expert knowledge without which parliaments cannot adequately create and enact policies, and when the laws are made the civil service carries them out. The experience of modern governments shows conclusively that the members of the representative assemblies have neither the time, the ability, the inclination nor the machinery to perform the former of these functions. Before they can enact policies they must come to the permanent officeholders for exact knowledge of the enormously complicated social life of our gigantic states. As to the second function, a variety of reasons forces parliaments to legislate in general terms and leave the civil servants to draw up rules and orders—to create "secondary legislation," the great and increasing mass of which gives the civil service in modern states a vast power.

Furthermore, great and formidable groups began to impinge upon one another, and seeking their own interests they threatened the peaceful continuance of the state. More and more, therefore, the civil service has come to be acclaimed as the indispensable umpire between the interests and as the embodiment of state consciousness as distinct from that of any party or group. It is the advocate of the common weal in addition to being the common servant. Hence the importance placed upon the political neutrality of the service and, where the form of the state is not yet secure, as in Germany, Russia or Italy, upon its specially sworn allegiance.

The most striking common feature of such state activities—or civil service activities—is their real or presumed social urgency. And because they are urgent they are not sold for directly paid prices but are given impartially to all citizens. Nor may an interruption in their supply be permitted. From the first fact arise the inability to measure exactly the "profits" of the public service and the need for public responsibility, involving tedious reference to laws and records, and consequently slowness; and from the second follow restrictions of the civic rights of civil servants.

MODERN CIVIL SERVICE. The main problems raised by modern civil services are recruitment; promotion; discipline (including incentives to work); pay; relations with the legislature and the public; and legal liability.

(1) Recruitment was the first concern of reformers. Broadly until about 1870 most countries recruited by the patronage system, political and social connections outweighing functional competence as qualifications for entry. But a striking and important exception to this was Prussian development where, since the end of the seventeenth century, merit as tested by definite academic excellence and practical experience made a great breach in the system of favoritism and purchase of office. Prussia has now over two hundred years experience of a specially qualified bureaucracy, compared with the brief half century of Great Britain, France and the United States. Great Britain began in 1853, the United States and France about 1880, to construct impersonal tests based upon defined schemes of educational preparation.

The essence of civil service recruitment is the education which its tests presuppose. Prussian development in this respect has had three great stages: before 1815, from 1815 to about 1879 and since 1879. In the first stage university education in the *Kameralwissenschaften* and practical experience in agriculture or business were required. In the second, practical experience was dropped and education became more and more confined to law, mainly private law. The justification offered was that great works of codification were being undertaken and a legal education was indispensable; and that to achieve the *Rechtsstaat* in a monarchy a training in law was more important than in any alternative subject. Both civil servants and judges had the same preliminary training and examinations; they then branched off into stages of apprentice-

ship and probation as *Regierungsreferendar* or *Justizreferendar*. The third stage came when it was discovered that this legal training was too narrow in scope and too rigid in form for the modern state. Between 1879 and 1909 progressive amendments were made. Economics and constitutional and administrative law were added and special attention was paid to training during the *Referendar* period. The full force of the complexities of modern society has been felt only since 1910. The schools of law themselves revolted from the old method of preparation. Plans are now afoot for giving more than one half the curriculum to economics and political science. The whole controversy has been fought out on the questions of the particular sciences needed by the administrator—and it has been generally conceded that the social sciences must be preeminent, if not alone; and of the quality of mind producible by different disciplines—and here the results of legal training have been universally deplored, for it has overrated authority and diminished the sense of personal responsibility, while the juristic method of subsumption has tended to destroy free inventiveness. Furthermore, it takes at least seven years from the time of entry into the university before an aspirant for the civil service has an "established" position not under tutelage. This is now recognized as deferring for too long the independent practical enterprise of the administrator.

As in Prussia the British civil service is recruited by a uniform examination regardless of the different branches into which the candidate may go. But here the similarity ends. For British "open competition" began tentatively in 1854. It was strongly molded by the educational views of Macaulay. He held that special preparation was unnecessary inasmuch as mental capacity could be tested equally well by competition in the ordinary subjects of the university curriculum, however remote they were from the objects of administration; and that the mental capacity thus discovered could pick up the necessary technique in the course of actual work. To pass the examinations would demand industry while at the university and this would be some guaranty of moral as well as mental excellence. This method of preparation has persisted, although the university subjects have enormously increased in number with the progress of science and teaching. Recent agitation has even caused the introduction of the classics, mathematics and the natural sciences, of law in its various branches and of economic and political science. The main lines of Macaulay's scheme still remain: a liberal rather than a special education and employment almost immediately following graduation, which means about the age of twenty-three. The British system stimulates early readiness for responsibility, sound critical ability and "manner," which goes far in the business of government since it combines force with urbanity, while the German system not infrequently omits the latter. But the British system lacks technical preparation and a period of organized probation.

France evolved later than England a method for recruiting its higher service. It has no single examining body as in England, Germany and the United States. Recruitment is carried on by each separate department and each department prescribes its own qualifications. Certain specific university diplomas are required and a technical examination follows. Perhaps the preparation is too special, as is the case in the United States, where the general administrative class, when not recruited by patronage, is recruited by an examination in a specialty. Nor are the American universities the conscious breeding places of future administrators.

(2) Promotion hardly affects the highest class of civil servants. They usually have interesting work and receive a comfortable salary. Seniority or merit plays its part according to the changes and chances of the service, which vary greatly between departments whose expansion or contraction depends immediately upon parliamentary policy. But for the lower classes promotion is a serious matter. In addition to improving the morale of the service a proper promotion policy may secure the fullest economy by the proper distribution of effort and talent. Various questions arise in connection with such a policy. Shall experience and talent acquired during service be rewarded by promotion even into the highest class? How shall such experience be measured? What remedies has an aggrieved servant against his treatment? The first question has been answered in the affirmative only within the last twenty years—and that not by all countries nor with equal liberality. No answer at all was given until popular attention was attracted by the efforts of civil service associations, which complained of class distinctions and of the waste of talent in inferior jobs. In England and Germany promotion to the highest class is rare, but there is a more generous opportunity between the lower and middle ranks of the

service. In France promotion to the top is practically unknown, while in the United States it is impossible without the passing of prescribed examinations, which is practically equivalent to a new entry. Within each grade salaries rise by annual increments and these can everywhere be withheld if the employee is not competent. The United States efficiency rating scheme of 1925 even arranges a calibrated scale of efficiency correlated with so many dollars of salary. But the raises tend to be automatic and demotion almost unknown.

The basis of promotion has been seniority or merit or a combination of these two. Seniority is a widespread practise due to the fact that it causes fewest surprises, produces least jealousy and obviates both the onerous task of choice (which is always difficult in routine jobs) and the mortification of the unsuccessful. Since experience increases aptitude, seniority promotion up to a certain point is sometimes conducive to technical efficiency. More often, however, it has the opposite effect, since it promotes the incompetent aged and wastes the younger talent. Merit has therefore been urged by the interested public and the associations, which are usually led by comparatively young men.

The question then arises of how to test merit. An objective measurement is needed independent of the personal judgment of the official superior. This has in part been supplied by such methods as the records sheets and efficiency records of England and the United States and the *Personalakten* of Germany and the *dossiers* of France. In the former countries qualities are distinguished and marks annually awarded by a superior officer. Promotion proceeds according to merit thus measured. This system fails, however, to exclude personal favor inasmuch as a superior officer is still the judge. Nor does it overcome that unwillingness to discriminate born of colleagueship. But it does cause the mind to concentrate intensely at regular and fairly short intervals upon the comparative merits of the reported group and furnishes a cumulative record of years to replace hasty and careless judgment at the moment of a vacancy.

In the quest for relief from arbitrary promotion other devices have been suggested, and sometimes adopted upon pressure, by the civil servants. In France it has been suggested that promotions be made in certain fixed proportions for seniority and merit; and in one department a promotion committee includes several representatives of the lower ranks of officials who participate in the drawing up of promotion lists. Any violation of the order decided upon is challengeable before the Conseil d'État. In England promotion boards exist in each department, and the general problems of this work are discussable by the Whitley Councils. Only in Australia is an appeal to the central controlling authority permitted, and a large number of promotions are challenged by aggrieved servants and some overturned.

(3) The problem of discipline in the civil service is governed by the fact that the civil service is not a concern making a profit measurable in money or dependent upon the satisfaction of consumers in a competitive market. In private enterprise the profit making motive causes the method of payment by results to permeate the whole personnel; and this is an automatic disciplinary method. But the public service is normally monopolistic, and it serves a market usually inelastic—its expansion being limited by the statutes creating the departments and their activities and not depending upon the effort of the servants. The services are "sheltered" and the value of the work is not measurable with exactness. Its excellence can be secured only by a code of discipline founded upon the nature of the service. All civil services, therefore, have such codes, not differing essentially from those actually operative in private industry but expressly and authoritatively formulated. We may take the code of Germany as being the most explicit, although every country is approximating thereto, and new countries like Australia and South Africa actually write the codes of discipline into their public service acts. The German code enjoins: the conscientious discharge of all duties pertaining to the office in accordance with the constitution and the laws; obedience to the official orders of superiors in so far as they are not contradictory to the law; behavior worthy of the respect accorded to the office; the discharge of official duties with all possible sincerity and probity, with impartiality, industry and care and with indifference to private advantage; strict maintenance of the hours of service; acceptance of new work corresponding to training and capacity and not derogatory thereto; truthfulness in all official dealings, even when under a charge, and disclosure of all facts which concern the welfare of the service; respect to superiors and, to the public, courtesy, kindliness and helpfulness; defense against insult; such a private life that the dignity, confidence, respect and efficiency of the service shall

not be impaired; permission before any part of the official's time may be spent in extra employment; official secrecy.

These rules as well as others of a like nature are ever present threats to insure subordination and devotion to duty. They are in fact in the nature of a state religion, of commandments emanating from the nature of the state. In fact the taking of an oath of office has been and is required in Germany and most other countries, the ostensible purpose being to invest office with the authority of religious mysticism. The great difference between continental and Anglo-Saxon countries is that the former have their codes stated publicly and in a convenient form, while the latter have no systematic and public body of doctrine. Furthermore the continent has a regular procedure culminating in properly constituted disciplinary tribunals where servant and superior may be judged, while few English speaking countries except Australia provide courts of appeal outside the departments or the treasury.

For the purpose of exercising disciplinary pressure the Prussian service of the eighteenth century developed a crude system of spying upon officers, followed by secret delation. It lasted until the nineteenth century when it was replaced by a more refined system of secret *dossiers*, revealable during disciplinary procedure. Essentially a method of terrorization, it was the natural outcome of the origin of the service in military organization and of the fear of imminent downfall always felt by a monarchy. The development of the theory of *Rechtsstaat* and of democratic organization resulted in an onslaught upon secret records. The German constitution of 1919 abolished such secrecy and analogous development has occurred in all other countries. Democracies have so far found that a sufficient incentive can be otherwise engendered.

One aspect of discipline especially significant in the modern state is the question of the right of civil servants to associate and ally themselves with other professional and industrial groups who may by their economic or other claims come into more or less violent collision with the will of parliament. This question has arisen most naturally and in its gravest form in countries like France where civil service conditions have been bad. Furthermore civil servants, especially in the subordinate grades, tend to feel that they have social affiliations with the working classes and to desire to support their policies. In all countries, therefore, the questions of association and the right to strike have arisen. Because of the urgency of the services which the state must perform no country admits the right to strike. All countries permit association, but their practise varies on the question whether civil servants may affiliate with trade union bodies who may command or incite them to strike. France does not allow affiliation; Germany does; the United States does not forbid it; while in Great Britain, although it is now forbidden, the question cannot be said to have been finally answered. Those who are against strikes and affiliations add the further argument that in proportion as civil servants are given such rights as pay, superannuation, settled means of promotion, redress of grievances and immunity from the fluctuations of private industry they must not endanger by their withdrawal from duty the social organization which makes these conditions possible. A halfway ground is being established in the form of arbitration courts and of councils representing both the staff and the higher authorities. These have been best developed in Great Britain, Germany and Australia.

(4) One of the most difficult problems that the civil service presents is that of its pay. It is not doing work which can be measured exactly in terms of any similar work outside. Its members are subject to special rules of decorum and are deprived of some of the general civic rights. Entry into it is dependent upon qualifications above the average of the ordinary clerk in the business world. It offers no exciting prospect of riches gained at an early age. The service is peculiarly one in which a rapid turnover of personnel is undesirable. It is also one in which resignation involves the surrender of guaranteed rights. There has always been the immensely difficult problem of establishing fair rates of pay for the various grades of the civil service.

The amounts paid for civil service work vary in different countries and are conditioned by several factors. Perhaps the most important consideration is the general level of payment and working conditions prevailing in the country. In France where this level is not very high employees tend to remain in the service at low rates, whereas in the United States civil servants are constantly tempted to outside employment. The other significant factors are the intelligence of statesmen and the strength of the civil service associations which represent civil service views and marshal the facts for judgment.

(5) Since democracies have become the masters of the civil service emphasis has neces-

sarily been placed upon its relation to parliaments and the public, and many new questions have been raised. Ought civil servants to obey any government which has parliamentary confidence regardless of their own conscience? How far ought they enjoy the political rights of ordinary citizens? What is the public's attitude toward civil servants, and their attitude toward the public?

Thus far practise has shown that civil servants have been enjoined by governments of the most diverse political views to remain the neutral servants of the state. It has been recognized almost universally that interference with this neutrality means the loss of technical skill to the state as a whole, and only the most extreme minorities of the Left and Right have been ready to sacrifice this neutrality by "purification" of the services. This doctrine has a high ethical import and requires for its maintenance a spirit of renunciation; but hard as it is the whole effectiveness of democratic government rests upon it. A counterpart to this doctrine is that which holds that civil servants should occupy an anonymous position in the machinery of the government, that is to say, that all responsibility should be concentrated upon the political ministers and that the names of civil servants should in political discussions never be mentioned in either praise or blame.

The question of political rights is directly connected with this. If the civil servant is to be the impartial servant of all governments, the less the civil servant has to do with politics the better. For any practical and observable connection with a party may at least produce suspicion of partiality, and suspicion of political favoritism spreads rapidly through a staff. Practise has been various and vacillating. The vote has not been denied, but in Australia, the United States, Canada and South Africa wider participation in politics is forbidden. This limitation is the result of a reaction from the spoils system. In France a varied history has ended with the abolition of legal hindrances to political activity; even election to the chambers is permitted, the official being "seconded" during membership. The same applies to Germany, where the tradition arose owing to the impotence of the assemblies and the desire of the crown to have its spokesmen in them. But careful restrictions are imposed to insure that political activity shall not be pursued during official time or with the use of any official means. In England only the industrial workers of the state are permitted to stand for election, but not the administrative employees, who, however, may with permission participate in municipal government.

The science of the desirable relations of the public with the services is almost entirely unplumbed. Until recently the public has been the governed; and when this relationship began to break down, power was transferred to the parliament, not to the public. But it has been observed in the last two generations that parliaments are incompetent to do more than regulate the services in a broad and general way; it is only on widely separated occasions that complaints can be brought before representative assemblies absorbed as they are with vital matters of general policy. An occasional and general reprimand has proved insufficient. A day by day commanding presence is required. This is obtainable informally by public knowledge of the work, the rights and duties of the services and by a well developed sense of public mastership, which is the only real preventive of bureaucratic temper. It may be obtained formally by the establishment of advisory councils for each department or special division of a department through which public complaints can conveniently flow directly to the administrators; and there are already signs that these are being created. But public knowledge and a sense of mastership are laggards and poor matches for official usurpation. The latter varies much from country to country, but everywhere it is true that entrance to office tends to breed a cold and rough insolence, however slight. This is partly due to the official's own answerability to superiors. It is due also to the consciousness of power. It can be mitigated only by deliberate education.

(6) Finally, there is a great variation in the treatment of a civil servant's liability for wrong done in the course of official action. The Anglo-Saxon doctrine—from which Australia now dissents—is that liability is exclusively the official's. He is responsible and must therefore pay. The merit of this doctrine is that personal liability may cause circumspection. But few officials are really ill willed. They sin rather by ignorance or accident or as a result of being given defective commands. The alternative method adopted on the continent is for the state to accept liability, since the official is usually unable to pay compensation for his error, and then to take disciplinary action (*Rückgriff*) against the official in special administrative courts. The English have held the erroneous view that this system favors the official. In fact the courts have given juster

judgments than elsewhere, for they are composed of men with judicial training, enjoying regular appointment, familiar with regular procedure and yet versed in the technique of administration. It seems likely that the continental method will in principle be generally adopted; for everywhere the state, but recently commanding by the show of coercion, is transforming itself into a state ministrant and responsible.

HERMAN FINER

See: PUBLIC EMPLOYMENT; ADMINISTRATION, PUBLIC; CENTRALIZATION; BUREAUCRACY; GOVERNMENT; COLONIAL ADMINISTRATION; SPOILS SYSTEM; PATRONAGE; PROFESSIONS; EXPERT; PERSONNEL MANAGEMENT; TRADE UNIONS; STATE LIABILITY.

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CIVIL WAR is military conflict between two or more approximately equal political governments for sovereignty over people and territory native to both. In contrast revolution is a change, not necessarily brought about by force or violence, whereby one system of legality is terminated and another originated within the same society. Numerous important revolutions, like that of 1688 in England and that of 1848 in France, have involved almost no military conflict. Civil war may accompany revolution, but even in the great French Revolution it played only a secondary part. Civil war is also to be distinguished from insurrection, which is a struggle from the bottom up—an uprising of a more or less politically unorganized group against an established authority. Civil war is horizontal, insurrection vertical, conflict.

Civil wars may be classified roughly as religious, political or social. The rise of Protestantism caused a whole series of religious civil wars between 1550 and 1648. The civil wars in England during the years 1641 to 1651, in the United States from 1861 to 1865 and in China from 1921 to 1928, were political. The history of ancient Greece and Rome shows a whole series of social civil wars between rich and poor, aristocrats and plebians. The Russian civil war of 1918–21 was primarily a social war between the upper classes on the one hand and the city proletariat aided by the peasants on the other.

Religious civil wars have usually been very bloody and ruthless. Social civil wars tend to resemble them in this respect, while political civil wars are commonly humane—as wars go. The Thirty Years War was indescribably ferocious; the recent civil war in Russia was marked by much cruelty; while the American Civil War was comparatively well controlled.

The character of civil war varies considerably according to the type of political organization in the country in which it occurs. In unitary states civil war is likely to be amateurish and bungling in its early stages. The old government is weakened by the withdrawal of large numbers of its trained personnel, who then proceed to im-

provise an opposition government which does not at first function very efficiently. The English civil war of 1641–51 and the American Civil War are cases in point.

In federated states civil war closely resembles international war. Here organized functioning governments already exist and the task of generating a civil war between them is relatively simple, especially when the nature of the federal bond approximates a league rather than a closer union. The Thirty Years War, the War of the Sonderbund in Switzerland in 1848 and the American Civil War afford varying illustrations of the nature of civil conflict in federated states. Civil wars in colonial states are in general much like civil wars in federated states except for the fact that they are always at least three-sided, the contestants being the two factions in the colony and the mother state, which as a rule unites with one colonial faction against the other.

The social situations which lead to civil war follow the general conflict pattern. An existing equilibrium of contending interests is disturbed by new conditions. There is a consequent unrest, which at first manifests itself in discussion, argument and debate. In the course of this discussion certain issues, important and even fundamental in the life scheme of the society, become clearly defined. Since they cannot be settled by peaceable methods, such as elections, for the reason that neither of the parties is willing to abide by the result of an adverse ballot, the society gradually separates into antagonistic factions. Anything done by one faction to advance its interests irritates the other into counter moves. The strain increases by a process of cyclic interaction and animosity becomes intensified. At this stage almost any untoward event, of however little importance in itself, is sufficient to precipitate a crisis. The occurrence of some such event is inevitable under the circumstances and military conflict begins as the response to the crisis created by the previous conditions.

During this process group becomes estranged from group within a community and even members of the same family may be divided. In general the population of one section of the territory in which the civil war occurs will favor one faction, another population area will favor the opposite faction, while the population in the area that lies between will be more or less evenly divided. The military struggle is likely to be most intense in this area of divided loyalty. The two factions in a civil war are much alike despite their antagonism, since they are simply parts of an originally united group. As the civil war proceeds they become more alike, thanks to the practise of copying each other's technique. Within each of the two opposing forces develop smaller factions which may gain increasing importance as the war goes on. During the American Civil War the Copperheads in the North were such a minor faction while the inhabitants of eastern Tennessee played a similar role in the South.

Civil war as contrasted with foreign war is, for one side at least, war for complete conquest—for the extinction of the enemy government. It is a struggle for existence, whereas in modern times foreign war is as a rule waged only for certain specific and limited aims. In the case of a foreign war a government has a more complete command over the loyalty of its subjects than in the case of civil war, when a not inconsiderable minority of the population on each side is more or less apathetic or hostile to the purposes and aims of its government. Each government, therefore, has to divert some of its military force to the task of holding down this discontented element within its own territory. The extent of this diversion of military force is frequently so considerable as to affect appreciably the progress of the civil war. Again, in foreign war, campaigns have usually been planned by military staffs during time of peace. This is seldom the case—indeed it is seldom possible—in civil war, and for this reason military tactics especially in the early stages of civil war are ordinarily more hesitant and more ineffective.

Civil war ends in one of three ways. Usually one faction subjugates the other; but one may establish its independence of the other; or the two factions may become mutually exhausted and arrange a truce which may last till the emergence of new and different issues saps the vitality of the original antagonism. The American Civil War illustrates the first termination, the war resulting in the separation of Belgium and Holland the second, the Wars of the Roses the third.

A process of accommodation must then set in at the end of military operations. There is at first a tentative adjustment; the previously warring factions arrive at some working basis for carrying on the activities of ordinary life. The intensity of their animosity decreases as this process of accommodation comes to cover a wider range of relationships. At first the contacts of the former antagonists are few and unfriendly,

but gradually they increase in number and cordiality until at last a final adjustment is made and a new and stable equilibrium arrived at. As the civil war period recedes into history the former enemies may come to have a sentimental attachment for each other. While the question as to which government shall control is settled by civil war, it is as a part of this process of accommodation after the war that some scheme for deciding who shall man the new government is worked out.

As a result of civil war previously existing interest conflicts are either terminated or reduced to the competitive instead of the conflict level. The American Civil War terminated the conflict over slavery. On the other hand, following the military conflict between the Royalists and Parliamentarians in the English civil war of 1641–51, the same issue of monarchical absolutism appeared in the next generation in the political conflict of Tories and Whigs. In either case civil war commonly has far reaching effects on social institutions.

Civil war is not infrequently terminated by the intervention of foreign powers, as in the cases of Greece and Turkey in 1821–29, Hungary and Austria in 1848–49 and Belgium and Holland in 1830–32. During the course of a civil war, also, foreign powers may exert considerable influence. They may recognize either the belligerency or the independence of the faction carrying on civil war against the state of which it is legally a part. The recognition of belligerency confers upon such a faction a de facto international character in respect to the rights and duties of legal warfare. These include such things as the right of admission of the ships of the recognized faction into the ports of the recognizing nation, the right to borrow money on the credit of the de facto state which has been recognized, the right of visit and search at sea by the ships of the de facto state, the confiscation of contraband goods and the maintenance of blockade. The act of recognition imposes upon other nations the obligations of formal neutrality between the contending parties.

The recognition by foreign powers of the independence of new nations formed as the result of civil war is, like the recognition of belligerency, commonly though not always determined by the facts of the case. When the civil war has reached such a conclusion that it is manifestly impossible for the parent state to subdue the revolting community the latter is recognized by such nations as find it in their interest to enter into official relations with it. Premature recognition of the independence of a revolting faction in a civil war may, as an interference with its right to retain control of its own subjects, constitute an offense against the parent state. In certain cases recognition may amount to intervention. The collective recognition by the great powers of the de jure independence of Greece in 1827 was considerably in advance of its real independence and was the decisive element in the situation. This was true also of the recognition of the independence of Cuba by the United States in 1898 and of the recognition of the independence of Panama in 1903. In the two former cases international war was the result of such premature recognition. If the foreign powers believe it to be in their interest to recognize the belligerency or the independence of a faction in a civil war they can always do so at their own risk; such recognition has frequently been the most important factor in determining the issue of a conflict.

LYFORD PATERSON EDWARDS

See: WAR; WARFARE; CONQUEST; REVOLUTION; INSURRECTION; TERRORISM; COUP D'ÉTAT; SOVEREIGNTY; INTERVENTION; BELLIGERENCY; RECOGNITION, INTERNATIONAL; CONFLICT, SOCIAL; SOCIAL PROCESS.

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CIVILIZATION. The term "civilization" although derived from Latin is only an indirect derivation. In classical Latin the adjective *civilis* and the substantive *civilitas* denote general qualities connected with the citizen (*civis*) and more particularly a certain politeness and amiability, especially as shown by superiors, for example the Roman emperors, to inferiors. In the Middle Ages there seems to have been an extension of the meaning of the term, as in Dante's *De monarchia*, where *humana civilitas* denotes the largest and most comprehensive

social entity rising above the individual, the family, the neighborhood and the nation.

The present form and connotation of the word were created by the rationalists of the eighteenth century, above all by Voltaire and the other French *encyclopédistes*. Dr. Johnson's biographer, Boswell, was the first to introduce it into English. The emphasis then clearly lay on the antithesis of civilization to feudalism and the "dark ages," and the group of value judgments bound up with this typically "enlightened" emphasis has ever since affected the concept of civilization and civilizing activities. The underlying premise, more or less uncritical, of the direct and rational progress of society and mankind is still most characteristic of the conception of civilization prevalent in America and the western European nations, while from Germans and Slavs have come repeated protests against the arbitrary and artificial character of the assumption of uniform civilization and progress.

The ancient Greeks and Romans did not draw a general contrast between the condition of the citizen body and the absence of material or mental progress. Indeed, they were given to identifying their own stage of social organization with that proper to man as such, and conversely to regarding as "inhuman" the men and societies they designated as barbarian. But the contrast was one of mental and personal accomplishment rather than of political freedom and equality. They did not hesitate to assign to barbarians an inferior status inside their own more "human" society. What they felt as the source of their own superiority was rather the mental refinement they described, by a metaphor from agriculture, as *cultura animi* (Cicero). In a similar sense modern writers have frequently insisted upon a concept of "culture" as independent from, or even opposed to, that of civilization. But the controversy centering in this conception has been blurred to a large extent by the passions of the World War era. It may be said in general that it is not advisable to neglect either the cultural aspect of civilization (as a more comprehensive idea or reality) or, vice versa (if civilization is conceived of more narrowly as technical and material progress), the part which the civilizing process plays in all culture.

The most persistent and pervasive antithesis to civilization is neither the ancient conception of "barbarism" nor the eighteenth century conception of an "unenlightened state" preceding the "enlightenment," but rather the anthropological and ethnological phenomenon of so-called primitive peoples (*Naturvölker*). This phenomenon presents a very difficult problem. It raises questions not only as to the nature of progress and the methods of attaining it but also as to the differences between (relatively) more stationary and more changing racial or social conditions, whether progressive or regressive. In the "primitive" tribes and races, which show a very small measure of development or, apparently, even fitness for development, both before and after their contact with "civilized" man, the riddle of Darwinism seemed to be transferred from physical to mental evolution. Here too there was the theoretical possibility of arranging different types into bio-genetic series, but hardly any empirical proof that one series had really developed out of the other. On the contrary, objective studies showed a high degree of mutual impermeability between these types.

With increasing maturity ethnology has lost its first assurance of a clearly defined path between prehistoric and modern man or of definite stations on this path to be assigned to different civilizations. At the same time a shift in emphasis appears to have taken place. The older ethnologists and sociologists were busy trying to find a boundary line separating the more general concept of civilization, as a system of social custom and organization, from the more special sense of the term, as denoting a higher, more rational and more commanding position of man in nature and society. Any such boundary line could not but be more or less arbitrary. If for example the use of writing as a method of fixing thought and the memory of generations beyond the reach of oral tradition was taken as the chief characteristic of civilization, in the sense of a superior state of man, recent research into the "ideographic" writing of dead and living languages has revealed the extremely slow, gradual and equivocal development of this method of fixation in connection with the evolution of speech and thought themselves. Modern sociology and anthropology, therefore, have come to distinguish not so much between higher and lower types of civilization as between the animal basis and the human superstructure in man and society at any stage, whether early and primitive or late and complex. This latter line of inquiry is apt to give a more balanced and objective view of social evolution since it directs attention more equally to the gains and to the losses involved in the evolution of the human superstructure. However much exaggeration there

may have been in a recent fashion of treating man, and particularly modern man, as "degenerate," there is surely much to be said for the underlying assumption that the specific functions of human reason are to a considerable extent merely compensations for the weakening or loss of the play of animal instincts and habits.

From this newer and more objective viewpoint the old problem of the diversity and succession of civilizations assumes a more precise form. There is on the one hand a possibility of starting from the assumption of a more or less uniform natural endowment of man with a consequent more or less uniform development of this endowment in different societies, the "phylogenesis" of these societies repeating, more or less independently of outside influences, the "ontogenesis" of individual man from childhood to old age (or conversely, the individual man repeating the experience of the race). It was this uniform scheme of development from within that was conceived by Adolf Bastian as the "elementary thought of all peoples" (*Elementargedanke*). On the other hand, there is a possibility of starting from the assumption of different racial endowments, thus broadening and deversifying the animal basis of human development. From this point of view race becomes an independent variable amid the influences of physical and historical surroundings, and a much more important place is made for mutual and one-sided "receptions" of civilizations and the "diffusion" of higher throughout lower civilizations. Conceptions based on the hypothesis of racial differences have recently attained a certain currency in theories like that of Elliot Smith on the diffusion of Egyptian civilization or those of Leo Frobenius and Oswald Spengler on the "cultural circles" of different races and regions. It is true that any group of racial traits empirically established is in *a priori* theory capable of being resolved into a series of historical acquisitions imposed upon a basic human uniformity. But this theoretical possibility has little meaning for the more important questions whether particular racial traits are of remote or of recent origin and whether they do or do not yield readily to the forces of adaptation. Here as elsewhere the markedly liberal character of the thought of the eighteenth and nineteenth centuries offered an exceptionally fruitful soil for anthropological confirmations of the "equality of man," while twentieth century thought is apparently favorable to a reconsideration of the doctrine of the aboriginal diversity of civilizations which only in its cruder and more biased forms can be said to be obsolete.

Racial homogeneity and diversity, if only in the sense of long term fixations of systems of psycho-physiological traits and habits in different social groups, is indeed an indispensable assumption in explaining the most outstanding facts of civilizations and their history. The coexistence in primitive and also in most later societies of horizontal or "democratic" principles coordinating the life of all responsible individuals, and vertical or "autocratic" principles subordinating one part of the population to another, points to the conclusion that the cleavage of capitalistic society into the "two nations" (as Disraeli described them) is only one case under the more general rule that what we call one civilization consists frequently of several systems of traits and habits superimposed one above the other. Even the difference of sex is thus capable of furnishing, as in primitive matriarchal or modern gynecocratic arrangements, an ambivalent principle of social order. If once we cease to apply dogmatically the Spencerian theory about the succession of "industrial" to "military" civilizations we shall be struck by the equal mixture of force, whether actual or potential, and habitual subjection in modern and in primitive social dependence. And while at first sight the exclusive possession and use of arms appear to be the decisive factor in the rule of feudal lords and absolute monarchs, of Fascist and Communist parties alike, closer inspection reveals that outside of "epochs of transformation" actual force recedes before potential, and potential force in turn recedes before the more stable equilibrium of classes that rests upon their relative preponderance in civilization. The modern connection between democratic and nationalist movements is therefore not merely accidental. Both movements make for greater social uniformity, the one politically, the other culturally and racially. But in America and elsewhere both tend to fall into tragical contradiction with the "great society," which is characterized under the political surface of democratic government by economic and racial diversity and stratification.

Modern research has indicated that racial and other individual factors have played a prominent part in the development of civilization. Accordingly it has come to be an essential task of scholarship to account for the change and interchange of stages and systems in terms other than "psychic unity" and "mono-typical evo-

lution." A complete theory of migrations will have to elucidate not only the wanderings of man, but also those of things, ideas and institutions over the surface of our planet. The functioning of prehistoric and protohistoric trade routes over continents and seas and the conquering expansion of nomadic tribes may at first sight appear like antithetical activities, after the pattern of the Spencerian theory of the antithesis of military and industrial activities. But closer study reveals a common driving force behind both activities. The position of the trader without an adequate hinterland is analogous to that of the nomad pressed back by the desert. Both are forced outward into various enterprises, instead of being permitted to remain passive in circumstances affording a sufficiency. In connection with problems of this character detailed inquiry has to step in to replace empty formulae by realistic, if much more complicated, evidence. Old notions about the transfer of civilizations in space and time will have to be refined and revised. Besides the conscious and voluntary elements of what is usually regarded as the "renaissance" or "reception" of an older or foreign civilization the deeper unconscious and involuntary elements that transmit civilizing influences "through the air," as it were, have to be discovered. It becomes necessary to account for the influence of mechanical contacts and for the persistence of cultural material such as technical instruments, buildings or even sites of settlements. It is to be questioned whether any renaissance or reception, such as the well known renewals of ancient civilization by the late Middle Ages, would have been possible at all without a kind of underground continuity, as for example through the Roman church or the Roman Empire, which kept open the unconscious flow of civilized attitudes from the earlier source to the society which served as receptacle for civilization revived.

In this connection it may well be doubted whether there has ever been to any considerable extent what is called a "loss" or even a definite standstill of a highly developed civilization. The disappearance of the great civilizations of Central and South America and that of Central Africa does indeed appear to present as irrefutable evidence of the perishable character of a civilization as the continuity of Chinese civilization appears to present of its persistence. When, however, we take into account, on the one hand, the possible and probable radiation of such civilizations (as for instance that of Central America into the Pacific and the Far East) and, on the other hand, the fact that they may merely have been thrust underground by the actively superior force of European enterprise, we are at least bound to reserve judgment as to whether the dead and the lost may not be either living in full vigor around us or else lying dormant and capable of shooting up later with renewed life.

Conversely, science ought not to accept too lightly and uncritically the assumption of a central stream or reservoir of "world civilization" into which select elements from the particular civilization of all ages and races may be received as so many tributaries. The weakening of the fundamental classical and mediaeval traditions of Europe that is going on under our eyes not only in revolutionary Russia but almost as markedly in peaceful America should warn us against hastily setting up the historic system of "European civilization" as a more persistent system than those that have disappeared before it.

We may look upon race as a kind of conduit for conveying the transferable contents of civilization, such as religion, art, science and language. Parallel to civilization in this sense is the customary and legal organization in governments and states, in its origin a substitute for primaeval kinship organization. Just as the rigidity or flexibility of races has long been a subject of historical speculation, so the more or less transitory correlation between political organization and systems of civilization has been a favorite subject of inquiry. Opinions have divided in analogous fashion. Those who minimize the racial factor are inclined to stress the independence of "cultural development," while the "primacy of the state" has been accepted especially by believers in the multiplicity and individuality of the human mind. It would hardly be an exaggeration to say that the spirit of comparative and "universal" history, since the days of Aristotle and Polybius, has been determined by this problem of the relations between political and cultural change. The theories of the mediaeval church concerning a series of "ages of the world," seen as a succession of "monarchies" from Babylon to Rome, already contained very clearly the idea of a "translation" not only of empire but of the mission entrusted to it. Modern philosophers of history, from Montesquieu to Guglielmo Ferrero, in dealing with their favorite theme, the "grandeur et

décadence" of the Roman Empire, have elaborated the idea by trying to establish definite causal relations between political changes and changes in civilization. Even the last and most powerful attempt at historical system building, the "economic interpretation" derived by Karl Marx from the Hegelian concept of dialectical evolution, restates the old problem in terms of the contrast between technical "forces of production" and juridical "relations of production."

The Marxian system is strictly universal because it is strictly "materialistic." Only in its doubtful conceptions of the "future state" and its "classless society" does it show an element of freedom from the universal law of evolution. One type of the historical interpretation of civilization appears to present even a higher degree of generality. This is the type which likens to the ontogenesis of individual man from childhood to old age not only the whole of human evolution as an abstract and average of historical civilizations but also these single civilizations themselves. Both materialistic socialism and progressive liberalism make much of the social and economic gains from rational education and technical advance, factors capable of cumulative effect and suggesting the possibility of continuous progress. The ontogenetic view regards the different systems of civilization, such as the classical European or the capitalistic system, as so many parallel, and sometimes overlapping, life processes each with a primaeval, a middle and a decadent stage. From this point of view civilization is seen not so much as the maturing and progressive elements in this process but rather as the decaying and degenerating elements. In the last instance this view always results in the concept of a cyclical movement of mankind, in which the individual civilizations rise, fall and are replaced by their successors like generations succeeding one another, or like fashions and habits which first spread, then sink from "higher" to "lower" classes and finally disappear.

It is an interesting problem for sociology and psychology to determine the typical circumstances under which the cycle theory of civilization has taken such different, and yet at bottom similar, forms as those of the ancient Stoa, the modern school of Rousseau or the Indian doctrine of incarnation. These theories differ chiefly on questions as to what are healthy phenomena and what are decadent; they differ also on the point whether a new cycle would have to go back to the same starting point as the old, or might keep some of the gains of the old and advance to new goals.

To the scientific observer there is an accumulating momentum and an internal coherence in certain aspects of civilization, such as the scientific and technical, as well as a revolving movement in certain others, such as the religious and artistic. Surely the common view that "man is many, and civilization one" is incorrect. But neither is the reverse thesis that "man is one, and civilizations are many" sufficient for other than quite general purposes. Practically we shall do well to assume that man is many and civilizations also are many.

CARL BRINKMANN

See: CULTURE; SOCIETY; SOCIAL PROCESS; RACE; MIGRATION; MAN; RELIGION; ART; LANGUAGE; SCIENCE; EDUCATION; SOCIAL ORGANIZATION; STATE.

Consult: Ogburn, W. F., *Social Change* (New York 1922); Wissler, Clark, *Man and Culture* (New York 1923); Tozzer, A. M., *Social Origins and Social Continuities* (New York 1925); Weber, Alfred, "Prinzipielles zur Kultursoziologie" in *Archiv für Sozialwissenschaft und Sozialpolitik*, vol. xlvii (1921) 1–49; Brinkmann, C., "Der 'Überbau' und die Wissenschaften von Staat und Gesellschaft" in *Schmollers Jahrbuch*, vol. liv (1930) 437–56.

CLAMAGERAN, JEAN JULES (1827–1903), French statesman and economist. An ardent republican, he became involved in the attempts of Ledru-Rollin to curb the growing power of Louis Napoleon and with their failure in 1849 was obliged to go into temporary hiding. After receiving his doctorate in law in 1851 he traveled extensively, especially in the United States, to which he was strongly attracted partly because of his interest in its rapid economic development but especially because it represented to him the ideal of republicanism. His keen observations of his travels are largely recorded in his letters (*Correspondance, 1849–1902*, Paris 1906). Clamageran participated actively in the election of 1863 having been one of the editors of the *Manuel électoral* (Paris 1861; abr. tr. Edinburgh 1865), which was prepared as an aid to republican voters and candidates in that campaign. During the siege of Paris he was in charge of the important problem of provisions. With the establishment of the republic he entered more actively into political life, serving successively as municipal councilor of Paris, as councilor of state and finally as life senator. He was named by Brisson to the Ministry of Finance (1885) but ill health forced him to resign almost immediately.

Clamageran's chief economic work is the *Histoire de l'impôt en France* (3 vols., Paris 1867–76), a careful, scholarly study of French public finance from earliest times through the death of Louis XV. He wrote other works on specific phases of French governmental finance and his *La France républicaine* (Paris 1873) devotes an important section to the question of tax reform. While his economic views were those of the orthodox liberal school, with consistent adherence to the doctrine of free trade, his writings manifest a realism and originality of spirit which were strengthened by his studies in history and his practical experience in political and financial affairs. His liberalism in economics and politics carried over into his religious life, and he took a prominent part in the struggles between the orthodox and liberal elements in the Protestant church, to which he belonged. He stressed the importance of individual freedom in the interpretation of Christianity, and looked forward to the establishment of a universal Christian church which would embrace in its simplicity of faith all shades and opinions (*De l'état actuel du protestantisme en France*, Paris 1857).

JOSEPH J. SENTURIA

Consult: Berthelot, M., in *Revue de Paris*, vol. ii (1904) 468–84; Passy, F., "Clamageran" in *Journal des économistes*, 6th ser., vol. ix (1906) 184–92; Weill, G. J., *Histoire du parti républicain en France (1814–1870)* (new ed. Paris 1928).

CLAN. *See* SOCIAL ORGANIZATION.

CLARENDON, CONSTITUTIONS OF. *See* BENEFIT OF CLERGY.

CLARENDON, EDWARD HYDE, FIRST EARL OF (1609–74), English statesman and historian. Elected to the House of Commons in 1640 Hyde played an outstanding part in English political history for nearly a generation. At first he identified himself with the popular cause, joining in the condemnation of ship money, but when the extremists gained the upper hand he turned royalist, became chancellor of the exchequer in 1643 and from then until 1649 was the king's right hand. During the nine years of Charles II's exile in France Clarendon was his principal adviser and in 1658 received the lord chancellorship and on the Restoration an earldom.

Throughout his career he stood unflinchingly and almost fanatically for two main principles, the monarchy and episcopacy. Although in later years he professed to discourage the worst extravagances of the reinstated church party he favored the passing of the Corporation Act (1661) and the Act of Uniformity (1662), which respectively disqualified Presbyterians for municipal service and purged the church of its Puritan clergy. In his defense of royal prerogative he went to the extreme limit compatible with legality. His influence was openly directed toward making the crown as independent as possible of Parliament, by placing at its disposal ample permanent revenues. In 1667 his royal master, whom he had served with a blind devotion which led him at times to forget the duty of a patriot, relieved him of office. Impeached by the House of Commons he fled the country and died in banishment at Rouen.

His *History of the Rebellion and Civil Wars in England* (3 vols., Oxford 1702–04; new ed. in 6 vols. by W. D. Macray, Oxford 1888) and his *Life* (Oxford 1759, new ed. in 2 vols., 1857) rank as "human documents" of unique interest, although neither is distinguished by impartiality or accuracy.

W. H. DAWSON

Consult: Firth, C. H., *Edward Hyde, Earl of Clarendon, as Statesman, Historian, and Chancellor of the University* (Oxford 1909).

CLARKSON, THOMAS (1760–1846), pioneer British abolitionist. Clarkson was one of the few non-Quakers among the early leaders of the movement. He was active for over sixty years as agitator, organizer and writer, and as a leader in the fight on slavery ranks with William Wilberforce. His three main objectives were the universal abolition of the slave trade, the universal freeing of slaves and the orderly economic development of Africa and its civilization by missionary activity. Clarkson's interest in abolition was aroused during his student days at St. John's College, Cambridge. His Latin essay, "Is it right to make men slaves against their will?" brought him into contact with Granville Sharp and William Wilberforce and into the heat of the abolition battle. At the beginning of the French Revolution he spent six months in Paris, but although he enlisted the sympathies of Mirabeau, Brissot, Lafayette and Necker he realized no practical success.

As a collector of evidence Clarkson probably has never been surpassed among reformers. Illustrative of his zeal was his search of the ports of the kingdom for a man wanted as a witness, whose name he did not even know, but whom he

found on the 317th ship visited. He traced the fate of 20,000 seamen until he proved conclusively that the trade was not the nursery of seamen but their grave. Briefly, he gave "the Abolition movement its essential basis of hard fact" (Coupland, p. 101). As late in life as 1839 Clarkson threw himself into the work of the recently organized British and Foreign Anti-Slavery Society. He carried on a vigorous correspondence with Lord Ashburton and others regarding the interpretation of the extradition clause of the Webster-Ashburton Treaty, and urged Lord Aberdeen at the British Foreign Office to prevent the annexation of Texas by the United States. He interested himself in the fugitive slaves in Canada and in the free Negroes in the United States, keeping on intimate terms with all American antislavery groups.

Clarkson was the author of a score of books, of which the *History of the Rise, Progress and Accomplishment of the Abolition of the African Slave Trade by the British Parliament* (2 vols., London 1808) and *Memoirs of the Private and Public Life of W. Penn* (2 vols., London 1813; rev. ed. by W. E. Forster, 1849) are best known.

FRANK J. KLINGBERG

Consult: Taylor, Thomas, *Biographical Sketch of Thomas Clarkson, M.A.* (2nd ed. London 1847); Elmes, J., *Thomas Clarkson* (London 1854); Klingberg, Frank J., *The Anti-Slavery Movement in England* (New Haven 1926); Coupland, Reginald, *Wilberforce, A Narrative* (Oxford 1923); *A Side-Light on Anglo-American Relations, 1839–1858*, ed. by A. H. Abel and F. J. Klingberg (Lancaster, Pa. 1927).

CLARTÉ MOVEMENT. The Clarté movement was an attempt to organize writers and scientists both of the Allies and of the Central Powers into "a league of intellectual solidarity for the triumph of the international cause." It was started in France in February, 1919, three months after the Armistice, by an "appeal from the intellectual combatants of France to the intellectual combatants of the whole world." Its purpose was to oppose "continuing the war after the peace" and to rebuild the "International of Thought." The name of the movement was taken from a novel, *Clarté* (Paris 1919; tr. by F. Wray, New York 1919) by Henri Barbusse, who during the war had won the Goncourt Prize with one of the most widely read of all the war books, *Le feu* (Paris 1916; English translation, London 1917). At the end of the war the hero of *Clarté* has a vision of a revolution in the minds of men and the building of a universal republic; this was the inspiration of the Clarté movement.

Barbusse himself was the leader of the movement. With him were associated in the international directing committee, among others, the distinguished French writers, Anatole France, Georges Duhamel and Jules Romains; English writers such as Thomas Hardy and H. G. Wells; the Danish critic, Georg Brandes; the Austrians, Stefan Zweig and Andreas Latsko; and the American, Upton Sinclair. The members of this "fraternal group of free spirits" pledged themselves to help bring about "a moral revolution necessary for the reign of justice."

Clarté groups were formed in various countries but it was, above all, in France that the movement flourished. There sections were formed of men of letters, professors, teachers, students, artists, technicians and working men. Of these the *sections universitaires* were the most active. Cooperation between the intellectuals and the manual laborers was especially urged. A union of classes as well as of nations was hoped for on the principle that "the war between classes will be annihilated by the unification of classes as the war between peoples will be annihilated by the unification of peoples."

The official organ of the movement was *Clarté: Bulletin Français de l'Internationale de la Pensée*, a biweekly which made its first appearance on October 11, 1919. It was edited by Barbusse until 1927, when he became more and more closely identified with the orthodox Communist party in France. The journal then passed into the hands of a young French Trotskyist group, hostile to Barbusse. In March, 1928, the name of the periodical was changed from *Clarté* to *La lutte des classes*. In the meantime Barbusse had founded another international review, *Monde*. The Clarté movement as such ceased to function, although many of the ideals of its founder were carried on by the "Amis de Monde," international groups affiliated with the new review.

H. W. L. DANA

See: WORLD WAR; COMMUNIST PARTIES; INTERNATIONALISM.

Consult: Barbusse, H., *La lueur dans l'abîme: Ce que veut le Groupe Clarté* (Paris 1920).

CLASS. The concept of class is concerned with the social differentiation of groups. In ancient times social differentiation was one not of class but of status or rank. Membership in a station of society was bound up with privileges in the realm of public and private law. Differentiation according to status was fixed; a man was born

into a certain station, his membership in it was determined by law and custom and a change of status was practically out of question. In contrast with this conception one may, with Max Weber, speak of classes as existing when a transition from one social group to another is easily possible for the individual, either personally or in the course of generations, and when such a transition does take place rather frequently. These two principles of social organization—that of status and that of class—are not easily distinguishable, for historically they are to be found existing side by side and often overlapping.

In common speech the term class is used in greatly varying senses. One speaks of upper, middle and lower, of propertied and non-propertied, of productive and unproductive, of educated and uneducated, classes. In this very general sense the term class is practically meaningless; it says only that a group of people have certain characteristics in common. To give this conception sharper outline and some scientific utility it must denote a group where the characteristics held in common are perfectly definite and already determined. Thus occupational groups, or classes, must fall outside the category. If they are conceived of as all those groups which, like the agricultural or commercial, have common interests merely because they are engaged in the same industry, the concept cuts only vertically through the population. Shipping magnates fall into the same industrial class with stevedores, bankers with bank clerks, landed proprietors with agricultural laborers. But the general concept of the word class today is a different one. It has reference not to occupational groups, where the common characteristic possessed is external and superficial, but to social classes; it is intended to analyze the social structure and the social stratification of the population. Landed proprietors and agricultural laborers, bankers and bank clerks, may have the same industrial interests, and a good business situation in the industry may benefit each of them; nevertheless, they belong to different social classes. A social stratification in this sense cuts horizontally through the population.

The writers on the question of what is essential in the concept of social classes fall broadly into two groups—those selecting the objective factors at the basis of class and those selecting the subjective. Among the former some regard as basic the ownership or non-ownership of the instruments of production—a concept essentially Marxian; others lay less stress upon the distribution of property than upon the general standard of living, holding that in modern society the elements around which a class is built up are generally the same within a particular standard of living. Other objective factors have been selected as well; thus Max Weber builds the concept of a class upon (1) the possession of economic means, (2) external standard of living, (3) cultural and recreational possibilities.

According to the subjectivists classes are groups whose sources of income are similar and whose economic interests coincide. In this conception the subjective factor lies in a community of interest and outlook, rooted in the economic structure of any given period. Sombart, who has stressed this subjective aspect most sharply, conceives of a social class as a group which by its way of thinking stands for a particular system of economic organization. In such a view the common interests, common ideology, common consciousness of cohesion, come to the fore. Other theorists regard as essential the degree of esteem in which a group is held, thus making classes essentially a gradation of ranks based on prestige. This view approaches that of those who see no essential distinction between class and status but, as in the case of Spann, regard such theories as that of Sombart as too economic in foundation and too little concerned with the individual mind. They conceive of social division according to rank and class as universal. They classify the gradations of rank into social strata on the principle of "the subordination of the intellectually inferior to the intellectually superior." Such a conception seems to accord less with actual social conditions than with certain preconceived social ideas.

That various theorists should have found the essential nature of class in such different attributes is to a great extent due to their having in mind different historical periods, for in the historical development of classes essential changes have taken place in their nature. In tracing this historical evolution it will be necessary to premise a concept of class of the most general sort, to include all those situations where gradations of rank and relations of dependence occur, associated with differences of social position and variations in both outer and inner conditions of life so marked that we may speak of the group as having a common economic position. One other premise is necessary in order to distinguish class from status—that mobility from one group to another be possible and that it frequently occur.

Using such a criterion we find in primitive societies group structures which have unmistakably the character of classes. Where a community is not a closed society with a caste system, certain individuals are often set apart from the rest of the community because of acquisition of wealth or display of unusual craftsmanship; hereditary aristocracies and priesthoods are also common, but the social mobility within them is relatively small. Fahlbeck and others have shown that the transition from a society of status to one of class occurred in Greece during the seventh and sixth centuries B.C. and in Rome somewhat later. As early as Hesiod we find a sharp criticism of the plutocratic tendency of the aristocracy, which expressed itself in the exploitation of labor. The first class conflict in Greece arose from opposition to the landed aristocracy. The peasantry, heavily in debt to the aristocracy under a system where debt led to slavery, brought about the Solonian legislation and the extension to a wider circle of citizenry of political rights and admission to public office. These reforms, as Fahlbeck has observed, while they did not efface the social distinctions, divested them of their legal sanctions and thereby transformed a differentiation by status into a differentiation by class. Formal freedom and equality allowed genuine classes to be formed through the operation of economic factors. Sparta alone, with a political social structure completely different from that of the other Greek city-states and clinging firmly to traditional forms of status, knew at this time nothing of classes or class conflict. With the industrial and commercial development that followed the Persian wars personal property became increasingly important and the conflict of classes was accordingly transformed. Under the emerging democratic forms this conflict was waged through the formation of parties and the struggle for political power. The demands for political and economic equality led eventually to the virtual confiscation of the property of the wealthy, usually through exorbitant taxation.

An essentially similar development occurred in Rome. A social differentiation on the basis of status, by which political power was concentrated among the landed families while opposite them stood a group of plebeians who although free had no political rights, was gradually broken down and the way opened for differentiation into classes. The centuriate constitution of Servius Tullius, under which the centuries were organized on the basis of property, was a crucial entering wedge, and this was followed by the wresting of political concessions from the patricians until the ever widening circle of those obtaining political rights came to include even freedmen. When the transition had been completed the development of Roman social organization continued in the direction of sharpening the outlines of the class structure. After the subjugation of Italy and the Punic wars inequalities in wealth were accentuated, and the newly emerging moneyed interests, especially the equites, won increasing power and attained a position beside the old nobility. The great latifundia came into existence. Largely because of the wars and the competition of grain from other countries the peasant class disintegrated, and attempts to retain it, like those made by the Gracchi, met with failure. Deprived of land and livelihood the peasants thronged to the metropolis, where they constituted an enormous proletariat and led a meager existence on public doles. Thus definite property classes emerged, with the sharpest contrasts in the distribution of wealth. With the economic collapse of the empire and the return to a "natural economy" the peasants were hereditarily bound to the soil through the creation of the colonate, and Italy reverted to the old system of occupational status.

In the Middle Ages the feudal system represented a social organization based on status. With the increasing importance of production for the market and trade and with the coming of the money economy, factors in addition to those of descent began to affect social differentiation. As early as the Carolingian period marked changes were evident, especially with regard to emancipation. Gradations arose among the free and the less free, and even within these there were divisions. Neither ranks nor classes remained permanent or unchanged but disintegrated into subgroups, and it is precisely these subgroups which were a significant symptom that changes were taking place in the system of social differentiation. Then gradations of this sort began to arise among the unfree as well. At the other end of the scale with the strengthening of princely power there emerged alongside the old aristocracy of birth a new aristocracy of office—ministers in the service of the prince. With the growth of cities and trade and the development of a money economy still another occupational class took its place with the aristocracy and the peasants—the burghers. We can thus discern office and vocation beginning slowly to determine social position and members

of the most diverse ranks by birth—even the unfree and the freedmen—finding it possible to move to higher social strata. These new elements did not immediately displace the old; the two functioned side by side for several centuries. And while the new classes were occupational they remained at the outset quite rigid. But wealth and vocation kept continually displacing the facts of birth and descent. Although one was as before born to a certain station in society, it became more frequently possible to attain to another. And with the shift of income and wealth to the newer elements even these occupational groupings came to be merely empty forms. From the sixteenth century until the present time economic and intellectual development have, to follow Schmoller, been making for the displacement of this system of social organization. In Prussia in 1807 the famous edict of October 9 decreed that everyone—noble, burgher or peasant—might, without detriment to his station, take possession of his property and engage in the pursuits of trade and industry; but this was merely the placing of the stamp of legality upon the product of centuries of slow but uninterrupted economic and social evolution.

While this evolution was essentially similar in all European states, the manner and time in which it took place differed. Particularly in the Italian city-states and in England and France the class organization evolved earlier than in other countries. In England the wealthy merchant class had by the end of the seventeenth century attained an influential place in Parliament. In France at this time numerous burghers had been elevated to the nobility and after 1715 they could acquire the estates of the nobility. About both countries Sombart wrote that since the time of the Tudors and Stuarts their nobility had been almost wholly transformed into an "aristocracy of finance and the countinghouse."

It was only at the beginning of the nineteenth century, however, that changes in the distribution of wealth attained so great an influence upon social stratification and social mobility as to transform the nature of the class structure. With the growth of capitalism and large scale industry and with advances in technique the economic element—chiefly the possession of property—played a greater role than ever in the determination of class membership. The more purely social factors yielded almost entirely to the economic, and the number of people increased whose lot it was because of their lack of property to belong always to the wage earning class. With the advance of socialism there came to the fore an ideology deriving from the particular situation in which the working class found itself. Especially to members of those strata which seemed to be in the most desperate plight the crux of the class question was no longer found to inhere in the general situation mentioned above—mobility within the social groups as contrasted with the rigidity of a structure of status—but rather in the economic condition of each particular class. The emphasis had been shifted from the general antithesis between status and class to the economic differentia between particular classes. It was becoming increasingly obvious that membership in a certain class was determined by the distribution of wealth and income.

In this period, when popular education was increasing and when, above all, the growth of cities made social contrasts stand out more startlingly, the economic plight of a class could not but have a deep effect on the consciousness of the group concerned. Within a class common interests and a close feeling of cohesion are necessarily built up; and out of that the acts and the wills of those at the most diverse levels of the class are fused and consolidated into a common antagonism to the existing economic system and a desire for the creation of a new one. Out of this antagonism arises a community of opinion, belief and attitude. Sombart has defined four of such classes in the contemporary situation, each with its particular ideology: the feudal aristocracy as representative of a patriarchal proprietorship; the petty bourgeoisie, especially the handicrafts, as representative of an economic organization associated traditionally with craftsmanship; the bourgeoisie as representative of the capitalistic system; and the proletariat as the opponent of this system. It need scarcely be added that such a classification, while valid in its general outlines, is not equally so for all countries.

Thus in the course of historical development new criteria for the essential nature of classes have arisen to supplant the old. The emergence of such a criterion as the subjective one of a common economic ideology had necessarily to wait for the developments of the last century. Before that the workers as a class were too undeveloped to have a common consciousness of their plight and their interests; they were too closely bound to handicraft and to the particular nature of their own vocation. While there have been instances of class conflict in history—

notably in the classical civilizations—Marx's statement that "the history of all society up to now is the history of class struggles" must be rejected as too sweeping. The class struggle as motivated by a class conscious opposition to the existing capitalistic structure of society is a modern phenomenon. To project this concept upon the past, or to deny the existence of classes in the past as long as the common ideology we now predicate was absent, is equally confusing.

In clarifying the class concept it is of great significance to determine the manner of the origin of classes. Decades ago this problem constituted the subject of a controversy between Gustav Schmoller and Karl Bücher. The former asserted that classes were the result of the division of labor, the differences of occupation having certain physical and psychological effects upon individuals which were transmitted and crystallized by the natural selection of variations through heredity. Bücher, on the other hand, asserts a causal relationship running in the opposite direction, claiming that differences in wealth and in income were the cause rather than the result of the division of labor. While in the original formation of classes the division of labor may have had some such function as Schmoller suggests, Bücher's view is correct as regards its relation to the formation of modern classes.

While the determining forces in class formation have been in early times social and in recent times mainly economic, certain qualifications must be added. There has been a wish to see the formation of classes as a socio-biological fact—to view them as the outgrowth of the natural inequality and native differences of men in the struggle for existence. This thesis has been advanced in England principally by Sir Francis Galton in his *Inquiries into Human Faculty and its Development* (London 1883), in France by Georges Vacher de Lapouge in *Les sélections sociales* (Paris 1896) and in Germany by Otto Ammon in *Die Gesellschaftsordnung und ihre natürlichen Grundlagen* (Jena 1895). It sees the social elevation of individuals and therefore the formation of classes as a consequence of extraordinary ability and achievement. Such a view can have complete validity only where the competition which it premises is carried on between individuals who are at an equal advantage, and under modern economic conditions this is obviously an untenable postulate. Yet there is some value in the conception. Even today achievement and native endowment play in the formation of classes a role whose social significance should not be lightly estimated. Experience shows that such an ascent of the social ladder does frequently take place, though slowly and step by step. The fact in itself that the higher levels reproduce themselves, generally speaking, only in insufficient measure makes such a mobility inevitable. From the economic standpoint as well this mobility is significant. It brings into industrial leadership a constantly self-renewing stream of ability from the masses.

Unfortunately, statistical science all over the world has thus far paid too little attention to the manner in which class formation takes place, although data could easily have been made available. In a society where movement from a lower to a higher class occurs to a great extent and where the workers are not politically subordinated, class conflicts are attenuated and the ideology of the class struggle finds it difficult to gain foothold. In the United States, for example, the opportunity for a worker to rise higher in his own class and even out of it into another is greater than in Europe, and his social position carries more respect; in addition, it has been asserted that the American political and economic situation is such that "a labor movement hostile to state and society would with difficulty strike root." The United States, while it is not by any means a classless society, is a good instance of how tentative and shifting class lines may become when the economic driving forces of a society tend to obliterate social and political distinctions and when they are themselves so completely in a state of transition that no class can remain crystallized for long. Even outside the United States one must be wary of conceiving a class as a completely homogeneous unit, economically and socially coordinated. Within the working class itself there are gradations and distinctions, and the transition from unskilled to highly skilled labor within a single generation represents in itself a great social advance.

The present day class structure of society has been attacked from two directions. The socialists have as their ideal a classless society, but it is more than doubtful that this goal can ever be completely attained. There are others who view modern classes as constituting a principle of social division dominated by the relations of the individual to production and acquisition and deeply concerned with considerations of equality or inequality of interests. Seen in such a way classes are purely mechanical constituents of society. Very recently the conviction has grown

that, while the earlier systems of status and rank arose spontaneously out of a common way of life and felt themselves to be organic units belonging to a whole and subordinating their interests to it, classes, on the contrary, are self-seeking and disintegrating groups whose destructive effect on state and society must be reckoned with. Over against considerations of this sort it is to be noted that many in Europe today look forward to a displacement of the class structure by a return to a division of the population according to ranks determined by occupation. Such a transformation has already been realized to a large extent in Fascist Italy.

PAUL MOMBERT

See: SOCIETY; SOCIAL ORGANIZATION; SOCIAL PROCESS; STATUS; GROUP; CASTE; SERFDOM; SLAVERY; ARISTOCRACY; BOURGEOISIE; MIDDLE CLASS; PROLETARIAT; PEASANTRY; PRIESTHOOD; LANDED ESTATES; CAPTAIN OF INDUSTRY; PLUTOCRACY; DEMOCRACY; INDIVIDUALISM; MOBILITY, SOCIAL; CLASS CONSCIOUSNESS; CLASS STRUGGLE.

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CLASS CONSCIOUSNESS. Classes in modern societies may be described as groups of individuals who, through common descent, similarity of occupation, wealth and education, have come to have a similar mode of life, a similar stock of ideas, feelings, attitudes and forms of behavior and who, on any or all these grounds, meet one another on equal terms and regard themselves, although with varying degrees of explicitness, as belonging to one group. The psychology of class differentiation has not been studied with sufficient thoroughness and there is as yet no generally accepted technique for the observation, analysis and record of the behavior of groups in relation to one another. Accordingly it is extremely difficult to say what exactly one is conscious of when one is class conscious. In the case of the ancient and mediaeval systems of more or less rigid estates (*Stände*) this problem presented less difficulty. It was possible, at any rate in the case of the upper levels of society, to point to determinate interests and purposes common to and characterizing certain classes. Under modern conditions classes can hardly be defined functionally, nor is it always possible to specify precisely the interests or purposes which members of a class have in common as against others.

Nevertheless, it is a great mistake to minimize the reality of class distinctions even in cases where it is not possible to point to definite cohesive groups clearly aware of their collective interests. While classes may become associations, as for example when they form the basis of political parties, they are not as such associational and they cannot be defined by their ends or purposes. But the psychological factors which enter into class formation, although more vague, are not necessarily on that account less powerful than those which bind the members of associations to one another. They may be interpreted best, perhaps, in terms of the modern theory of "sentiments." These are systems of emotions or emotional dispositions centering around a common object or having a common nucleus. The sentiments which are important in this connection are of three sorts. There is, first, a "consciousness of kind," as it has been called, in relation to members of one's class, a confidence that one can meet them on equal terms and that one's mode of behavior will be in harmony with the behavior prevalent in the group. There is, secondly, a feeling of inferiority in relation to those above in the social hierarchy; and thirdly, a feeling of superiority in relation to those below.

All these states of mind are extremely complex. This is due partly to the large number of gradations in the social scale and the continual intersection of levels in mobile societies resulting in a very intricate intermingling of attitudes. There are, for example, the fear of losing caste, the dread of sinking in the social hierarchy, the desire of upward movement or of improvement of status at least for one's children, the keeping up of appearances. Further complexity is due to the well known fact that the sentiments of equality, inferiority and superiority admit of subtle and intricate forms of inversion and compensation. Here belong the phenomena of the exaggerated aggressiveness of the upstart and the arrogant humility of the upper classes when they enter into relations with the lower. It may be remarked in passing that conscious and unconscious attitudes of the kind referred to play no insignificant role in what is termed industrial unrest.

The primary determinants of social stratification are without doubt largely economic in character. Economic conditions determine an individual's occupation, and this in turn is generally a fair index of his mode of life and educational attainments, from which again may usually be inferred the sort of people whom he would meet on equal terms, the range of individuals from among whom he would normally choose his partner in marriage and so forth. In most European countries there are important differences in modes of speech and pronunciation which indicate class differences (see Meillet, Antoine, *Les langues dans l'Europe nouvelle*, Paris 1918, p. 126), and there can be no doubt that an equalization of educational opportunities and an increase in the facilities for contact and intercommunication between the classes, tending to diminish differences in modes of speech (and dress), would be likely to lessen the feeling of class differences generally.

The intensity of class consciousness depends upon a variety of conditions. The first of these is the growth of a tradition embodying common experiences and leading perhaps to common aspirations. It is clear that a conscious esprit de corps developed earlier among the upper or ruling classes, whose solidarity of interest was more obvious and who inherited something of the spirit of the rigid and determinate estates.

Stability and degree of social mobility represent another factor in the intensity of class consciousness. Social status generally implies a certain permanence and relative immobility, sometimes guaranteed by hereditary privileges, as in the case of castes and estates, or, when legal privileges disappear, by economic and other social sanctions of sufficient strength to render mass movement from class to class difficult if not impossible. The amount of social mobility influences the intensity of class consciousness in various ways. On the one hand, if movement up and down is easy and rapid differences in mode of life must tend to disappear or to lose in importance. On the other hand, if movement is possible but not easy the effect is to heighten a consciousness of the differences, since there will often be a strong desire to rise coupled with a fear of decline in the social hierarchy.

Conflict and rivalry are also important factors in the promotion of group consciousness. Thus national self-consciousness is heightened through wars, whether defensive or aggressive. In the case of classes the possession of common interests by members of a group is often first brought into consciousness by the need of defense against a common enemy, imaginary or real, and especially by being pitted against another group already conscious of itself. The importance of the idea of the "class struggle" in the history of socialism is well recognized and need not here be further dwelt upon.

To the extent to which social groupings rest upon and express true social functions class consciousness clearly has ethical value. Respect for one's calling, esprit de corps, the feeling of solidarity with members of one's class are necessary elements contributory to the fulfilment of the common good. In the case of the oppressed classes, moreover, a dawning consciousness of class is an important factor in the growth of self-respect and may be even indispensable in the struggle for freedom. On the other hand, class self-respect may deteriorate into class egoism. This, of course, is not a danger peculiar to classes, but is characteristic of all social groupings. For example, the sentiment of nationality, although valuable frequently because it gives self-respect to oppressed peoples and thus acts as an important agent in the growth of freedom and self-determination, may deteriorate into chauvinism and the oppression of minorities. In what is termed the class state, government has frequently been in the interest of a dominant class, leaving the rest of the population in a state of subjection. This is true even of the class dictatorships of some modern forms of socialism, although it is claimed that the class element in their conception is provisional and transitory and that the ultimate aim is to abolish all class distinctions and to govern in the interests of all. Whether the elimination of class partisanship is really possible remains to be seen.

MORRIS GINSBERG

See: CLASS; CLASS STRUGGLE; STATUS; GROUP; SOCIAL DISCRIMINATION; CONFLICT, SOCIAL; MOBILITY, SOCIAL; COLLECTIVE BEHAVIOR; SOCIAL PROCESS; SOCIETY.

Consult: Ruggiero, Guido de, *Storia del liberalismo europeo* (Bari 1925), tr. by R. G. Collingwood (London 1927) p. 381–87; MacIver, R. M., *The Modern State* (Oxford 1926) p. 400–06; Lukács, Georg, *Geschichte und Klassenbewusstsein* (Berlin 1923) p. 57–228; Watts, Frank, *An Introduction to the Psychological Problems of Industry* (London 1921) ch. vi; Michels, Roberto, *Zur Soziologie des Parteiwesens in der modernen Demokratie* (Leipsic 1911), tr. by Eden and Cedar Paul (New York 1915) p. 12–18, 235–96; Lippmann, Walter, *Public Opinion* (New York 1922) chs. xi–xii.

CLASS LEGISLATION. *See* EQUAL PROTECTION OF THE LAWS.

CLASS STRUGGLE

CLASS STRUGGLE is a phrase used to designate a form of social conflict, the theory of its origin and significance and the principle of action based upon such theory.

The idea of the importance of economic group conflicts was not unknown to ancient writers. The differentiation of Greek society in the sixth and fifth centuries B.C., the conflict between the commercial classes and the landed aristocracy in Athens, Corinth and other Greek cities and the struggle of the demos for economic and political supremacy brought to the surface the idea of the divergence of group interests within the polity and of its effects upon political life. Plato and others pointed to "questions of interest" as the cause of the internal disorders of the Greek cities. It would be pressing the point, however, to assert that the concept of class struggle in the modern sense can be traced to Greek or Roman writers. Nor can it be said to be clearly discernible in mediaeval thought.

The roots of the idea lie in the French Revolution. Starting with a conflict between the third estate and the monarchy the French Revolution carried within itself the idea of estate or class. In its conscious aspects, however, the revolution was dominated by the idea of nationalism. It reconciled these contradictory ideas by making the third estate coextensive with the nation, by creating the abstract notions of man and of the rights of man and by postulating the individual as the unit of the nation.

Paradoxically the reaction against the rationalism of the Enlightenment carried forward the nationalist implications of the revolution for which the Enlightenment had provided the ammunition. The writers of the historical school of jurisprudence, the romantic poets, the political exponents of conservatism and such philosophers as Fichte and Hegel developed the theory of the creative powers of the "national spirit" and helped to give the concept of nation the prominence which it was to have all through the nineteenth century.

Beginning with the third decade of the century the other aspect of the French Revolution, group conflict, came to the fore. The struggle of the liberal elements against the Holy Alliance, the campaign for the English Reform Bill of 1832, the democratic upheaval of the thirties in the United States which carried Andrew Jackson into the White House, were clearly new steps in the forward march of the third estate. Historians and political theorists were stimulated by these events to rewrite history, and in the works of Mignet, Augustin Thierry, Adolphe Thiers, de Tocqueville, Macaulay and others may be found the first modern emphasis on group struggle as a historic factor.

Between 1830 and 1840 a new element en-

tered into the situation. The industrial workers came forward as the fourth estate, the new class of proletarians, and forthwith began to press their claims. In the contemporary literature of the labor movements of England, France and the United States the idea of class struggle made its appearance, and in the writings of the Saint-Simonists and of Louis Blanc it became more definite and precise.

These writers, however, are mainly forerunners. Credit for the theory of class struggle belongs to Karl Marx and Friedrich Engels, especially to the former. These two authors after some preliminary groping in earlier writings formulated the doctrine in the Communist Manifesto in 1847 in a manner which has made it one of the striking and influential ideas of modern times. Marx further elaborated the theory in his *Zur Kritik der politischen Oekonomie* in 1859 and in *Das Kapital* (vol. i, 1867). He applied it brilliantly to the interpretation of the revolutions of 1848, of the coup d'état of Napoleon III and of the Paris Commune.

In broad outline Marx's theory asserts that in the course of making a living and of utilizing their technical and industrial equipment the members of society become segregated into classes which carry on different functions in industry and therefore occupy different positions in the social organization. Between these classes there arises an antagonism of interests and a struggle. Regardless of changes which have taken place in the industrial organization of society the division into classes and the struggle between these classes has persisted; hence the history of mankind has been a continuous struggle of classes. The modern capitalistic regime does not abolish the class struggle; it merely creates new classes and simplifies and intensifies the struggle between them. For with the development of capitalism society splits up more and more into two great hostile camps, the bourgeoisie and the proletariat. The bourgeoisie concentrates on converting surplus value into profits and the proletariat tries to resist this. In the ensuing struggle the workers realize that the power of the bourgeoisie rests on the ownership of the means of production and that economic exploitation can be ended only through the establishment of a socialist society based on collective ownership.

Marx predicated the inevitable victory of the proletariat on the assumption of certain inherent tendencies in capitalism: the rapid concentration of industry, the disappearance of the middle class and the numerical growth and increasing misery of the working class. The modern class struggle was thus differentiated from previous class struggles in which one class succeeded another and used its victory merely to establish a new class rule. Under modern capitalism, inasmuch as the working class was absorbing all social groups with the exception of a small capitalist class, it could not emancipate itself without at the same time emancipating all society from every form of exploitation, oppression, class distinction and class struggle. Marx evidently intended to make a more detailed and exact analysis of the process of class formation and of class struggle. In the last chapter of the third volume of *Das Kapital*, "Classes," he raises but does not answer the question as to what constitutes a class.

Since class struggle was the dynamic factor which was carrying the historic process toward its final expression—the emancipation of the proletariat—it was necessary that the workers should do everything in their power to accelerate the process. In other words class struggle was not merely a theory but a principle of action and it became accepted as such by the socialist movement of the eighties and nineties.

With the beginning of the twentieth century the Marxian theory of class struggle became the subject of attack. Antisocialists tried to offset it by emphasizing the natural harmonies of society. Sociologists like Gumplowicz, Novikov and Durkheim stressed its limitations in view of the more dominating struggle between racial and national groups. More important still was the criticism which developed within the socialist movement itself, by the revisionists in Germany, by the Fabians in England and by the syndicalists in France. According to the revisionist Eduard Bernstein the trends which Marx had predicted were not currently dominant; as a result of political democracy and of the extension of economic opportunity the class struggle was becoming less and not more acute, and therefore the assumption of catastrophic change could not correspond to reality. Bernstein concluded that socialist tactics had to be revised in order to allow for cooperation between various economic and social groups and for a gradual reconstruction of social institutions to which sympathetic middle class groups might contribute. The Fabians, who visualized social change as a result of democratic and educational progress, could have still less faith in class struggle as a method or principle.

While revisionists and Fabians tended to limit the Marxian theory of class struggle the syndicalists found the theory not radical enough. Claiming that the class struggle was the only creative force in history and that Marxian political methods tended to weaken it the syndicalists elaborated the doctrine of direct action as a means toward reviving the idea of class struggle. To meet this double challenge orthodox socialists rallied around Karl Kautsky, who restated Marx's theories.

In recent years the theory of class struggle has become subject to new strains and tests. The World War revealed the potency of nationalist feelings and ideals. For four years class struggles throughout the world were either completely eliminated or overshadowed by the struggle between national groups. On the other hand the Bolshevik revolution in Russia, while reviving class conflicts, did so in a manner which was far removed from the clear cut Marxian formulae of pre-war days. These developments caused much confusion in the socialist movement which has not as yet been dispelled and which has reflected upon all socialist doctrines, including that of class struggle.

Present day exponents of class struggle may be divided into three major groups. One includes the reformist socialists represented by most of the socialist parties of the larger European countries and of the United States. In the literature of this group, although there is a ready recognition of the validity of the class struggle as a factor in historic development, the tendency is to stress more and more the democratic character of the modern state and the possibility of a gradual reorganization of social institutions. This group has therefore no particular interest in developing the theory of class struggle.

A second group is made up of the more radical socialists, best represented by the Austrians. The original Marxian emphasis on class struggle is retained but the most significant contribution of these writers consists in the attempt to elucidate the cultural and moral implications of the theory—the tendency of class struggles to lose the aspect of physical force and to depend more and more on intellectual and moral capacity.

Sharply contrasted with these two groups is the third, which consists of the communists, who have contributed most to the development of the theory of class struggle. The communists have been faced by two challenging facts. On the one hand, there was the post-war revival of nationalism. On the other hand, the communists found that in their own efforts to establish a new regime in Russia they were forced despite an avowed class dictatorship to take account of the interests of the peasantry and of other groups and to try to work out conciliatory policies which were in essence nationalistic. Lenin was concerned especially with the problem of the relationship between industrial movements in capitalist countries and nationalist movements in colonial countries. His work was continued by other communist writers, especially by Nikolai Bukharin, who has been until recently the recognized theorist of communism.

The communists distinguish between social caste or estate, based upon legal characteristics, and social class, which is an economic category and includes persons who have the same function and who stand in the same relation toward other persons involved in the process of production. As the forms of production affect the forms of distribution, a social class is also characterized by its source of income. In other words, a social class is an aggregate of persons who have the same function in the productive process and who therefore have the same source of income.

The origin of classes is explained by the law of the division of labor. In every society there are two basic classes: one which commands and monopolizes the instruments of production, and the other a producing class. The specific forms of this relationship change from one society to another but in its essence it remains the same. In addition to the basic classes there are found in every society intermediate classes occupying a middle position between the commanding and the executing classes: transition classes resulting from the disintegration of previous group forms; mixed classes including persons who in some respects belong to one class and in other respects are more akin to another class; and déclassé groups consisting of beggars, vagrants and the like. The particular forms of these secondary classes also vary from one society to another, their variation giving color and form to the whole social structure.

In any class society the process of production is simultaneously a process of economic exploitation. Those who carry on the physical work receive less than they produce, not only because a portion is necessary for the extension of production but also because they have to support out of their work the owners of the means of production. The resultant antagonism finds its expression in a struggle for the distribution of

the total national product. As this struggle becomes conscious it gives rise to class interests and class conflict. The dominant minority tries to maintain and extend the opportunities for exploitation while the exploited majority continually strives to liberate itself. Gradually class interests develop into a system which embraces all life. They become intertwined with political, religious and even scientific interests. As these varied expressions of the class struggle become integrated they give rise to class ideals and to differences in class psychology.

The objective existence of class interests does not mean that these interests are always understood by the class itself. In fact, for a number of reasons, a class may be devoid of class consciousness; the inherent contradictions between classes may not become clear at once because economic processes go through several stages of development. There may be a temporary divergence between the general interests of a class and its temporary interests, and the latter may for a while dominate the situation. Moreover, the ruling classes usually try to influence the ideas and the psychology of the masses in order to destroy their consciousness of class interests. Class struggle, too, passes through various stages. There are periods when the antagonism of class interests is obscure and class conflicts are either totally concealed or of a minor character. Sooner or later, however, when the productive forces of society reach a point where their further development is obstructed by existing social institutions, the class struggle becomes acute and it is then that it becomes the main driving force of social reorganization.

Since the power of the ruling class is always concentrated in the organization of the state the oppressed class must aim directly against the mechanism of the state. Every class struggle is thus a political struggle which in its objectives aims at the abolition of the existing social order and at the establishment of a new social system. In order to prove capable of carrying through a social reorganization, however, the class must possess certain essential characteristics: it must be economically exploited and politically oppressed; it must be a producing class; it must be welded together by the conditions of its existence; and it must form a large mass or majority of the population.

All these characteristics, the theory maintains, are found in the industrial working population of the present day. It is for this reason that the industrial proletariat represents the only class which can carry out a complete social revolution and reorganize society on the basis of the socialist ideal. The peasantry and the farmers lack most of these traits. But since the peasantry forms a large portion of the population in many countries it is essential that the industrial workers should ally themselves with the poorer elements of the peasantry.

Within each social class there are always a number of groups or subgroups which differ in position and ability. In order to unify the activities of a class it is necessary that one of these groups assume leadership. Such leadership can best be exercised by the organization of a political party which should represent the ideas and program of that section of the class which is most advanced, best schooled and most united.

Under contemporary conditions—the theory continues—the class struggle is assuming more and more the character of an alliance of the poor peasant masses and of the industrial workers against a financial oligarchy. Because of the growing internationalism of finance and industry the class struggle is also becoming more and more international in character, and will lead to a revolution on a world scale. This revolution will be violent, and its first step will be the establishment of class dictatorships throughout the world for the purpose of starting the work of socialist reconstruction. To promote this process the communists call for an accentuation of the class war and condemn all deviations toward "class collaboration."

The very development and modifications which the theory of class struggle has undergone indicate the difficulties which it encounters. It is not easy to define a social class or to draw sharp lines of demarcation between various classes. No definitive division of society into classes can be made on the basis of the so-called factors of production, on the basis of the law of the division of labor or on the basis of source of income. The most that can be said is that there is a tendency toward the formation of economic and social groups and that their stratification and stability vary from one society to another in accordance with general economic and social conditions.

By implication the struggle of classes is also merely a tendency. In modern society the struggle of economic and social groups is fragmentary and intermittent, concentrated around major issues of immediate and perhaps of only temporary importance. Moreover, since the formation of a consciousness of general interests

is slow and intermittent, it is inevitable that economic groups which are closely related should sometimes struggle against one another as well as against opposing groups. Thus there are conflicts between various groups of employers and capitalists as well as divisions of opinion between various sections of the working class. It is also inevitable that economic interests should be overshadowed from time to time by cultural, religious and racial factors. Nationalism, as both an economic and a cultural phenomenon, tends to offset the formation of classes. Economically each nation is likely to regard itself as a unit with common destiny and common interests as against the other nations of the world. Culturally it tries to consolidate its economic coherence by means of national ideas and ideals which permeate all groups of the community. All these limitations of the class struggle exist in present day national and international affairs.

To the extent to which it manifests itself the struggle of economic groups is a potent factor of social change. Manifestations of group conflict, such as strikes, reveal stagnant or decadent conditions and serve as a stimulus to their elimination or amelioration. Nevertheless, whenever such conflicts in the industrial field are concerned merely with group shares in distribution, regardless of their effects upon the productive process or upon society as a whole, they may result in social detriment. In large social transformations the struggle of classes may lead to a harmful process of disintegration; this is true especially when the struggle is carried on between groups and classes which are in an early stage of economic and intellectual development. Such class struggles have often resulted in social crises which were followed by the development of a new national solidarity.

LEWIS L. LORWIN

See: SOCIALISM; COMMUNIST PARTIES; CONFLICT, SOCIAL; REVOLUTION; CLASS; CLASS CONSCIOUSNESS.

Consult: Pöhlmann, R. von, *Geschichte der sozialen Frage und des Sozialismus in der antiken Welt*, 2 vols. (3rd ed. Munich 1925); Marx, Karl, *Das Kapital*, 3 vols. (Hamburg 1890–94), tr. by Samuel Moore and E. B. Aveling (Chicago 1906–09), especially vol. iii, ch. lii; Bernstein, Eduard, *Die Voraussetzungen des Sozialismus und die Aufgaben der Sozialdemokratie* (Stuttgart 1899), tr. by E. C. Harvey as *Evolutionary Socialism* (London 1909); Adler, Max, *Die Staatsauffassung des Marxismus*, Marx-studien, vol. iv, pt. ii (Vienna 1922); Cunow, H., *Die Marxsche Geschichts-, Gesellschafts- und Staatstheorie*, 2 vols. (Berlin 1920–21) vol. i, ch. i, vol. ii, ch. ii; Kautsky, Karl, *Das Erfurter Programm in seinem grundsätzlichen Theil* (11th ed. Stuttgart 1912), tr. and abridged from 8th German ed. by W. E. Bohn as *The Class Struggle* (Chicago 1910), and *Die Klassengegensätze im Zeitalter der französischen Revolution* (2nd ed. Stuttgart 1920); Lenin, Nikolai, *The State and Revolution* (Detroit 1924); Bukharin, N. I., *Teoriya istoricheskogo materialisma* (Moscow 1923), tr. from 3rd Russian ed. as *Historical Materialism* (New York 1925); Lorwin, Lewis L., *Labor and Internationalism* (New York 1929); Man, Henri de, *Zur Psychologie des Sozialismus* (new ed. Jena 1927), tr. by Eden and Cedar Paul (London 1928); Sombart, Werner, *Der proletarische Sozialismus*, 2 vols. (10th ed. Jena 1924); Michels, Roberto, *Zur Soziologie des Parteiwesens in der modernen Demokratie* (Leipsic 1911), tr. by Eden and Cedar Paul as *Political Parties* (New York 1915) pt. iv, ch. i; "Theorie des Klassenkampfs, Handelspolitik, Währungsfrage" in Vereins für Sozialpolitik, *Schriften*, vol. clxx (1925) 9–86; Heimann, E., *Die sittliche Idee des Klassenkampfes und die Entartung des Kapitalismus* (Berlin 1926); Delevsky, J., *Antagonismes sociaux et antagonismes prolétariens* (Paris 1924), especially ch. iv; Beer, M., *A History of British Socialism*, 2 vols. (London 1921) vol. ii.

CLASSICISM primarily denotes certain qualities especially revealed in the art of Greece and Rome. Its essential elements are restraint, simplicity, dignity, serenity and repose. It is further characterized by perfection of form, based upon a unity in which the detail is subordinated to the whole, and clarity of conception, which springs from an imaginative rationality. The Greek adage "nothing too much" expresses the spirit of classical art as well as classical philosophy. The purpose of Greek art, especially, was to invest the universal with beauty. In this respect it differs from realism, which is more interested in the actual and particular and which seeks factual veracity rather than ideal beauty. This difference becomes apparent in a comparison of Hellenic portrait sculpture, which tends to reveal abstract conceptions of character, with Roman statues, which resemble much more closely the person represented. Classicism is objective rather than subjective since its universal conceptions were derived, rationally as well as imaginatively, from the world of impressions. Its abstract nature, however, gives it an element of repose and aloofness from the jarring and conflicting elements of life.

Classicism found its most perfect expression in Athens of the fifth century B.C. A number of factors rendered this period most favorable for artistic development. The victories over the Persians in the first part of the century had removed fear of invasion and had greatly stimulated the nationalistic spirit. There was an unprecedented outward expansion of Athenian power and the city came to enjoy its greatest

commercial prosperity. The most important influence, however, in fostering artistic development was Pericles. Not only did he strive to achieve the highest ideal of democracy by giving all Athenians an active share in the government; he also proposed to make Athens the center of the highest art and literature by developing the Athenians' artistic taste. Toward this end he engaged Phidias and other artists to adorn the Acropolis with buildings and statues, the most striking being the Parthenon. That temple, together with the sculptures which ornament it, represents the high water mark of Greek architecture and sculpture. Pericles also fostered dramatic contests in the theater of Dionysus, at which the greatest writers of Greek tragedy, Aeschylus, Sophocles and Euripides, contended. Herodotus and Thucydides carried history to its high development in ancient times, while in philosophy, although the next century was the golden age of philosophical thought, Socrates made possible the later dialogues of Plato. Because of the democratic nature of the Athenian government at this time oratory became a necessary part of a citizen's training and it came to be reckoned one of the fine arts, reaching its highest development with Demosthenes in the following century.

After the Hellenistic or Alexandrian period the classical qualities of art appeared in Rome. Roman art, however, was for the most part imitative, derivative and at times artificial. With the possible exception of satire the Romans created no new literary forms and many of their metrical forms were derived from Greece. Their language, though more scientific than Greek, was not as pliant nor as adaptable to artistic conceptions. In architecture the Romans added only the arch to what they derived from Greece, while, with the exception of portrait sculpture, their statues were largely copies. They were more steadfast, determined and practical than the Greeks but lacked the latter's flexibility, versatility, manysidedness and imaginative power; nor were they as susceptible to beauty. We find in their art, nevertheless, the same qualities of restraint, freedom from extravagance and a sense of form and unity.

Classicism in art all but disappeared during the Middle Ages, but it was one of the most vitalizing influences in the Renaissance. With the revival of learning the asceticism of earlier centuries gave way before the rich humanism with which the classics are instinct. Sympathy with all aspects of human nature and a lively interest in every activity of man, apparent in classical art, together with the inquiring spirit of Greek philosophy and science, stimulated and humanized the period. The architecture, sculpture and painting of the Renaissance showed classical qualities, but in literature the feeling for form achieved especially valuable results. The plays of the classical dramatists, those of Seneca in particular, were studied and imitated with the result that the formless traditional drama developed a compactness of structure evident in the best Elizabethan plays. Under the influence of the classics the invertebrate mediaeval romance assumed form and outline, partially in Spenser and more fully in Tasso, while in *Paradise Lost* Milton followed closely the classical epic. Ancient literary criticism, discussed and elaborated in numerous critical treatises during the Renaissance, inspired inquiry into the nature of literature and laid the basis for the development of a critical tradition in Europe. The classics furnished the Renaissance artistic principles and models, a sense of form and unity and an appreciation of, and desire for, artistic excellence.

In the second half of the seventeenth century, however, the classical spirit became overdeveloped, both in too close an imitation of ancient art and in too rigid an interpretation and application of classical principles. A rationalism arose, owing partly to the new scientific movement and partly to overemphasis upon the element of rationality in Greek philosophy, which prompted men to distrust the imagination and suppress the emotions. Under its influence classical art and criticism became the reason and excuse for the most logically developed and rigorously applied set of literary principles the world has ever seen. The broad basic principles of classical art were narrowed into a set of superficial and hidebound rules. Form, order and reason were emphasized to the exclusion of beauty, feeling and imaginative truth. Because of the extreme limits to which this formalism was carried, classicism has incurred a prejudice from which it has not entirely freed itself. In no literary form is this narrow type of classicism more apparent than in the drama, particularly the tragedies of Corneille and Racine. The principles, especially the dramatic unities, laid down by Aristotle in the *Poetics* and elaborated upon by the Italian critics of the Renaissance, were so rigidly applied to dramatic composition that plot was impoverished, characters generalized and, on the whole, plays removed

from the business of life. In the poetry of Voltaire, Dryden and Pope the classical spirit is manifested in the effort to achieve a correct style free from all extravagance and characterized by taste, restraint and good sense. Correctness, however, was sought in expressing proper shades of meaning rather than of feeling. In marked contrast to the literature of Greece, the work of the second half of the seventeenth and first half of the eighteenth century failed to reveal man's deeper emotional life.

In the second half of the eighteenth century a reaction set in against this neoclassical tyranny. The antithesis of classical art had been represented since the Middle Ages by Gothicism inasmuch as it was characterized by grotesque and extravagant designs, the unity of which was lost in a multitude of fanciful details. But as neoclassicism ran its course toward sterility the antithesis implicit in Gothicism found a more profound expression in the rise of romantic art, the main tenets of which were a claim for the truth of emotion and a belief in freedom of the imagination. In classicism the imagination is subjected to rational control; in romanticism it is liberated from all the restraint of reason and is obedient only to the particular moods of the artist. To the classicist truth is reason emotionally and imaginatively conceived; to the romanticist it is emotion imaginatively expressed. Thus there is a rational and ethical center to most Greek art, whereas in romantic art the tendency is away from any central control to an unbounded expansion. Romanticism is subjective. The classical artist subordinates his own personality to the demands and principles of his art; the romanticist follows his own inclinations and inspirations, looking within rather than without for the laws of his work. One expresses the universal, the other the unique or particular. Romanticism does not seek perfection of form; it expresses and inspires restlessness and agitation rather than repose; it aspires to the infinite instead of being confined within limits.

The rising spirit of romanticism manifested itself in more ways than in art. It can be found also in the religious, philosophical, educational and political ideas of the time. The love of liberty and the accentuated individualism which constitute a very important part of romanticism appear in the great democratic movement which found its most tangible expression in the American and French revolutions. The classical spirit, with its regard for law, order and conformity, conspicuous in Edmund Burke and Samuel Johnson, strove in vain against the rising tide. Johnson especially, in whom was embodied that which was best in neoclassicism, carried on by his conversation as well as by his writings unceasing warfare against what he considered the pernicious principles of a philosophy which advocated unrestrained freedom in society as well as in literature.

In the present century romantic subjectivity has been developed to the farthest limit in a type of art, especially painting, called expressionism. The expressionistic theory, which interprets the function of art as the portrayal not of what the eye sees but of what the mind creates, stands out in sharp contrast to the objectivity of the classical point of view, which manifests faith in nature and impressions produced by it. Expressionism seeks to reproduce an inner vision, not an external image. The essence of classical art is imitation, interpreted in a broad way; the essence of expressionistic art is creation through power of the will and more or less independent of sensuous impressions. The greater intelligibility of classical art springs from the fact that the external world is known to all and conceptions expressed in terms of it possess the conventions of communication and are thus recognizable, whereas the inner vision is peculiar to the artist experiencing it and so affords little common ground for understanding.

Classicism would seem to thrive best in a conservative age. There is a certain affinity between the restraint, rationality and form of classical art and the spirit of law and conformity in the social world. Furthermore, since the standards of classicism are objective and depend not upon the individual but upon artistic principles which must be mastered through study rather than grasped intuitively, conditions should be favorable for the development of a nucleus of educated opinion and taste. A rich culture is essential to the production of classical art, which is a matter of the mind as well as of emotion and imagination. Thus a body of educated men paying allegiance to a common set of literary ideals is necessary. Classical art is not a popular art; it moves upon a plane distinctly above the matter of fact and utilitarian world. Embodying principles that have been established upon the highest achievements of man it pursues its ideal of truth and beauty without compromise with the transient and the ephemeral.

Although classicism may be carried too far and so tend to become narrow and formalized,

at its best it is health and sanity. It always furnishes a salutary corrective to extravagant imagination and rampant individualism and by the permanency of its principles sustains the thread of continuity through ancient and modern art. Although architecture, sculpture and literature from the time of the Renaissance to the present have been directly influenced by the art of Greece and Rome, the classical spirit has frequently entered other artistic forms, such as painting and music, which have experienced no direct contact with antiquity. Whatever art reveals a fine rationality and mastery of form, an adherence to principles set above individualistic caprice, is justly called classical whether it can discover its like in the ancient world or not.

RICHARD F. JONES

See: ART; CULTURE; TRADITION; TASTE; IDEALISM; HUMANISM; RATIONALISM; REALISM; ROMANTICISM; LITERATURE; MUSIC; DRAMA; DANCE; ARCHITECTURE; RENAISSANCE.

Consult: Grierson, H. J. C., *Classical and Romantic* (Cambridge, Eng. 1923); Babbitt, Irving, *Rousseau and Romanticism* (Boston 1919) ch. i; Winckelmann, J. J., *Geschichte der Kunst des Alterthums* (rev. ed. Berlin 1870), tr. by G. H. Lodge, 4 vols. (Boston 1849–73); *Art and Civilization*, ed. by F. S. Marvin and A. F. Clutton-Brock (London 1928) chs. iv–v; Thomson, J. A. K., *The Greek Tradition* (London 1915); *The Legacy of Greece*, ed. by R. W. Livingstone (Oxford 1921); Powers, H. H., *The Message of Greek Art* (New York 1913); Livingstone, R. W., *The Greek Genius and its Meaning to Us* (2nd ed. Oxford 1915); Walters, H. B., *The Art of the Romans* (London 1911); Strachey, G. Lytton, *Landmarks in French Literature* (New York 1912) chs. iii–v; Vines, Sherard, *The Course of English Classicism* (New York 1930).

CLASSIFIED PROPERTY TAX. *See* PROPERTY TAXES.

CLAUSEWITZ, CARL VON (1780–1831), Prussian general. In 1815 he was chief of staff of an army corps and in 1831 chief of staff of an observation army concentrated on the Polish border. In the intervening period (1818–30) he served as managing director of the Military Academy at Berlin. During these years he wrote his famous treatise on war, published posthumously in incomplete form.

Together with Jomini, Clausewitz worked out the theoretical principle of the new strategy employed by Napoleon. According to this principle the proper aim of military operation should be the destruction of the enemy's combatant forces rather than wearing him down through manoeuvering and siege. Clausewitz' doctrine of the necessity of concentrating the offensive exclusively on the field forces dominated the entire nineteenth century, influencing the strategic thinking of the Prussian general staff even after the American Civil War and the Franco-Prussian War had shown that victory in the field was no longer sufficient to place the victor in a position to dictate peace.

Other phases of Clausewitz' strategy, in which he differed from later German theorists, are not so well known. He emphasized the interdependence of warfare and politics, assigning the primacy to the latter and by implication subordinating the general to the statesman. He advanced the idea of the superiority of the inner line of operation over the outer, with its corollary that the object of an offensive should be to break through the enemy's center rather than to envelop his flanks. He insisted on the superior strength of the defensive position as such and drew up formulae for determining the offensive superiority required for crushing a given defensive strength.

ECKART KEHR

Important works: *Vom Kriege*, 3 vols. (Berlin 1832–34; 10th to 13th ed. Berlin 1915–18), tr. by J. J. Graham from 3rd ed. (London 1873, new ed. 1908), vol. i tr. by T. D. Pilcher as *War According to Clausewitz* (London 1918); *Politische Schriften und Briefe*, ed. by Hans Rothfels (Munich 1922).

Consult: Schwarz, K., *Leben des Generals Carl von Clausewitz*, 2 vols. (Berlin 1878); Caemmerer, Rudolf von, *Clausewitz* (2nd ed. Leipsic 1905), and *Die Entwickelung der strategischen Wissenschaft im 19. Jahrhundert* (Berlin 1904); Rothfels, Hans, *Carl von Clausewitz, Politik und Krieg* (Berlin 1920).

CLAY, HENRY (1777–1852), American statesman. Clay, Webster and Calhoun constituted the "great triumvirate" which for a generation before 1850 exercised a dominating influence upon federal legislation and American political thought without being itself agreed upon many matters of public policy. Clay represented Kentucky in the Senate or House of Representatives almost continuously from 1806 until 1825, from 1831 until his resignation in 1842 and again from 1849 until his death. He was three times speaker of the House. As a recognized champion of the economic interests and nationalistic feeling of the new West and as leader of the "war hawks" he urged war with England in 1812. As one of the commissioners to negotiate the Treaty of Ghent (1814) he opposed opening the Mississippi to England in exchange for the Newfoundland fisheries. His support of Adams in the presidential contest of 1824 led to the charge that his subsequent appointment as secretary of

state was the result of a "corrupt bargain" with the Adams supporters. His principal interest as secretary of state was in the new states of Latin America, but the general outcome of his diplomatic efforts was disappointing. As early as 1820 he began the elaboration of an "American system" whose chief elements were tariff protection for young industries and federal aid for internal improvements. South Carolina's attempted nullification of the tariff acts of 1828 and 1832 forced him to modify his protectionist views; the compromise tariff of 1833 was largely his work. His support of the bill to recharter the Bank of the United States led to his defeat as a Whig candidate for the presidency in 1832. The proposal to distribute the surplus revenue among the states had his support, but he opposed the establishment of an independent treasury system in 1838 and broke sharply with President Tyler over the bank question. His attitude toward slavery contributed greatly to his popular title of "the great compromiser": although he had favored the gradual emancipation of slaves in Kentucky he opposed the restriction in Missouri and was influential in framing the compromises of 1820 and 1821 under which that state was admitted. Although he regarded abolition as "a delusion which cannot last" he opposed both Texan annexation and the Mexican War and was the principal author of the compromise legislation of 1850.

WILLIAM MACDONALD

Works: Federal edition, 10 vols. (New York 1904).

Consult: Colton, C., *Life and Times*, 2 vols. (New York 1846); Schurz, C., *Life*, American Statesmen series, 2 vols. (New York 1909); Johnson, W. F., *America's Foreign Relations*, 2 vols. (New York 1916); Burton, Theodore E., "Henry Clay" in *American Secretaries of State*, ed by. S. F. Bemis, 10 vols. (New York 1927–29) vol. iv, containing bibliography.

CLEARING HOUSES are devices of organized society to effect economy and simplicity in exchange. The clearing principle is one of the notable manifestations of the effort of human beings to simplify procedure in the different kinds of exchange which characterize highly developed societies. It may function through organizations of the most varied form, ranging from the informal and temporary to the highly organized and permanent. It may cover the interchange of information, such as credit and employment, or the settlement of financial claims between two or more parties. In the latter case the various claims, such as those arising from the interchange of freight cars and the sale of securities, are offset against each other so as to leave only net differences to be paid. Since so large a proportion of human activity is related to such common media as money and credit, the latter particularly in commercially advanced countries, the clearing device is most spectacular and effective when used to simplify the exchange of such instruments. The outstanding examples of clearing, therefore, from the standpoint of importance, permanence and efficiency, are the modern clearing houses established by banks to facilitate the settlement of their claims against each other.

The clearing principle as applied to the monetary media of exchange is not of recent origin. It has been contended that it was used in Florence as early as 800 A.D. and in Tokyo as early as 2600 B.C. At any rate it is certain that the principle had attained a high degree of perfection at the fairs of Lyons by 1463, and knowledge of the methods used at Lyons was widespread in Europe by the eighteenth century. The first modern clearing house was probably that in London, which took definite form in 1773, although some authorities say the Edinburgh clearing house dates from 1760. Dublin followed in 1846; New York City, 1853; Paris, 1872; Vienna, 1872, although some local banks cleared as early as 1864; Berlin, 1883; St. Petersburg, 1898. In the United States there were but six clearing houses in existence at the outbreak of the Civil War, organized in the following years: New York City, 1853; Boston, 1855; Philadelphia, Baltimore and Cleveland, 1858; and Worcester, Massachusetts, 1861.

The modern clearing house is defined in law as a voluntary association of banks to simplify and facilitate the exchange of such items as checks, drafts, bills and notes, and to serve as a medium of united action upon all questions affecting their common welfare. Most of them are unincorporated, cooperative associations and derive their authority over their members through their written assent to their respective constitutions. In addition to the principal function of clearing most modern clearing houses exercise certain special and secondary functions such as extending loans to the government, rendering assistance to members, fixing rates of interest on deposits, fixing rates of exchange and of charges on collections, fixing reserve requirements, examining member banks, gathering credit data for members, publishing statements relative to clearings and condition of member banks, participating in periodical conferences

and issuing clearing house loan certificates in times of financial stress. Some of these functions have been taken from the clearing house with the establishment of the Federal Reserve system.

In general the modern clearing house clears so-called cash items. The New York Clearing House, for example, clears checks, clean drafts and bills of exchange, all certified items, matured notes and acceptances and (since September, 1926) bond coupons. The clearing procedure is simple and consumes but a few moments. Representatives of the member banks are sent to the clearing house with the items drawn on the other members and at the appointed time each representative presents his items to the other representatives and receives in turn from them the items drawn on his own bank. A balance is struck and the debit balances paid by debtor banks to the creditor banks through the medium of the clearing house. Ordinarily settlements are made by bookkeeping operations, no funds being used. For example, the members of the New York Clearing House carry accounts with the Federal Reserve Bank of New York and at the close of the clearing session the clearing house manager sends a settlement statement to the Federal Reserve Bank directing that the accounts of certain members be debited and others credited. Thus daily clearings which total more than a billion dollars are settled without the actual exchange of any money. Clearing houses differ somewhat in their mode of operation, sessions ranging from one to four per day and settlements being made through bookkeeping operations, as above, by drafts on some bank, by checks drawn on the clearing house, by clearing house certificates or by the use of money.

The system of clearing houses which prevails in a country is conditioned by the type of banking system and reserve structure which prevails. Where central banks exist such banks frequently perform clearing functions. In countries with branch banking, as in Canada or England, clearing houses are relatively few and in general are for the convenience of the parent institutions. Branch banks which carry their reserves with the parent bank send their items to the parent bank for collection, the latter acting as a clearing house for its member branches and as a collecting agent when the items are drawn on other banks. In a country like the United States with its many independent banks the system is less simple, and approximately 350 clearing house associations have developed to take care of the local clearings. With the coming of the Federal Reserve system the country was divided into twelve districts and a new clearing system was superimposed upon the old. Each of the federal reserve banks now acts as a district clearing house for those banks of its district which choose to use it. For purposes of interdistrict clearing a central agency, the Gold Settlement Fund, was established at Washington, D. C., under the supervision of the Federal Reserve Board. Most of the interdistrict transactions are settled daily through this central fund by means of telegraphic transfers made by the federal reserve banks. Thus the United States has provided the mechanism for a national clearing system, although all banks have not availed themselves of it because of the requirement that all participating banks must remit at par for all checks presented to them.

A complete national clearing system presents the ideal system and secures the maximum economy in the use of all media of exchange cleared. All direct exchanges and collections of credit instruments not preceded by clearing are wasteful and inefficient in procedure. An efficient national clearing system, like that devised for the United States, secures the maximum of economy and speed in collection and transfers with consequent increased safety for all banks; it brings about a wider use of checks or deposit currency; it effects an almost instantaneous transfer of credit from one part of the country to another; it reduces currency shipments to a minimum; it secures the utmost mobility in the use of reserves; and it makes for stability in the national credit structure.

The long established custom of settling intercountry transactions by sterling bills drawn on London has made that city in effect the clearing house of the world. Through this spontaneously developed agency the transfer of gold from country to country has been reduced to a very small proportion of the total international transactions. The creation of a more formal mechanism for minimizing transfers of gold and for making possible a more efficient use of credit upon a given specie basis was probably one of the purposes back of the creation of the Bank for International Settlements, one of whose functions is to establish an international gold clearing system (Young Report, Annex 1, pt. 5). This function has, however, been practically disregarded in the Statutes of the Bank, as adopted by the Organising Committee (Nov. 13, 1929), apparently on the theory that the normal

channels of foreign exchange function sufficiently well.

WALTER E. SPAHR

See: CHECK; BILL OF EXCHANGE; BANKING, COMMERCIAL; BRANCH BANKING; CENTRAL BANKS; FEDERAL RESERVE SYSTEM.

Consult: Bailey, D. P., *The Clearing House System* (New York 1890); Cannon, J. G., *Clearing-Houses* (New York 1900); Colwell, Stephen, *The Ways and Means of Payment* (2nd ed. Philadelphia 1860) chs. xi–xii; Hallock, J. C., *Clearing Out-of-Town Checks in England and the United States* (St. Louis 1903); Holland, R. M., *The London Bankers Clearing House*, United States, 61st Cong., 2nd Sess., Senate Document no. 492 (1910); Howarth, William, *Our Banking Clearing System and Clearing Houses* (4th ed. London 1907); Jevons, W. S., *Money and the Mechanism of Exchange* (London 1875) chs. xx–xxi, xxiii; Spahr, Walter E., *The Clearing and Collection of Checks* (New York 1926); *Foreign Banking Systems*, ed. by H. P. Willis and B. H. Beckhart (New York 1929); Willis, H. P., *The Federal Reserve System* (New York 1923) chs. xxv, xxxv, xlvi; Willis, H. P., and Steiner, W. H., *Federal Reserve Banking Practice* (New York 1926) ch. xx; Schmidt, Fritz, *Der Zahlungsverkehr*, 2 vols. (Leipsic 1919–20) vol. i; Brochu, M., *Du développement du chèque et du paiement par compensation en France* (Paris 1927) ch. iv; Einzig, Paul, *The Bank for International Settlements* (London 1930) ch. x.

CLEMENCEAU, GEORGES (1841–1929), French statesman and journalist. Clemenceau was essentially a man of the nineteenth century. By birth he was a gentleman, coming of an old middle class family of the Vendée; yet all his life he retained the manner of the Paris gamin, of the facetious medical student of the sixties holding forth in the internes' clubroom. His political views bore the stamp of the same period: a republican by conviction, he made no distinction between the republic and the *patrie*; an intractable enemy of the Second Empire, he had, nevertheless, a secret weakness for autocratic governments. Above all he was partisan; politics, for him, was the conquest of power, an avid and joyous pursuit in a glorious and ruthless conflict. There was something of the Roman about his patriotism; he had a violent distaste for the mawkish homilies of the pacifists.

These characteristics are the key to his whole career. With the war of 1870 he abandoned medicine and teaching for politics and journalism. In the Chamber of Deputies, to which he was elected in 1876, he joined the group of young republicans who were establishing the new regime under the leadership of Gambetta and Ferry. After 1878, however, when the monarchists had been defeated and the republic was attaining cohesion and organization, Clemenceau turned radical and Jacobin, becoming the leader of a faction which split from the republican party. Both in the chamber and in the columns of *La justice* he challenged the opportunism of the moderate statesmen and restated their abandoned or compromised ideals: universal suffrage, suppression of the senate, complete separation of church and state, avoidance of colonial ventures. For fifteen years he used his eloquence, devastating as machine gun fire, to bring about the downfall of ministry after ministry. But his path was beset by too many enmities. In 1893 when he failed to secure reelection to the Chamber many believed that his political career was ended. He devoted himself exclusively to journalism until 1897, when he was caught up in the great tide of emotional conflict engendered by the Dreyfus affair. Joining Zola in an impassioned defense of the accused captain, dedicating his newly founded *L'aurore* to the task of securing reversal of the sentence, Clemenceau once more became vitally interested in the affairs of the republic. In 1902 the *département* of the Var elected him to the senate and in 1906 he became minister and premier for the first time in his already long career. The "vieux débutant," as he liked to call himself, took full advantage of the authority of his position and resolutely resisted the miners and other strikers, in whose actions he read a threat to the republic, even though by so doing he incurred the lasting enmity of the more progressive groups. In the Moroccan affair it was he who dared unequivocally to resist the German claims. During the years that followed his resignation from the premiership (1909) Clemenceau labored to keep the French nation alert to the possibility of foreign aggression. In his *L'homme libre* his fulminations against French military inefficiency echoed through the country; and when *L'homme libre* was suppressed *L'homme enchaîné* continued to clamor against the policy of the government. In 1917, when France was at the end of her resources and asked of her leaders only that they hold on, the old warrior, now seventy-six years old, answered the call, succeeding Painlevé as prime minister. He became the symbol of his country's pathetic and tenacious will to survive and in the popular imagination he joined the ranks of legendary heroes: Jeanne d'Arc, Danton, Gambetta. When the time came to make the peace, Clemenceau was named president of the Versailles Conference. But it was a Clemenceau of the nine-

teenth century and not of the twentieth who negotiated the treaty, a Clemenceau who could not forget the war of 1870, who in the face of the idealism which overhung a section of the conference fought stubbornly for security on the Rhineland, indemnification and the maintenance of the old system of alliances. On the morrow of the Versailles Treaty the old "tiger," morose and indifferent to popular acclaim, retired to his home in the Vendée; here he lived in solitude and self-sufficiency, devoting the ten remaining years of his life to study and writing.

ANDRÉ SIEGFRIED

Consult: Adam, George, *The Tiger* (New York 1930).

CLEMENT OF ALEXANDRIA (Titus Flavius Clemens) (*c.* 150–*c.* 215), church father. Clement was born probably at Athens. He became converted to Christianity and after about 200 was head of the famous catechetical school of Alexandria. He elaborated in his *Paedagogus* the first Christian-philosophical ethics; in the religious philosophy of his principal work, *Stromata*, he united the late Greek γνῶσις (knowledge) with the Christian πίστις (faith); and in his homily, *Who Is the Rich Man That Shall Be Saved?* (tr. by G. W. Butterworth in his *Clement of Alexandria*, Loeb Classical Library, London 1919), he gave a conciliatory answer to the earnest question of primitive Christianity regarding the compatibility of riches and faith.

Clement's significance for intellectual history rests upon his acknowledgment of Greek philosophy, especially that of Plato, as preparing the way for Christianity—an acknowledgment which laid the foundation for Origen's crowning work; and upon his demonstration of the already much used conception of the Logos as the firm bridge connecting philosophy and religion. Most important, however, for the social teaching of the church, as later for scholasticism, has been the fact that in opposition to the communistic tendencies which were shown in many writings of the first half of the second century he opened the way for the victory of a moderate, quietistic spirit. Clement, to be sure, was far from interpreting property in the manner of contemporary Roman law as *jus utendi et abutendi*; he himself teaches that property belongs to God and that man has merely the right of enjoyment of it and even this only so far as is necessary. It is not right that some should live in luxury and others in want, and he insists that the greed for profit is the root of all evil. More important, however, and more fruitful of results was the fact that he no longer upheld as the norm for all Christians an asceticism hostile to society, but pointed out the conditions under which the rich man too might inherit the kingdom of heaven. Thus at the same time entrance into Christianity was made easier for the propertied classes of antiquity and the way opened to an alliance frequent thereafter between church and wealth.

EDGAR SALIN

Works: *Opera omnia*, ed. by O. Stählin, 3 vols. (Leipsic 1905–09); some of Clement's works have been translated by W. Wilson in *Ante-Nicene Christian Library*, 24 vols. (Edinburgh 1868–72) vol. iv, xii.

Consult: Tollinton, R. B., *Clement of Alexandria*, 2 vols. (London 1914); Stählin, Otto, *Die altchristliche griechische Literatur* (Munich 1924) p. 1310–17.

CLÉMENT, AMBROISE (1805–86), French economist. As secretary of the mayoralty of Saint-Étienne, Loire, from 1838 to 1848 and from 1850 to 1860 he applied himself to fiscal problems especially and succeeded in amortizing the city debt and in establishing a surplus. While his office prevented his taking an important part in the intellectual life of Paris, it not only permitted him to study at close range the economics of industry and the life of the working class in one of the busiest sections of France but also exerted a marked influence on his writings.

Clément's early reputation was founded on his *Recherches sur les causes de l'indigence* (Paris 1846). He opposed all forms of socialism and in *Des nouvelles idées de réforme industrielle* (Paris 1848) attacked the national workshops and the doctrines of Louis Blanc. He also objected to state ownership on practical grounds and in his own province successfully blocked the imperial prefect's plan to regulate the grain trade. He was a disciple of the ideologues, especially Destutt de Tracy and J. B. Say, and was strongly influenced by Malthus, Charles Comte and Dunoyer. He was one of the organizers and editors of the *Dictionnaire de l'économie politique* (2 vols., Paris 1852–53; 4th ed. 1873), for which he wrote the introduction. He also contributed to the *Journal des économistes*.

His principal writings, in addition to those mentioned above, are *Essai sur la science sociale* (2 vols., Paris 1867) containing three treatises on economics, experimental ethics and rational politics; *Le bon sens dans les doctrines morales et politiques* (2 vols., Paris 1878); and *La crise économique et sociale en France et en Europe* (Paris 1886), his last work, in which he sums up his arguments against excessive public

expenditure, protectionism and socialism. Clément's contribution to nineteenth century economic thought is creditable but unoriginal.

ROGER PICARD

CLÉMENT, JEAN-PIERRE (1809–70), French historian and economist. Clément, who was employed in the department of finance, undertook a series of studies of French ministers and superintendents of finance. He became especially interested in Colbert, on whom he wrote a series of articles which were published in the *Correspondant* and later collected in a volume entitled *Histoire de la vie et de l'administration de Colbert* (Paris 1846). The work was crowned by the Académie Française. In 1859 he was commissioned by the government to collect and publish Colbert's papers, a formidable enterprise which was to occupy the greater part of his life. In all, ten volumes appeared under the title *Lettres, instructions et mémoires de Colbert* (Paris 1861–82, the two last being published posthumously). The introductions to each volume, which form in themselves a complete study of the work of Colbert, were published separately as the *Histoire de Colbert et de son administration* (2 vols., Paris 1874). At intervals Clément published a series of works on the history of the reign of Louis XIV and of French financial and economic policy, of which the more important ones are *Le gouvernement de Louis XIV de 1683 à 1689* (Paris 1848), *Jacques Coeur et Charles VII* (2 vols., Paris 1853), *Histoire du système protecteur en France* (Paris 1854), *Portraits historiques* (Paris 1855), *La police sous Louis XIV* (Paris 1866), *Madame de Montespan et Louis XIV* (Paris 1868), and *Une abbesse de Fontevrault au XVII^e siècle* (Paris 1869).

He had been appointed a member of the Académie des Sciences Morales et Politiques when a section for politics and administration was created in 1855. Although not very active politically, he was for many years a member of the general council in the department of the Var.

As an economist Clément was an ardent advocate of free trade. This, however, did not prevent his admiring the work of Colbert. He recognized the contribution which Colbert's system had made toward putting France in the front rank of manufacturing countries, but he questioned its advantages for national well-being in general and for the agricultural class in particular. In his *Histoire du système protecteur en France* he advocated a progressive downward revision of the tariff for the benefit of the people as a whole. He was primarily a careful, documentary historian whose works are models of critical erudition.

ED. ESMONIN

CLERGY. *See* PRIESTHOOD.

CLERICAL OCCUPATIONS. The term clerical occupations is now used to denote a large variety of office positions other than those of an executive or professional nature, most of which involve writing, computing or record keeping. These supplement the conduct of industry, business, education, public administration, scientific research and the dissemination of literature and news.

The existence of a special professional group of copyists and correspondents predated the designation of clerk. Assyrian monuments as early as the eighth century B.C. and Egyptian reliefs of remote dates portray scribes writing or copying on tablets, leather or papyrus rolls. Toward the end of the fifth century B.C. the Athenian book trade, catering to a wide reading public, employed large numbers of scribes, who were usually slaves. The use of papyrus rolls which were not durable, except in very dry climates, made it necessary continually to prepare new copies of the outworn books. The largest and most learned group of copyists ever assembled were those employed in the great libraries of Alexandria from the second century B.C. Rome not only developed a book trade but at the beginning of the fourth century A.D. boasted a number of public libraries which required the work of scribes. Professional scribes were employed by the illiterate lower classes for business as well as for personal correspondence. The affairs of government at all times necessitated the employment of clerical assistants.

The term "clerk" (*clericus*) itself goes back to the mediaeval "clergy," which was a collective name for the body of clerks who had taken holy orders. Its origin dates from a period when education was the prerogative of the men in the church. The great monastic orders of the Middle Ages set themselves the task of copying, on the more durable vellum codex, documents considered of value for monastic education. In the scriptorium of the monasteries the clerical monks sat hour after hour at their sloping desks, or *carolas*, busy with the transcriptions which were later to be corrected by the best scholars of the

monasteries. The elaborate illumination of the text was, however, most often the individual contribution of the humble clerk. These clerical monks also compiled the monastery's chronicle, a compendium of useful information which often began with the creation of the world and extended to details of the recent history of the realm and of the immediate neighborhood. England owes much of the valuable source material of her history to the industry of the clerical monks.

Eventually, a "clerk" came to be any man who followed an occupation requiring writing. Clerks were used during the Middle Ages in connection with the business of the great secular feudal estates. The bailiff's roll, or annual balance sheet, contained a record of the receipts of rents and the outlays for expenses. As late as the thirteenth century the use of Roman numerals and other intricacies involved in the computation of these records necessitated specialized clerical assistance. Towns, parishes and other public bodies employed clerks.

As industry came into the control of the great craft and merchant guilds the employment of clerks increased. With every expansion in the character and scope of commerce, industry and public affairs the number of clerical workers increased. Very little change, however, in the character of the occupations themselves may be discovered before the last quarter of the nineteenth century. Although the invention of printing in the fifteenth century resulted in increasing rather than diminishing the number of clerks required, the nature of their tasks remained the same.

The introduction of the typewriter into the United States in the seventies marks the beginning of a series of other inventions for duplicating, computing, compiling, dictating, folding, addressing and the like, as well as of innovations in office practise. Concurrently there was a displacement of the small individual enterprise by the corporation and the trust as the dominant units in industrial and business life. These changes have resulted in a great increase in the number of men and women in the clerical occupations, in their congregation into larger units and at the same time in the increasing mechanization of their work. The following table shows the increase in the total number of clerical workers from 1910 to 1920, as well as increases in the various subdivisions recognized by the United States census bureau as comprising the group. These figures include government employees, whose problems, since they differ in important respects from those of non-government employees, are discussed elsewhere.

The three million odd clerical workers in 1920 show an increase of more than 80 percent over 1910. An even more striking increase, both relatively and absolutely, is shown in the figures for the number of women. For the occupational group as a whole, women represented 45 percent in 1920 as compared with 34 percent in 1910, less than 30 percent in 1900 and 6 percent in 1880. Men had long been in the majority in each of the subdivisions with the exception of stenographers and typists, among whom in the last decade women have predominated. The more rapid rate of increase of women greatly reduced the majorities of the men in the other subdivisions. In the subgroup of clerks, for instance, women in 1920 comprised a third as compared with about a sixth in 1910, an increase greater than in any other occupation reported by the

Persons 10 Years of Age and over Engaged in Clerical Occupations in the United States

Occupation	1920			1910		
	Total	Male	Female	Total	Male	Female
All clerical occupations	3,126,541	1,700,425	1,425,116	1,737,053	1,143,829	593,224
Agents, canvassers and collectors	175,772	159,941	15,831	105,172	96,325	8,802
Bookkeepers, cashiers, accountants and auditors	734,688	375,564	359,124	486,700	299,545	187,155
Clerks	1,487,905	1,015,742	472,163	720,498	597,833	122,665
Messengers, bundle and cash girls and boys	113,022	98,768	14,254	108,035	96,748	11,287
Stenographers and typists	615,154	50,410	564,744	316,693	53,378	263,315

Source: Fourteenth Census of the U. S. 1920, vol. iv, *Occupations*, p. 43, Table 4.

census. Women clerks increased almost fourfold within the last decade.

It is within this largest subgroup of clerks, numbering in 1920 a million and a half, or almost half of the total occupational group, that some of the most drastic changes leading to mechanization and the introduction of woman labor have taken place. Women perform tasks which were either new or unknown at the beginning of the century.

The above table reveals the wide variety in the character of the work performed by clerical employees. This has most often been accompanied by a correspondingly wide range in the pay received. According to a study made in 1926 by the National Industrial Conference Board covering 27,000 employees in 427 companies the median weekly salary rate varied from $15.38 for mail clerks to $49.87 for chief clerks. Only when combined with administrative responsibility is clerical work well paid. According to the same study median weekly salary rates for general clerks were $19.38, for senior stenographers $27.47, for head bookkeepers $41.34. In the group of occupations most characteristic of office employment the average salary rate was close to $25 per week, as compared with weekly average earnings of $27.27 given by this same body for manual workers.

The gradation in tasks and salaries has helped to uphold the lingering tradition that the clerical occupations, in addition to affording more congenial work, shorter hours, vacations with pay and similar advantages, offer not only greater social prestige than factory labor but provide stepping stones to better positions. These advances presumably extend into important executive and technical positions. Such compensations are held to outweigh the small salaries of particular occupations.

Recent studies of wages and of working conditions in terms of hours, occupational hazards, economic security and opportunities for advancement tend to show that the shadowy line between many of these clerical tasks and unskilled factory occupations is becoming more and more imperceptible.

There still exists, of course, the small office in which the clerk, bookkeeper or stenographer finds in the variety of his daily work and in the opportunity for initiative and advancement compensations for a comparatively low salary. The proportion of such workers is small. The majority of clerical workers is concentrated in large units, attached to vast industrial commercial enterprises, in which mechanization has taken place in all branches of work from that of the file clerk to the more highly skilled bookkeeping and stenographic branches. The subsequent specialization and subdivision, involving physical segregation and precluding the possibility of advancement from one task to the other, have transformed most of these occupations into blind alley jobs. According to a study made recently by the American Management Association one large firm reported that over 80 percent of its clerical force did not expect promotion to other positions.

The technical aspects of mechanization as well as the problem of its immediate enforcement in office practise have been studied by industrial engineers. They have recommended the broader application of such methods as the introduction of piece work and of production standards often mechanically controlled, as well as of practises leading to the virtual elimination of individual initiative. This trend has aroused but little articulate comment either from the workers or from those in charge of business education or from students of labor problems.

The statement that office work is very much less injurious to the health than factory employment has also been challenged by some recent studies, which show that defects in systems of ventilation, illumination and seating arrangements are by no means uncommon and that morbidity and mortality rates are not low. The percentage of male office workers (unadjusted for age groups) suffering from tuberculosis is exceeded only by that of soldiers, sailors, miners (other than coal) and pottery workers. The average length of life of male office workers is computed at thirty-nine years.

It is probably true, however, that since their rate of turnover is lower office workers enjoy greater economic security than factory employees. This may be due in part to the greater docility of the clerical worker and to the selection, through elaborate systems of hiring, of workers likely to be stable. As their numbers increase, however, clerical workers are more and more likely to be subject to the incidence of cyclical fluctuations, especially in view of the steadily increasing oversupply of office workers turned out by the schools. The older men and women find the same difficulty in maintaining and securing employment as in factory occupations.

Supposed advantages in shorter working

hours have in some instances been more than counterbalanced by unregulated and excessive overtime. Moreover, the margin of difference is being cut into by the increasing number of organized manual workers who have won the five-day week and the shorter working day. In a study covering 304 establishments employing 174,000 clerical workers the average working day was 7 hours and 40 minutes, while 106 plants worked an eight-hour day and 25 plants more than an eight-hour day.

It has often been observed that members of the salaried class have an advantage over wage earners in that their earnings in times of depression are not reduced as soon or as much as those of wage earners. On the other hand, they have a corresponding disadvantage in that their salaries in times of prosperity are increased so slowly that they often fail to keep pace with the rising cost of living. According to Professor Paul H. Douglas the salaried and clerical workers in the United States in 1926 were "only 3 per cent better off than they had been during the nineties," which, he comments, is "particularly striking in view of the 29 per cent gain made by the manufacturing wage earners."

No form of organization has arisen among the clerical workers, with the exception of those in government offices, the railway and steamship clerks and a few hundred employees of labor unions. All three of these groups have received some external stimulus to organization. The railway clerks have been particularly successful, their number reaching almost a hundred thousand in 1929, of whom about one third were women. The existence of strong national unions and national collective agreements in other branches of the railway industry accounts in part for the railway clerks' organization. Another factor, which holds for governmental employees as well, is the large role of regulatory legislation, for the securing of which organization is necessary. With the exception of the activities of these three groups efforts to improve working conditions have in the main come from the employers. Workers' participation in any form of employee representation has been passive. Welfare activities, involving recreational facilities, lunchrooms and the like, have a vogue among clerical employees, particularly where women are in the majority. From time to time spasmodic organizing campaigns in the larger cities have been carried on among employees of banks and large insurance companies. Although the response in membership has been negligible, the agitating groups have claimed that their efforts have brought about increases in wages.

The indifference of the clerical worker to unionism or to any other form of collective organization may be explained by a number of factors. The greater number of women, especially younger women, workers, new to the problems of economic organization, has increased the difficulties of unionization. Most fundamental, however, is the old prejudice of the white collar worker against being identified in any way with the manual worker. The persistence of the belief that clerical occupations present opportunity for advancement may be accounted for by the fact that the number gaining promotion, although a decreasing one, is still much larger than among factory workers. The terminology of clerical employment confirms the assumption of superiority: clerical workers earn salaries, not wages; they go to business, not to work; their positions (not jobs) are in offices, not factories.

The situation of the clerical worker in Great Britain resembles in many respects that of the American clerk. Although clerks were persons of only minor social importance before the eighteenth century, the rise of the middle class in England caused occupational status to become far less rigid. Thus the career of Robert Clive, who had been a mere clerk in the employ of the East India Company and who attained a position of great wealth and influence, may be taken as symbolic of a development in which an amazed society saw the "clerks of yesterday become the capitalists of today." Beginning with the fifties, clerical occupations for women were highly recommended by leaders of the women's rights movement and a conscious effort was made to introduce women into the civil service. The "black-coated proletariat" of England enjoys still a feeling of social superiority to the factory operative.

In 1921 there were about a million and a half clerical workers in Great Britain, of whom a quarter of a million were government employees. Although British office practise has by no means undergone such mechanization and specialization as American, tradition operates against advancement of clerical workers. The economic status of the British clerical worker, especially since the war, is probably lower than that of the American. Various special bills for safeguarding the health and improving the working conditions of clerks in private establishments, in spite of the great need for such legislation,

have been defeated in Parliament. The antipathy of the British clerk to unionization stands out in contrast to the British workingman's high degree of organization. In the first flush of the "new unionism" at the beginning of the twentieth century a national union of clerks was formed. During the war its membership exceeded 40,000, but in 1930 it had dwindled to less than 7000.

In the countries of continental Europe clerical workers have responded to labor unionism, and largely through their efforts measures regulating hours and wages and laws providing social insurance have been specially enacted for their benefit or have been so drawn as to include them.

Austria has been called the cradle of clerical unionism. The largest labor union membership of clerical workers, however, is in Germany. A rich literature is available concerning the status of the *Angestellten*, the term now distinguishing those in private employ from the *Beamten*, or government employees. It has been estimated that the number of clerical workers has risen from half a million in the eighties to two million in 1907 and to perhaps more than double that number in 1926. Of the non-government employees 400,000 belong to trade unions affiliated with the "free trade" union movement and with the Amsterdam International. Another large group is affiliated with the Hirsch-Duncker national organization, a third with the Christian labor unions; some scattered thousands are organized in unaffiliated neutral, or "yellow," groups, while a small number are communist in allegiance. Unionization came later among the clerical than among the manual workers. Incentives to organization may have been the desire for recognition in the extensive social legislation enacted in the nineties for other working class groups and the opportunity to participate in the political labor movement. In some instances it may have been the desire to keep pace with the industrial workers that aroused group consciousness.

The number of clerical workers in European countries is increasing. They now form more than 10 percent of the working population, as compared with 6 or 7 percent in 1906 or 1907. The wide influence in all countries of American business methods, added to the failure of clerical workers everywhere to maintain their economic status, has aroused considerable concern. Recently in Chile legislation enacted to protect clerical workers, of whom a great number are in the employ of American capitalistic enterprises, has been far reaching in scope, prohibiting the use of "yellow dog" contracts and providing for joint insurance funds and the like. The International Labour Office began in 1928 a series of conferences looking toward the international regulation of the hours of salaried employees in response to the growing concern for their poor economic status.

AMY HEWES

See: OCCUPATIONS; PROFESSIONS; PUBLIC EMPLOYMENT; BUSINESS; BUSINESS EDUCATION; MIDDLE CLASS; SALARIES; WOMAN IN INDUSTRY; TRADE UNIONS.

Consult: Van Hook, Larue, *Greek Life and Thought* (New York 1923) p. 114–21; Cutts, E. L., *Scenes and Characters of the Middle Ages* (5th ed. London 1925); Douglas, Paul H., *Real Wages in the United States*, Pollak Foundation for Economic Research, Publication no. 9 (Boston 1930) p. 366–68; National Industrial Conference Board, *Clerical Salaries in the United States* (New York 1926); Hill, J. A., *Women in Gainful Occupations, 1870–1920*, United States, Bureau of Census, Census Monographs no. ix (1929); Coyle, Grace D., "Women in the Clerical Occupations" in American Academy of Political and Social Science *Annals*, vol. cxliii (1929) 180–88; Nicholas, F. G., and others, *A New Conception of Office Practice*, Harvard Bulletins in Education, no. xii (Cambridge, Mass. 1927); American Management Association, *Office Executives' Series*, nos. 1–33 (New York 1924–28), especially "Office Working Conditions and Extra Compensation Plans" by H. J. Taylor, no. 30; Wright, Wade, *Health of Office Workers* (New York 1927), summarized in *Monthly Labor Review*, vol. xxvii (1928) 266–67; Bergen, H. B., "Social Status of the Clerical Worker and His Permanence on the Job" in *Journal of Applied Psychology*, vol. xi (1927) 42–46; Drake, Barbara, *Women in Trade Unions*, Labour Research Department Trade Union series, no. 6 (London 1920) p. 171–79; Schnaas, H., *Die Arbeitsmart der Angestellten und die Arbeitsmarktpolitik der Angestellten-organisationen* (Münster 1929); Lederer, Emil, *Die privatangestellten in der modernen Wirtschaftsentwicklung* (Tübingen 1912); Grünberg, S., *Das oesterreichische Angestelltenrecht* (Vienna 1926); Buelens, J., *Les employés en Allemagne* (Antwerp 1913); "The Trade Union Movement among Salaried Employees" in *International Labour Review*, vol. xv, no. 3 (1927) 414–30; Fuhs, R., "The International Regulation of Hours of Work of Salaried Employees" in *International Labour Review*, vol. xix, no. 6 (1929) 769–96.

CLERMONT-GANNEAU, CHARLES (1846–1923), French epigraphist and archaeologist. In 1867 he was appointed dragoman at the French consulate in Jerusalem. After fifteen years in the consular and diplomatic service in the Near East he returned to France, where until 1906, when he retired with the honorary title of *ministre plénipotentiaire*, he combined

diplomacy with research and teaching. In 1890 at Renan's request the chair of Semitic epigraphy was established for him at the Collège de France. Both the French government and various English and French groups interested in archaeology commissioned him on several occasions to undertake archaeological expeditions to the Near East.

During Clermont-Ganneau's lifetime and largely through his own work Palestinian archaeology and epigraphy developed from scanty collections of useless material into exact sciences. After his initial good fortune in discovering the Mesha Stone, the most important written monument ever found in Palestine, he entered upon an uninterrupted series of brilliant archaeological, epigraphic and topographic discoveries, in which he displayed unusual linguistic erudition together with sound philological method and extraordinary archaeological flair, a combination of qualities which has been unsurpassed by any other oriental archaeologist. One of the sensational by-products of his career was the unmasking of the most notorious forgeries of the nineteenth century, the so-called Moabite antiquities, which had deceived the German archaeologists, and the "archetype manuscript of Deuteronomy," which had been offered to the British Museum for a fabulous price. Most of Clermont-Ganneau's papers and monographs are collected in *Études d'archéologie orientale* (2 vols., Paris 1880–92), *Recueil d'archéologie orientale* (8 vols., Paris 1888–1923) and *Archaeological Researches in Palestine* (2 vols., London 1896–99).

W. F. Albright

Consult: Ingholt, Harald, in *Revue archéologique*, 5th ser., vol. xvii (1923) 342–45, and "Bibliographie de Charles Clermont-Ganneau" in *Revue archéologique*, 5th ser., vol. xviii (1923) 139–58; Jalabert, Louis, in *Études*, vol. clxxiv (1923) 590–98.

CLEVELAND, STEPHEN GROVER (1837–1908), American statesman. Four years after his admission to the New York state bar in 1859, Cleveland became assistant district attorney of Erie county and subsequently served as district attorney and sheriff. In 1881 he was elected mayor of Buffalo on a reform ticket. He attracted considerable attention by the thoroughness with which he carried out the reform program and in the following year, partly as a result of this reputation, was chosen to the governorship of New York on the Democratic ticket. During his administration he became nationally prominent by his stubborn honesty, his defiance of Tammany and his blunt way of dealing with public questions. Nominated for the presidency in 1884 he defeated Blaine in a campaign which brought him warm support from reform elements, and in the following year he organized in Washington the first Democratic administration since before the Civil War.

Cleveland's eminence is that, not of an aggressive reformer in the Rooseveltian or Wilsonian sense, but of a conservative statesman who was unflinching in his adherence to principle. A man of limited intellect and foresight and yet endowed with clear immediate vision, he pursued a ruggedly direct course. In his first administration he alienated many of the party politicians by resisting the extreme demands of the spoilsmen for office and by his support of civil service reform (which he enlarged still further in his second administration); insisting upon the independence of his appointive power he forced Congress to repeal the Tenure of Office Act. A still larger section of his party was alienated by his vigorous opposition—culminating in his veto of the first general pension bill of 1887—to the practise of indiscriminate granting of Civil War pensions. Becoming convinced of the unfairness of the high protective tariff, which in addition, by piling up a large treasury surplus, was proving a source of embarrassment to the administration, he devoted his entire message of December, 1887, to an attack upon it. Renominated in 1888 he gained a popular plurality but lost the election to Benjamin Harrison. Nevertheless, his tariff message proved a successful stroke. The congressional elections of 1890 were a sweeping popular repudiation of the excessively high McKinley tariff, which had been passed in that year; and in 1892, running against Harrison in a campaign dominated by the tariff issue, Cleveland won a decisive victory. His second administration proved one of the most troubled in American history and was, in spite of his undeviating devotion to sound principles, to a certain extent disastrous. One of his most painful disappointments was the defeat of his low tariff policy, which had been endorsed by the country in two national elections. By means of lobbying and logrolling and by an alliance between the Republicans and a small group of protectionist senators of Cleveland's own party under the leadership of A. P. Gorman, his opponents were able to carry through the unsatisfactory Wilson bill, which Cleveland de-

nounced and allowed to become law without his signature. The financial problems of the second administration were strikingly different from those of the first. The president was embarrassed, no longer by a surplus, but by an acute shortage which had been gradually produced by heavy expenditures under President Harrison and by the effects of the Sherman Silver Purchase Act of 1890 in draining the treasury of its gold. In the severe crisis precipitated by the panic of 1893 Cleveland was finally successful, although at the cost of permanently alienating the great body of free silver Democrats, in saving the government from bankruptcy. He compelled the repeal of the Sherman Silver Purchase Act, rescued the treasury by the desperate remedy of four bond issues and sustained the capacity of the government to continue its gold payments. To restore order in Chicago following the violent Pullman strike disturbances of 1894 he secured a federal court injunction against the strikers and by sending federal troops maintained the national government's right of intervention. Although he resisted the annexation of Hawaii and refused to be driven into war with Spain over the insurrection in Cuba, he emphatically asserted the interest of the United States in an equitable settlement of the Venezuelan boundary and forced Great Britain to recognize the implications of the Monroe Doctrine. So unpopular were many of his acts that during his last year in the White House he was left in political solitude, but he accepted doggedly the penalty for his inability to compromise. Cleveland lived long enough to witness a general public recognition of his civic heroism. He will be remembered for some of his specific policies, but much more for the example he gave of unflinching adherence to his ideal of public duty, which, although sometimes narrow and unimaginative, was always conscientious.

ALLAN NEVINS

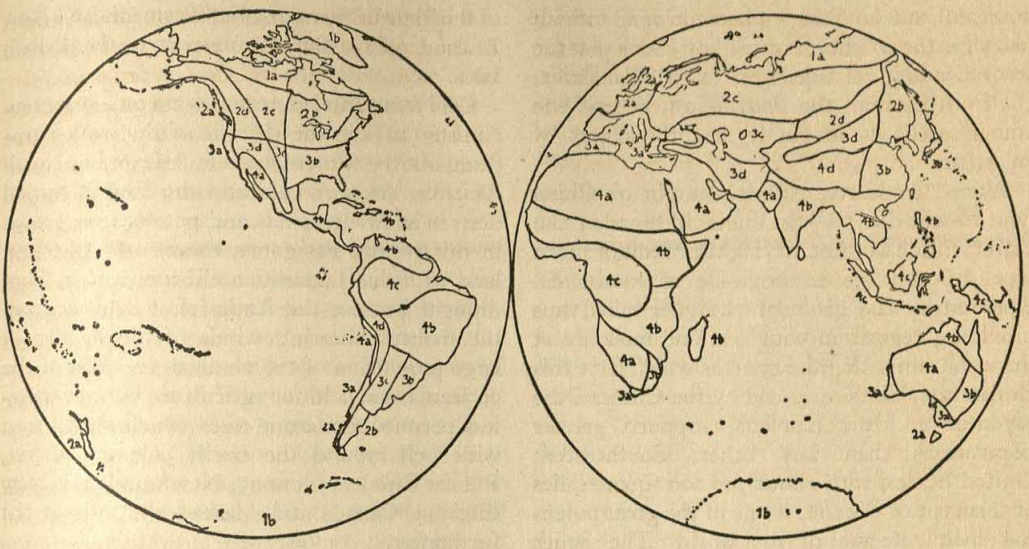
Consult: McElroy, R. M., *Grover Cleveland, the Man and the Statesman*, 2 vols. (New York 1923), especially bibliography, vol. ii, p. 387–416.

CLICQUOT-BLERVACHE, SIMON DE (1723–96), French economist. Both before and after his appointment as director general of manufactures and commerce in 1766 he wrote a number of tracts dealing with matters of economic policy. He was fundamentally an economic liberal, although caution occasionally impelled him to favor moderate internal regulation or more drastic regulation of foreign trade. In the most notable of his works, *Considérations sur le commerce et en particulier sur les compagnies, sociétés et maîtrises* (Amsterdam 1758), which according to Dupont de Nemours was written "under the supervision and with the advice of Gournay," he traces the history of the guild system in France, analyzes its effects and concludes by advocating its abolition. His attention was directed primarily toward commerce and industry, but he was careful, in that age of physiocrats, to give adequate recognition and consideration to agriculture. In order to encourage the peasant class in a kingdom where he saw "many trades and few ploughs" he suggested such changes as the reform of the *taille* and the suppression of all feudal dues (*L'ami du cultivateur*, 2 vols., Chambéry 1789). In general he was inclined to accept the rural policy of the physiocrats, with the reservation that consumers' interests must be safeguarded. Clicquot-Blervache's other works include: *Dissertation sur les effets que produit le taux de l'intérest de l'argent sur le commerce et l'agriculture* (Amiens 1755), in which he called for legislation to reduce the interest rate, a policy of which he later perceived the fallacy; *Dissertation sur l'état du commerce en France depuis Hugues Capet jusqu'à François I* (Amiens 1756); *Essai sur le commerce du Levant* (unpublished); *Éloge de Sully* (unpublished).

G. WEULERSSE

Consult: Vroil, Jules de, *Étude sur Clicquot-Blervache, économiste du XVIIIe siècle* (Paris 1870).

CLIMATE. *The Climatic Regions of the World.* Because of the recurrence in the several continents of similar relationships between land, water, wind direction and distance from the earth's equator it is possible to define type climates which serve an important purpose in the science of climatology. Since the earliest times the device of type climates has been employed, but until recently the definition of types has been loose and misleading. Thus the term "torrid zone" is descriptive of neither land nor climate, for the area so designated contains deserts and swamps, thick hot forests and bleak cold plateaus. The continental designations, as "Africa" or "Europe," are equally non-descriptive. But "tundra" or "equatorial forest" are definite descriptive terms. Excellent climate maps constructed on scientific lines are now available. Among them that of W. P. Köppen (to be found in Petermann, A., *Mittheilungen*, ed. by P. Langhans, vol. lxiv, 1918, p. 240) is a



marvel of completeness but is too complicated for the purposes of the present discussion. The accompanying maps are based on the classification of A. J. and F. D. Herbertson (*The Senior Geography*). By means of such charts a more adequate knowledge is obtainable of the typical climates of the world and of their relation to some of the elements of civilization.

The wet equatorial lowland or Amazon type (4c) is a climate with sufficient heat and humidity to produce a thick forest with dense foliage and huge tree trunks. When the forest is cleared an impenetrable jungle quickly springs up. This is the land of palms, bananas, cassava and rice and covers large areas in South America, Africa and the East Indies.

The summer rain or Sudan and monsoon types of climate (4b) are found in tropic grasslands marked by frequent and heavy rains which alternate with months of drought. In the wetter areas near the equator these lands are covered with tall grass interspersed with trees, forming a landscape called savannah. The amount of rainfall decreases with distance from the equator, and grass and trees become progressively scarcer until the grassland tapers off to sparse scrub and bunch grass and finally, in Africa, merges into the deserts of Kalahari and Sahara. In Asia the great land mass of the continent heats up in summer, causing the air to become light; the barometer falls and there is great indraft of wind from the seas. This summer wind is called a monsoon. India has a monsoon type of climate. In Australia the smaller land mass located, like Asia, just outside of the equatorial belt produces a similar summer season but one not so strongly developed as that in the more gigantic Asia. In these tropic grasslands the rainfall is much more irregular as to both quantity and time than it is in Europe. As a result wild animals must struggle for the water hole and man must deal with the recurrent problem of famine. The tropic grasslands of South America are almost entirely uninhabited, a condition due not to whim or accident but to irregularity of rainfall. Within recent years the complete failure of crops in the Brazilian state of Ceará, just north of the east point of Brazil, caused most of the population to move to the seacoast to be fed for a season at government expense.

The lofty plateau or Bolivian type of climate (4d) is found in the Andean and Tibetan plateaus. These are lands of cold dry pastures with patches of potato and hardy cereal tillage.

The western desert or Sahara type (4a) is hot and dry. It is found on the western margins of continents in latitudes of twenty to thirty degrees and these regions have deserts immediately upon the shore of the sea.

Warm temperate, western margin or Mediterranean climate (3a), lying poleward from the desert areas, is as systematically distributed as is the desert type. Rain falls only in winter, when plants cannot make the best use of it. The winter rain is accompanied by temperatures usually above freezing, and grass, wheat, barley and other hardy plants may grow through this season. The grass and flowers of early spring are followed by a summer of shimmering heat, dead grass, bare fields, hazy atmosphere and a mantle of dust. Mountains are extremely important in regions with Mediterranean climate because

they catch and hold the winter snows and furnish water for the irrigation of the low plains that are otherwise dry in summer, as in California, Chile, Australia, the *huertas* of Spain, the orange orchards of Sicily and the coasts of Palestine.

Warm temperate, eastern margin or China type of climate (3b) is found in areas in the same latitude as those having the Mediterranean type, but on the eastern side of continents. These areas have abundant summer rains, thus providing vegetation with heat and moisture at the same time. Of the six areas which have this climate the Asiatic, peopled by the Chinese, the Japanese and the Koreans, supports greater populations than any other. Southeastern United States, with about 700,000 square miles of this type of climate, is one of the great potential food reserves of the world. The South American, the African and the Australian areas are much smaller, not so well supplied with rain and attached to large tropical land areas from which locusts, boll weevils and other pests come to ravish and destroy the crops.

Warm temperate, interior lowlands or Turan type (3c) and plateau or Iran type (3d) are found in America and Eurasia where there is some lowland, like the plains of Turkestan, or where there are wide areas of land of little rain and some high land, like the adjacent plateau of Iran. These are lands of pastoral nomads in the Old World and of cowboys and ranches in the New. They are also lands where mountain streams furnish water to irrigate lowland spots and to support the urban centers, such as Samarkand, Teheran and Salt Lake City.

Cool temperate, western margin or west European climate (2a) is found poleward from the Mediterranean type, on the west coasts of continents. These areas, with their frosty winters and cool summers well suited to maturing crops of wheat, barley, rye, oats, potatoes, beets and various clovers, have one of the best of all climates for man. The white races seem better adapted to the temperature of this region than to that of any other which affords an abundant food supply. Europe opens a plain to the ocean at forty to fifty degrees north latitude, permitting a wide extension of this climate into its interior. Scandinavia and Alaska may preferably be considered as a separate type. In North and South America, with their western mountain walls, this type of climate is restricted to narrow coast lands where agricultural land is limited to a few thousand square miles. There is no climate of this type in Australia, but Tasmania and New Zealand offer a fair counterpart to the British Isles.

Cool temperate, eastern margin or Laurentian climate (2b) has the latitude of the west European, but the winters, both in Asia and in North America, are very cold and the land is buried deep in snow. Rye, oats and potatoes are grown in this region. Patagonia, the South American land with this Laurentian climate, suffers from drought because the Andes shut it away from the moisture bearing winds of the Pacific. A large proportion of the 2b areas and also of the 2c areas is too cold for agriculture but nevertheless permits coniferous trees which sweep in a wide belt around the north pole in Siberia, Russia, Sweden, Norway, Newfoundland, New England, Canada and Alaska—all lands of the fur hunter.

Cool temperate, interior lowlands or Siberian climate (2c) is found in North America and Eurasia where the land is low and cut off from the sea. This continental climate is extreme—hot in summer, cold in winter. The influence of ocean and continent in differentiating climates in similar latitudes is well shown by comparing the London January average of 38.7° F. with the January average of —15° F. directly eastward in Siberia. The ocean that keeps London warm in winter keeps it cool in summer, affording it a July average of 63.1°, while the July average in Siberia is 74°. North America shows similar contrasts. This continental interior climate has light snows and a maximum of rain in summer. It is this climate which, if warm enough, fosters spring wheat, oats, barley, flax and in moister places the potato and the sugar beet.

Cool temperate, interior highland or Altai type of climate (2d) in the higher lands in the interior of continents contains large areas of upland forests, rock, snow and summer pastures.

Polar lowland or tundra climate (1a) is found in the wide area of lowland facing the Arctic Ocean. This low, treeless plain is called the tundra. It is frozen for nine or ten months of the year and wet and slushy during two or three months of partial thaw. The tundra is the home of the reindeer and of a few reindeer peoples; of the rabbit, fox, wolf and of waterfowl which go there for the summer nesting period and migrate to the tropics in winter.

Polar highlands or ice cap climate (1b) is found in Antarctica and in Greenland. The polar ice caps cover all arctic highlands for three or

four million square miles in Antarctica and half a million square miles in Greenland.

These climates have not always occupied their present areas. In the glacial epoch the areas between the arctic tundra and the equatorial forest were compressed within much narrower limits. There is also much evidence to indicate that even during the time of man there have been variations in rainfall as well as in temperature that have caused the boundaries of climatic regions to shift back and forth across marginal zones many miles in width. These differing amounts of rainfall have been a factor in causing variations in natural vegetation, animals, crops and human cultures in given locations.

The Study of Weather. The rainmaker is an important man among primitive peoples. He is found in almost every climate where drought harasses mankind, especially in Australia, the grasslands of Africa (although he is absent from the forest), parts of Russia, Central America and in southwestern United States, where the Zuni and other tribes living in the less arid spots of Arizona and New Mexico perform a most elaborate ritual to bring rain. Ritual and prayer for rain are, in fact, almost universal. Homer attributed the changes in the wind or weather to the direct action of the gods, and Biblical authors ascribed them to the Deity. It has long been known that the weather follows fixed laws. Yet the primitive and pious belief in the reversal of these laws by the special intervention of deity still persists. During periods of drought in various parts of the United States many thousands join in prayer for rain.

No successful artificial rainmaking technique has as yet been devised. Men can at present merely predict the weather to a limited extent by the careful observation and study of atmospheric changes. Weather prediction is a very ancient art. Primitive man made and still makes predictions about the weather and every civilization has developed its weather proverbs. Aristotle made a formal attempt to study the subject, but his field of observation was small and his method poor. His pupil, Theophrastus, published in his *On Winds and on Weather Signs* (tr. by J. G. Wood, ed. by S. J. Symons, London 1894, §§ x–xii) in the fourth century B.C. an elaborate exposition of weather lore, giving eighty different signs for rain, forty-five for wind, fifty for storm, twenty-four for fair weather and seven for the weather for periods of a year or less. Vergil, in the *Georgics*, bk. i, presents a notable collection of weather signs for the guidance of husbandmen. Many of the signs and sayings recorded by Theophrastus and Vergil are still the guidance of the uneducated of Europe and America. Mediaeval England added items appropriate to a weather with summer rain. The American weather lore is the European tradition with modifications. The United States Weather Bureau has recently collected and published many interesting items of weather lore.

After Aristotle there was no advance in the study of weather and climatic conditions for nearly two thousand years. Around 1600, however, Galileo invented the thermometer and in 1643 Toricelli invented the barometer. With these instruments of precision meteorological science began to progress. By 1659 Robert Boyle had used Toricelli's barometer to discover some important facts about the pressure and masses of air, so that within another decade barometers could be made with signs much as at present: "change," "rain," "fair," etc.

In the first half of the eighteenth century Edmund Halley presented the hypothesis of the general circulation of the atmosphere with a zone of ascending air at the equator as an important element. Shortly after this George Hadley worked out the theory of the trade winds as influenced by the rotation of the earth. In 1800 Dalton published his epoch making paper on rarefaction and condensation, which became the basis of modern physical meteorology.

H. W. Brandes, a German from the Palatinate, was the first to publish a series of daily weather charts. They appeared in 1820 but covered the year 1783. His work was dependent on the data of the Chevalier de Lamarck working with Laplace, Lavoisier and others who had been collecting and publishing meteorological information for about twenty years. Brandes also published maps of certain great storms of 1821 and 1823 and explained them in a proper meteorological way as being produced by barometric depressions, now called cyclones, advancing from west to east over the earth's surface. He had been preceded in this theory by the observant Benjamin Franklin, who by asking for information about a certain storm from members of the Continental Congress who came to Philadelphia from various points in the eastern part of the United States made the discovery that storms move. Brandes proposed the organization of regular meteorological services for the study of storms, and between 1850 and 1856

several European countries established meteorological stations.

The telegraph made it possible to assemble data promptly and was a necessary device for the modern weather service with its daily forecast, which began to be published regularly in England in 1872. Only two continents, Europe and Australia, have complete daily weather maps, but such maps are also published by the United States, Argentina, India, Japan, the Soviet Union and by the Jesuit Observatory near Shanghai.

An obstacle to the study of weather and climate is the lack of sufficient preliminary data. We live at the bottom of a sea of air which is perhaps 200 miles high and covers about 200,000,000 square miles of land and sea. A small captive balloon released and allowed to ascend 20,000 feet will sometimes show four different wind directions within the zone of its ascent—a fact suggesting the need of observing the upper air as well as making the usual surface measurements of temperature, pressure, rainfall and cloud and wind direction.

Through the work of Alexander Buchan, for years secretary of the Scottish Meteorological Society; Julius von Hann, director of the Austrian Meteorological Service; the British Meteorological Office; the American Weather Bureau and many other weather bureaus and private scientists, many weather data have been collected, but many more are needed. For example, William Hobbs has recently advanced a plausible theory, supported by some observation, to the effect that the Greenland ice cap is the place of origin for many storms of the north Atlantic (*The Glacial Anticyclones*, New York 1926). Years of observation will be required to prove or disprove this theory. Meteorologists are sure that meteorological observation on the antarctic continent would be of great value, perhaps in aiding prediction of great droughts in the southern hemisphere especially and in some measure in the rest of the world. If the money necessary to run two battleships could be devoted to the study of the air, man's power to predict weather could probably be multiplied many fold.

The Influence of Climate on Man and Civilization. It is generally agreed that weather and climate have both direct and indirect influences upon man and upon civilization, but there is very little exact knowledge as to the extent of this influence. Everyone knows, however, that extreme heat, especially when accompanied by humidity, makes men disinclined to physical or mental exertion; that cool, bracing weather stirs him to activity; that strong wind is unpleasant.

Weather and climate have an indirect influence upon man through the action of pests: gnats, mosquitoes and other annoying insects. Still more indirect are the influences of certain climates on the prevalence of diseases, such as yellow fever and malaria, which are transmitted by mosquitoes. The tsetse fly bears sleeping sickness; in certain damp climates the hookworm thrives. As medical knowledge advances man may control and even eradicate these diseases thus making the regions habitable, but at the present time it is the insect and not man who reigns over large areas.

Climate indirectly influences man also through its relation to the food supply. Irregularities of weather, producing great fluctuations in the supply of food, tend to result in migration. Climate has a great part in deciding whether man in a certain place shall be a farmer or a follower of flocks; whether certain land will have no inhabitants, one inhabitant to ten square miles or one or one hundred or one thousand to the square mile; whether man must live in a tent or may live in a city rich with cultural accumulations. Climate is sometimes a factor even in the degree of dependence among men. For example, in some areas the necessity of irrigation compels men to work in large groups in order to control the distribution of rainfall, while abundant and regular rainfall permits the small farmer to be entirely independent of his neighbor, as far as farm production is concerned.

Hippocrates, in the fifth century B.C., was probably the first writer in western literature to express the idea that weather molds the life of man. In his treatise on *Airs, Waters, Places* he tells how the knowledge of climate ought to be used and explains the differences between the East and West in habits of life and character as a result of the differences in climates. This idea of climatic dependence was also firmly held by Montesquieu, even to the point of belief in the influence of climate on philosophy and religion. He points out that people in cold climates are more vigorous than those in hot climates and that heat results in a profound disinclination to mental effort and hence produces differences in culture, philosophy and the observances of religion.

Buckle in his *History of Civilization in England* advances the thesis that civilization can

arise only where wealth, made possible by a favorable climate, gives leisure. He cites the semibarbarous nomadism of the Asiatics while they lived in arid pastures and the contrast of their culture when they had migrated to regions where water made fat lands and permitted them to build Cordova, Bagdad and Delhi.

The German geographer Karl Ritter is commonly regarded as the first modern exponent of the school of thought which holds that geographic elements, including climate, are often a force that molds the affairs of men. Ritter cites the work of Schauw, who divided Europe into four zones according to the indigenous trees rather than the latitude: pine and birch; beech and oak; chestnut; and evergreen tropical trees. Such zones, characterized by their indigenous trees and crop plants, Ritter held to be easily establishable over the entire earth. This is properly regional geography. The map of Herbertson expresses this type of analysis.

The views of Friedrich Ratzel are virtually the same as those presented at the beginning of this section.

From Hippocrates to Buckle and Ratzel the philosophers on the influence of climate have dealt mostly with unmeasured data derived from casual observation. In our own time Ellsworth Huntington has introduced the quantitative method. Geological studies in central Asia brought Huntington to large ruined cities in deserts where men could live at the present time only by irrigation, for which the nearby streams are entirely inadequate. These observations suggested to him that climate had changed within historic time. His theory of cyclical fluctuation was developed by further study and embodied in *The Pulse of Asia*. The thesis of this book is that wet eras raised large populations and that dry eras forced them to migrate into Europe, China and India. The variations in the rate of growth of the big trees in California furnish interesting corroborative climatic evidence of this theory.

In *Civilization and Climate* Huntington passes to the effect of climate upon man and advances evidence from records of factory workers and marks of college students to show that man is most energetic physically at a temperature of about sixty to seventy degrees and in a place where there are frequent changes of temperature of a few degrees in each direction. This requirement is furnished by the cyclonic weather of western Europe, western North America, eastern North America and eastern Asia, north of latitude 30° on the east coasts and 35° on the west coasts—the present centers of greatest human activity. Huntington goes even farther and claims that man's mental activity is greatest at a temperature of about forty degrees and that both physical and mental activity decline with extremes of either heat or cold. He finds similar conditions in the physical activity of animals and plants.

Such deductions as these point toward an interesting theory concerning a climatic explanation of history. Ward, Sorokin and others have criticized the Huntington theory in various of its aspects, and certainly much research remains to be done. For the present, however, it has at least the advantage of coinciding with many conclusions already accepted by most students. For many of the questions he raises there can be no possible answer in the present state of our information. There are still basic data missing in our comprehension of changes in both climate and weather. Even the important question of atmospheric circulation and variation in air pressures remains still unsolved.

When one considers that the whole human race is continuously influenced by climate, so absolutely dependent upon it, one is shocked that it has been but little studied. Potential economists, historians, political scientists, sociologists and anthropologists are trained with no insistence on a knowledge of geography further than that required in the elementary schools. This omission of a fundamental science becomes all the more incomprehensible in view of the fact that the basic importance of climate and other elements of geography has been known for centuries. The study of climate should be a major research of the scientific and also of the economic world.

J. Russell Smith

See: Human Geography; Cultural Geography; Economic Geography; Demography; Determinism; Environment; Population; Migration; Food Supply; Acclimatization.

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CLINICS AND DISPENSARIES. A clinic is a medical institution for the treatment and prevention of disease or for the promotion of health among ambulatory patients exclusively. This description more nearly corresponds to modern usage than the etymological definition, "a center for medical education." When the clinic is attached to a hospital as a division furnishing service to ambulatory patients it is known as an out-patient department. The portion of a clinic concerned with the actual dispensing of medicine is usually called a dispensary, although in some instances the term is still used to denote the type of organization defined above as a clinic.

The various types of clinics are classifiable, according to affiliation, as out-patient departments of hospitals or unattached clinics. According to function they may be curative, preventive or diagnostic. They may be teaching clinics, attached to hospitals or working independently, or health stations and health centers. According to the range of diseases treated they are ordinarily defined as general and special; according to their motivation, as non-profit and profit making or proprietary. The special clinic may relate to any one of the subdivisions or specialties into which medicine is divided from anaphylaxis to X-ray. The non-profit clinic may be a free or a pay clinic, and the latter may make only nominal charges or may charge fees high enough to cover all expenses. The auspices under which clinics are conducted, whether an industry, a church, a school or a child welfare organization, may also furnish distinctions between them and may have considerable bearing on their medical scope and purpose.

Health centers or organizations which provide, promote and coordinate medical service and related social service for a specified district sometimes establish clinics, but usually devote them solely to preventive services such as infant welfare, prenatal work, nutrition, dental prophylaxis, habit clinic service for preschool children, child guidance and other recognized public health activities. Mobile clinics of various

types for rural health work are often conducted by public health organizations. Health centers may also conduct clinics for the treatment of special conditions such as tuberculosis, cardiac, venereal and mental diseases or correction of the eye, ear, nose and throat defects of school children. Birth control clinics may or may not be affiliated with social agencies or hospitals.

Proprietary clinics run on a business basis are to be distinguished from clinics conducted as non-profit organizations or as branches of charitable societies. Proprietary clinics are usually group clinics organized by a number of physicians who voluntarily associate themselves to gain the professional and economic advantages of using in common a certain plant, equipment and organization. This type of clinic makes possible group diagnosis and group therapy and facilitates the exchange of ideas among the doctors so associated. In such units, however, medical social service is for the most part lacking. A group clinic may be distinguished from an association of independent practitioners utilizing personnel and offices in common by the fact that the former is financed by a joint income.

In 1926, the last year for which a list of clinics was compiled, the total number in the United States, classified according to type, was as shown in the table below.

NUMBER OF CLINICS IN THE UNITED STATES, 1926

Total Reported June, 1926	5726	
Out-patient departments	1790	
General	1302	
Hospitals		1252
Medical schools		50
Special hospitals	488	
Nervous and mental		197
Tuberculosis		107
Children's		52
Women's		49
Eye, ear, nose and throat		37
Orthopedic		26
Other		20
Unattached clinics	2793	
Baby and child hygiene		1000
Tuberculosis		585
Venereal disease		350
Red Cross and health centers		350
General		347
Mental		79
Dental		57
Other		25
Clinics serving special groups	923	
Industrial		500
Federal		423
Group clinics	220	

Source: Davis, Michael M., *Clinics, Hospitals and Health Centers*, p. 38.

Clinics for the poor appear to have been established in some mediaeval European medical centers, and there are indications that similar institutions existed in ancient Greece. In Great Britain the earliest clinics, known as dispensaries, were established toward the close of the seventeenth century; those in the United States, modeled after the English clinics, appeared a century later. As medical education developed beyond the stage in which the student learned through individual preceptors, the clinic, originally charitable in purpose, was utilized also for medical teaching. In Boston, New York and Philadelphia medical education began to utilize the clinic before the middle of the nineteenth century. Later in the century the division of medical practise into specialties required opportunity for concentrated study of particular organs and diseases. Hospitals concentrating on the treatment of eye, ear, nose and throat defects and pediatrics usually had large out-patient departments which afforded students opportunity for observation and practise work.

The early twentieth century marked the beginning of organized public health work for the control or prevention of tuberculosis, infant mortality, maternal mortality, venereal disease, mental disorders, diseases of the heart and cancer. All of these health campaigns have in common two methods of procedure: the education of the public to the need of preventive measures and the increasing of facilities for the detection, care and control of disease. Each movement has required a large extension of clinic service. The development of health clinics and health centers may be said to have begun in the years immediately preceding the war, and they entered a period of more rapid growth shortly after the close of the war. In eighty-three large cities of the United States covered by the survey of the Committee on Municipal Health it was found in 1923 that eighty-one had clinics for the treatment of babies, seventy-seven for tuberculosis, sixty-eight for prenatal care, eighty-one for venereal disease and thirty-one for mental disorders, whereas in 1900 there had been only about one hundred and fifty clinics of all kinds in the entire United States. The new preventive or public health clinics were maintained largely by city health departments, with the exception of the venereal clinics, most of which were in out-patient departments of hospitals either supported entirely by private funds or with some state subsidy. In recent years many hospitals have taken over as out-patient departments un-

attached clinics either with help from the city health department or with merely general co-operation from health authorities.

In Great Britain the long established voluntary hospitals in the larger cities have well developed out-patient departments. The total amount of out-patient service in London is probably greater than in New York, but is almost exclusively for the very poor. Through the panel system of providing medical service the British national health insurance has rendered it unnecessary for employed persons to come to these clinics for general treatment, but the clinics are widely resorted to for specialized treatment since specialists are not furnished under the British Health Insurance Act.

On the continent out-patient service was developed at first chiefly in the teaching institutions; more recently the health insurance systems in Germany, Austria, Poland, Russia and other countries of eastern Europe have initiated extensive clinics. Certain of these health insurance clinics provide general medical attention; others are centers for referred diagnostic cases and for specialized treatment. They are not charitable institutions but, like the German and Austrian health insurance systems, are supported by payments from the beneficiaries and their employers and are managed by a committee which is chosen jointly by these two groups.

Standards of clinic service are usually adapted to the field of work undertaken. A clinic may be organized solely to receive a dozen or twenty mothers and babies in a day and may be in session only a few times a week, or its administration may be confronted with the problem of assembling and managing an organization of as many as twenty specialized departments receiving two thousand patients in a day. Consequently if standards or principles for the organization and administration of clinics are to be broadly applicable they must be framed in very general terms.

The standards of a clinic are determined by the quality of the medical service, the adequacy of quarters and scientific equipment for the amount and scope of medical work to be covered, the quality and quantity of such professional and administrative personnel as is necessary to assist the physicians and the extent to which cooperative relations are established with the organized social forces of the community. These forces include the practising medical profession, official and voluntary health agencies, social agencies and business establishments as well as possible sources of financial support such as philanthropic individuals or organizations.

Technical standards, formulated by the Associated Out-Patient Clinics of New York and later adopted by the American Hospital Association, included the intimate association of the out-patient and in-patient services of the hospital and the unification of their medical staff and administrative organization; the limitation and regulation of the number of patients in accordance with the facilities of staff, space and equipment; the establishment of adequate laboratory service for the out-patient department; the provision of nursing service, hospital social service and clerical service; and the maintenance of adequate records of medical work, attendance, income and expenditure.

A system of case accounting is valuable in giving statistics for testing the clinic's efficiency and the relative proportion of its work which is carried out to a conclusion. Through it the clinic management and the physician may learn the degree to which patients are attending the clinic and are thus able to make periodic summaries of the extent to which patients remain under treatment, lapse or drop out altogether. Local studies have shown that as a rule more than half the patients make only one visit to the clinic and that only two fifths of all cases are considered satisfactorily closed.

In the United States several organizations are now engaged in surveys of the work of clinics. The Committee on the Cost of Medical Care includes in its five-year program of study special consideration of clinic service. The Committee on Out-Patient Work of the American Hospital Association and the Associated Out-Patient Clinics Committee of the New York Tuberculosis and Health Association are interested in higher standards of efficiency.

The divisions of a clinic which are principally responsible for its efficiency are the service departments, which deal directly with the diagnosis and treatment of patients. The primary professional staff of these departments consists of the physicians or dentists, divided for working purposes into such departments or specialties as the size and scope of the clinic may require. They are usually appointed by and are under the supervision of the final authority of the clinic, generally the board of trustees. In the out-patient department of the hospital the in-patient and out-patient staffs are expected to

work as one organization and the executive in immediate charge usually has the rank of assistant superintendent of the hospital or its equivalent. In the better organized clinics the staff communicates with the trustees through a liaison officer or committee. In unattached clinics the executive officer is appointed by and is responsible to the final governing authority. Research workers and technicians also may be considered as part of the clinic staff although in a hospital with an out-patient department the laboratory and X-ray departments usually serve both ambulatory and bed patients.

The secondary professional groups are the nursing staff and the social service workers. In an out-patient department the former is part of the general hospital nursing service, and out-patient work provides valuable educational material for the student nurses. Hospital and clinic social service is a comparatively new development. It has become an important aid to the physician in supplying him with the necessary information concerning the patient's background, assisting him to instruct the patient and in removing obstacles to successful treatment which the patient's social and economic circumstances may involve. The follow up work of the social service department in seeing that the patient puts into effect the clinic's recommendations is particularly necessary in view of the high number of single visit cases and of cases recorded as incomplete. The social worker in the clinic is also essential in establishing cooperative relationships with the charitable and educational agencies of the community, and aids in determining the somewhat obscure boundary line between medical and social responsibility in a case.

Clinics are governed by the general laws affecting medical practise and philanthropic organizations and have been subjected to few special legal regulations. A few states require clinics to be licensed by a state authority, mainly for the purpose of protecting the public against commercial and quack undertakings masquerading as public spirited services. In a few large cities this authority is vested in the local health department. The legal responsibility of the clinic physician is generally the same as that of the physicians in hospitals and charitable institutions. In group, industrial and other clinics conducted on a proprietary basis, however, the position of the physician is legally that of a private practitioner. Medical societies have in some localities taken steps to define the conditions under which member physicians may engage in clinic work.

The financing of clinics and their effect on the income of private practitioners has been the subject of much debate. Clinics, like hospitals, were originally established solely as charities; consequently the income derived from their operations was insignificant. The financing of clinics was until recently almost wholly a question of securing gifts to meet the meager expenses. With the development of higher standards and more expensive personnel and equipment, costs have greatly increased; and with the broadened scope financial policy has changed. Throughout the United States fees are now generally collected from patients attending curative clinics, although clinics maintained by tax funds generally, but not always, furnish free service. In clinics giving treatment there has been a steadily growing tendency to make additional charges for X-ray, laboratory work, special treatment and appliances. As a result the out-patient departments of hospitals now earn an increasingly large proportion of their expenses. Clinics doing only preventive work rarely exact fees.

The operating expense of a clinic is generally expressed in terms of the cost per visit. This cost varies within the departments of a clinic and is largely determined by the clinic's standards of service. The average cost per visit in out-patient clinics of higher standing now approaches one dollar and is approximately double that in clinics which pay their physicians.

In the traditional charity clinic the physician gave his services without financial remuneration and this is the case in many of the present day clinics. In return the physician derives some professional experience and prestige from his association with the clinic. This in important teaching clinics may be a very real form of compensation and has significance even in smaller clinics.

The large amount of time given without pay to clinic service is frequently offered as a defense for the high fees charged private patients. In recent years, and especially in cities, hospital and clinic work has made an increased and more systematic demand upon the time of the best known physicians and selected younger men, and it is possible that this is a valid argument. On the other hand, it may often be the case that the experience, the reputation among the laity and the professional prestige which enable physicians to charge the high fees men-

tioned are derived from these otherwise unremunerated hospital and clinical connections. Whatever the causal relationship, and there seem to be grounds for both types of argument, there can be little doubt that the growth of clinic service and the increase of rates charged to private patients have gone hand in hand. There is, however, a growing tendency to pay physicians for clinic service. This is particularly true of clinics established for public health service in which the experience has less professional value. It is extending also to clinics treating the sick, particularly the "pay" clinic, in which the term "pay" refers to the practise of charging a fee to the patient. It is thought, incidentally, that a patient will more probably carry out instructions when a fee is charged than when the treatment is free.

As clinics extend their medical scope and serve a larger proportion of the population, including those who can afford to pay moderate fees, it is essential that remuneration of physicians for clinic service should become more general and be in proportion to the services which they render and the benefits which they derive. Also, paying patients complain of clinic diagnosis by inexperienced and sometimes incompetent "externs," the waste of working time through long waits and ill arranged schedules and the mass methods of treatment. This dissatisfaction with the service at a non-profit pay clinic may lead the public to turn to private group clinics for specialist services or may result in a willingness to pay clinic fees high enough to allow reasonably high payments to physicians within the clinic.

The determination of patients' eligibility for clinic service has received much study. Many clinics have examined social-economic standards for the guidance of their admission departments. According to the American Hospital Association in a report of one of its committees, "three factors need to be considered with due consideration of local community conditions; namely, the income of the patient or family, the size and responsibilities of the family according to a reasonable standard of living, and the character and probable cost of adequate medical treatment for the disease or condition found." The best organized clinics do not reject a patient on economic grounds before these factors have been determined. In considering the living standard allowances should be made for the element of variation based on individual family standards. The widely varying cost of care for different illnesses is also a factor affecting the ability of patients to pay.

The subject of eligibility to clinic service has become more complex with the increasing tendency to adjust medical rates in private practise and in institutions to the patient's ability to pay and with the development of pay clinics. Some doctors complain that the clinic takes away their more profitable ambulatory practise but leaves to them the time consuming and less lucrative bedside practise. Protracted discussions and not infrequently controversies have arisen over the so-called "clinic abuse," by which has ordinarily been meant the application and acceptance at free clinics of patients who could afford to pay for the services of a private physician. Yet it has been pointed out that public protection requires adequate treatment of the diseased condition of a patient as a more primary need than ascertaining his ability to pay. In a committee report of the American Hospital Association in 1928 it was shown that only a very small number of patients accepted by many clinics which were studied could have paid for private services, the proportion being usually about 2 percent.

The improvement of service in clinics and greater public attention to the care of disease and the correction of physical defects as well as the increased costs of private treatment have caused an increasing number of self-supporting persons to seek clinic care, particularly at outpatient departments of teaching and other well known hospitals. Statistical evidence indicates that the great proportion of middle class patients come for treatment in the specialties or for conditions which are relatively expensive to diagnose and treat because of their duration or the large amount of laboratory and X-ray work required.

The relation of clinics to the organized medical profession is a problem as yet imperfectly worked out. Some clinics in this country and some of the health insurance clinics in Europe have been opposed by medical societies. These difficulties are in part due to misunderstandings which could have been removed by conference between those sponsoring the clinic and local representatives of the organized medical profession. Up to the present time in the United State clinic work has advanced chiefly in the specialties and the more expensive forms of diagnostic and curative service; a relatively small proportion of patients have come to clinics with conditions that would be treated by general

medical practitioners. It is to the interest of public health that adequate medical service be available to all and that clinics be utilized to this end in so far as is necessary.

The mere existence of competition between clinic practise and private practise is not in itself inequitable. If clinics can provide general or special medical service of good standard at substantially lower cost to the public and include in this cost reasonable remuneration for the medical personnel, then clinics undoubtedly have a sound economic reason for development as a form of medical practise and not merely as medical charities.

MICHAEL M. DAVIS

See: MEDICINE; PUBLIC HEALTH; HEALTH EDUCATION; HOSPITALS AND SANITARIA; NURSING; LIFE EXTENSION; MORBIDITY; CHARITY; SOCIAL WORK.

Consult: For material up to 1924: Hospital Library and Service Bureau, Bibliography Service, *Bibliography on Dispensaries, Jan. 1, 1913 to July 1, 1924* (Chicago 1924). For more recent literature: Davis, M. M., *Clinics, Hospitals and Health Centers* (New York 1927); United Hospital Fund of New York, Committee on Dispensary Development, *Human Factors in Clinic Management*, by M. K. Taylor (New York 1927), and *Better Doctoring, Less Dependency*, by L. S. Bryant (New York 1927), and *New Clinics for Old*, by M. M. Davis and A. M. Richardson (New York 1927), and *Medical Care for a Million People* (New York 1927), and *Health Services in Clinics*, by A. M. Richardson (New York 1927), and *Group Clinics, A Study of Organized Medical Practice*, by W. C. Klotz (New York 1927); Lewinski-Corwin, E. H., "Free and Pay Clinics," and Bigelow, L. L., "Clinics —Free and Pay" in *American Medical Association Bulletin*, vol. xxiii (1928) 173–83; Annual Reports of the Committee on Out-Patient Work of the American Hospital Association, in the *Transactions* of the Association, since 1915.

CLINTON, DE WITT (1769–1828), American political leader. Clinton entered political life as a Republican a short time after he had graduated from Columbia College in 1786 and, with the aid of family connections, rose rapidly to prominence. He served in the New York state legislature, in the United States Senate, from which he resigned to become mayor of New York City, as lieutenant governor and as governor of New York for several terms. His career was illuminated by an amazingly progressive social viewpoint and a remarkable capacity for leadership. He found time also to indulge numerous scientific and intellectual interests worthy of an eighteenth century savant.

In matters of politics—although he has been accused of being responsible for the introduction of the spoils system in New York—Clinton usually followed his convictions, irrespective of the loss of personal advantage. He was a vigorous opponent of the Tammany-Virginia wing of Republicanism and many of his views resembled those of his Federalist opponents.

Clinton was an ardent proponent of measures to ameliorate the condition of the poor and to safeguard public health. He advocated the abolition of slavery in New York, of imprisonment for debt, of the severe punishment for minor infractions of the law and of the political disabilities of Roman Catholics. Clinton was the first president of the successful New York Free School Society, which adopted the then highly regarded Lancasterian system of teaching. Holding liberal views on the questions of the education of women, Negroes, Indians and juvenile delinquents he urged the necessity of universal publicly supported education as a basis for democratic government and human progress. He gave a great impulse to free school development, the professional training of teachers, the broadening of curricula and the spread of vocational education.

From the beginning of his political career Clinton took an active interest in the development of internal improvements. His long fight for the construction of the Erie Canal, carried on in spite of the strenuous opposition and humiliating personal attacks of politicians in New York City and elsewhere, was the greatest achievement of his life. Clinton foresaw the value of the canal for the economic development of New York and the success immediately following its completion in 1825 demonstrated the truth of his views and encouraged other states to undertake internal improvements which marked the beginning of a new era in the economic expansion of the United States.

FELIX FLÜGEL

Consult: Renwick, J., *Life of De Witt Clinton* (New York 1840); Fitzpatrick, E. A., *The Educational Views and Influence of De Witt Clinton*, Columbia University, Teachers College, Contributions to Education no. xliv (New York 1911); McBain, H. L., *De Witt Clinton and the Origin of the Spoils System in New York*, Columbia University, Studies in History, Economics and Public Law, vol. xxviii, no. i (New York 1907); Fox, D. R., *The Decline of Aristocracy in the Politics of New York* (New York 1918); Bogart, E. L., *The Economic History of the United States* (3rd ed. New York 1915) p. 210–13.

CLIVE, ROBERT, LORD CLIVE (1725–74), British soldier and colonial administrator. The founder of the British Empire in India was born in Shropshire, where his family had held an es-

tate since the twelfth century. At eighteen he was nominated to a writership (clerkship) in the service of the East India Company and arrived at Madras in 1744. After a few years he secured a commission and began active service in southern India, where the French and English were engaged in rival intrigues among the native rulers. He showed conspicuous daring and resource, and his bold and successful seizure of Arcot in 1751 had a resounding effect throughout India. In 1753 Clive was given a great welcome in England. On his return to India two years later he was at once called to Bengal. In 1757 he defeated at Plassey the nawab, Siraj-ud Dowla, who had captured the new British city of Calcutta and perpetrated the atrocity of the Black Hole, and thereby he made himself the virtual ruler of Bengal. It was in the plot against the nawab that Clive sponsored the forging of a treaty which betrayed his Bengali agent, Omichand. Clive's four-year governorship, during which he displayed a capacity for civil rule almost as great as his military genius, laid the foundation of British power in India. He was sent out to Bengal again in 1764 to end the rapacity and corruption into which the administration had fallen. In 1765 he obtained from the decadent emperor of Delhi a firman conferring upon the East India Company the revenues of Bengal, which gave the alien trading corporation complete authority over a great region. Clive's second governorship lasted only twenty-two months. The evidence is clear that although he became enormously wealthy in India he refrained, especially in his later years, from the more shocking practises of too many of his Anglo-Indian contemporaries. His Irish title did not debar him from the House of Commons and he sat there until the year of his death, fighting directly against an organized parliamentary attack upon his record. This did not end until 1773 with the report of the select committee that he had rendered "great and meritorious services" to his country. Clive engaged also in a long struggle with certain agents of the British East India Company whom he charged with being guilty of political incompetence. He early favored the extension of British sovereignty to the company possessions as well as the unification of the Indian administrative service. He died by his own hand, leaving behind him in British India a political system molded by his bold and energetic mind and method.

S. K. RATCLIFFE

Consult: *Cambridge History of the British Empire*, vol. iv, *British India*, ed. by H. H. Dodwell (Cambridge, Eng. 1929); Forrest, G. W., *Life of Lord Clive*, 2 vols. (London 1918).

CLOOTS, JEAN BAPTISTE (Anacharsis Cloots) (1755–94), Prussian baron, publicist and agitator at Paris during the French Revolution. He was rich, well connected and seems to have suffered from none of the cruder maladjustments sometimes supposed to explain revolutionaries. Early an admirer of Voltaire, he left his Westphalian home as a young man and went to Paris to join the *philosophes*, among whom he attracted no great notice. He has a dramatic moment in history: on June 19, 1790, he appeared before the National Assembly as "ambassador of the human race" at the head of a delegation of real or make believe members of various races, white, yellow, red and black, to thank twenty-five million Frenchmen for awakening the whole world from slavery. As an influential speaker at the Jacobin Club and as a member of the Convention he played a real part in the political history of the revolution, especially in preaching the crusade to free other peoples, in overthrowing the Girondins and in furthering violent dechristianization. His activities aroused the fierce enmity of Robespierre and he was guillotined in 1794. Cloots' writings by virtue of their complete unoriginality are excellent examples of how the political thought of greater men penetrated to the crowd, of how revolutionary ideas became revolutionary stereotypes. For the subtle and venomous anticlericalism of Voltaire he substituted the bludgeoning intolerance of the Jacobin. The general will of Rousseau he saw realized in loyalty to the Mountain. Saint-Pierre's theoretical schemes for world peace he transformed into the paradoxical armed conquest of peace by enlightened France.

CRANE BRINTON

Consult: Stern, S., *Anacharsis Cloots* (Paris 1914), with bibliography of Cloots' writings; Baulig, H., "Anacharsis Cloots avant la révolution," "Anacharsis Cloots, journaliste et théoricien" and "Anacharsis Cloots, conventionnel" in *Révolution française*, vol. lxi (1901) 123–54, 311–55, 401–38.

CLOSED SHOP AND OPEN SHOP. A closed shop, as popularly understood in the United States, is a place of employment where none but union members may work. An open shop, according to its formal definition, is a place where workers are employed regardless of union affiliation and where unionists and non-unionists may

work without discrimination. This formal definition is intended to imply a certain ethical superiority for the open shop over the closed shop, and employers who are opposed to labor unions attempt to press this advantage still further by spreading the use of the term "American Plan" as a synonym for open shop. It is to be noted that a place that is closed to union members, where none but non-unionists may work, is commonly called an open shop.

These names, however, are but battle cries in the conflict between employers and labor organizations over the problem of unionization. They serve to obscure the essential point of contention, which is whether the shops shall be union or non-union. Many unionists therefore have insisted, vainly, on the substitution of the designations "union shop" and "non-union shop." If terms of employment are fixed by mutual agreement between an organization of workers and their employers the places covered by such agreements are union shops. If workers are employed individually on terms which the employers stipulate then non-union shops are maintained. The difference between the two types of shops thus hinges on whether wages and other conditions of employment are fixed by collective bargaining or individual bargaining. This is the crux of the controversy between labor organizations and employers, which the ethical implications in the words open, closed and American tend to obscure.

Both union shops and non-union shops may be open, closed or preferential. A closed shop may exclude union labor or it may exclude non-union workers. A preferential union shop gives preference to union members, while a preferential non-union shop discriminates against union members in favor of those who are not members. An open shop may be operated under a collective contract with trade unions as well as by employers who refuse to deal with unions. In industries dominated by great corporations and in those where the majority of workers are unskilled or semi-skilled laborers or women, shops are operated most commonly on a non-union basis. In the smaller, more competitive industries and in those where skilled labor predominates, union shops are, except in the smaller cities, most common. The building trades and the printing trades in the larger cities, as well as newspaper printing offices throughout the country, are outstanding in maintaining closed union shops. In the metal trades employers' organizations have been most successful in keeping their shops closed and anti-union by means of central labor bureaus to which the names of active unionists are reported—in effect, a labor blacklist. Employers rarely admit that they close their shops to union members and usually espouse the open shop. But they mean thereby not union open shops such as prevail on the railroads but non-union open shops where members of labor organizations are permitted to work so long as they do not try to have the union represent them in negotiating terms of employment.

Trade unionists frankly defend the principle of the closed shop although in practise, because of the active opposition of employers and through considerations of expediency, they consent to open and preferential shops. Thus the United Mine Workers insist on closed shops in the bituminous fields, while in the anthracite districts the open shop was accepted until the agreement of 1930. Similarly the Molders' Union, which has a continuous history of almost forty years of collective agreements with Foundrymens' Associations, has found it expedient not to insist on the closed shop as a national policy, leaving local conditions to determine whether shops shall be open, closed or preferential. The railroad brotherhoods have never espoused the closed shop policy; and the Amalgamated Clothing Workers have open shop agreements in Rochester, preferential agreements in the Chicago market and closed shop agreements in New York City.

Methods of enforcing the union closed shop vary. In the bituminous coal fields the prevailing method is the check off, or deduction by the employer of union dues payable to the union. The use of this device by the union grew out of the traditional practise in the industry of employers deducting from workers' pay envelopes for equipment, company stores and rent, and was reinforced by inherent difficulties in the collection of dues and the maintenance of union standards. This method was adopted in the anthracite coal agreement of 1930. The "card" system, requiring due authorization from union officials for the hiring or continued employment of workers, the "button" system, by which union workers may identify those who are members in good standing, are other devices which shift back to the union some of the burden of keeping the shop closed. In other cases, where the discipline of the business agent or shop chairman is deemed sufficient to maintain the closed shop, no special device is required.

The issue of the closed shop is confined al-

most exclusively to the United States. In European industrial relations the union shop has been accepted more or less tacitly by employers and its tradition in workers' circles dates back to the period of the guilds. The closed union shop has not been so much stressed by European trade unions for many reasons. The higher degree of unionization, the fact that the working classes are more homogeneous in character and that opportunities for wage earners to move up in the economic scale are rare make it possible for them to depend far more on the class feeling of the workers to protect gains won by strikes and organization. In the United States, however, the presence of great numbers of immigrants, the relatively ample opportunities for workers to rise out of the ranks of labor, as well as other economic and social factors, made the development of such a feeling of class solidarity impossible. Threatened on the one hand by those who were willing to accept low wages and a long working day because they considered their position as wage earners only temporary, and on the other hand by new groups with lower standards of living, most American trade unions saw in the closed shop their only protection. Their policy, therefore, is not to be explained as a mere desire to force non-unionists to pay their share of costs and sacrifices involved in maintaining organizations and securing improved conditions.

The railroad brotherhoods had nothing to fear from immigrant competition; train crews could not be made up of foreigners. The nature of railroad administration, requiring as it does standardized schedules of wages, hours and rules of discipline which can be changed only by orders from a central office, also eliminated the possibility of lowering union standards by secret individual bargaining. Moreover, the hazardous nature of their occupation brought the men into the union rapidly in order to take advantage of insurance benefits. Amply protected by these conditions, the railroad organizations have been content with open union shops. The degree of insistence by unions on the closed union shop policy thus varies with their ability to make gains secure by other means.

There is a growing opinion on the part of the more far sighted American labor leaders that there must be a shift in discussion and policy from the issue of the closed shop to that of the union shop. Overemphasis on an inflexible closed shop policy has in some instances led to abuses in union management, has stiffened the opposition of employers to all union shops and has alienated influential sections of the public. In such a shift the problem of whether union standards shall be maintained through closed, preferential or open shops will depend upon the special circumstances of each situation.

WILLIAM M. LEISERSON

See: TRADE UNIONS; COLLECTIVE BARGAINING; TRADE AGREEMENTS; BUSINESS AGENT; BLACKLIST, LABOR; EMPLOYERS' ASSOCIATIONS.

Consult: Stockton, Frank T., *The Closed Shop in American Trade Unions*, Johns Hopkins University, Studies in Historical and Political Science, vol. xxix, no. 3 (Baltimore 1911); *Selected Articles on the Closed Shop*, compiled by L. T. Beman, the Handbook series (2nd ed. New York 1922); American Economic Association, *Proceedings*, 3rd ser., vol. vi, no. 1 (1905) 140–216; Catlin, W. B., *The Labor Problem in the United States and Great Britain* (New York 1926) p. 344–61; Groat, G. G., *An Introduction to the Study of Organized Labor in America* (2nd ed. New York 1926) chs. xvi–xvii; Douglas, P. H., Hitchcock, C. N., and Atkins, W. E., *The Worker in Modern Economic Society* (2nd ed. Chicago 1925) p. 601–12; Zimand, Savel, *The Open Shop Drive* (New York 1921); Commons, J. R., and Andrews, J. B., *Principles of Labor Legislation* (rev. ed. New York 1927) p. 98–193.

CLOSURE is the term applied in the British House of Commons to various devices for restricting debate. Like so many other English constitutional terms, such as cabinet and parliament, the word is of French extraction. On the continent the word *clôture* described the procedure of bringing debate to a close when members of a legislative assembly were still anxious to speak or unwilling that a vote be taken on the principal question. The word was anglicized when similar procedures were used in Great Britain and has been adopted in American procedure.

Although the progeny of the "Mother of Parliaments" found it necessary to restrict debate long before the British rules were formulated, the forms of closure which developed in the House of Commons are of special interest and importance. The lateness of the date (1881) at which the House of Commons acted on this question was due to several causes. The principal British parties differed on methods rather than on fundamentals. The members of the Commons were drawn in large part from the "governing classes," who looked upon parliamentary contests as a pleasant game to be played without undue intransigeance. Before the advent of the Irish members there were in the House of Commons few irreconcilables. The Commons escaped the phenomena of religious,

racial or class parties whose obstructionist tactics on the continent had made various forms of closure inevitable. In the House of Commons, however, from 1875 on, Parnell and his Irish nationalist followers took every possible advantage of the rules of procedure. Long speeches, dilatory motions, points of order, questions of quorum and similar devices were developed to delay pending business. The motion giving precedence to the Protection of Person and Property (Ireland) Bill was fought for twenty-two hours in January, 1881. The introduction of the measure was opposed for four sittings, the last of which consumed forty-one hours. It was at the close of this sitting (February 2, 1881) that Speaker Brand intervened with his so-called "coup d'état" which introduced closure into the Commons. Brand refused to recognize any member for further debate and put the question. A crisis had arisen, he declared, "which demands the prompt interposition of the chair and of the House. The usual rules have proved powerless to insure orderly and effective debate. . . . The dignity, the credit and the authority of this House are seriously threatened and it is necessary that they should be vindicated. . . . Future measures for insuring orderly debate I must leave to the judgment of the House." The following day Gladstone moved an urgency rule which provided that if on motion of a minister the House resolved by a majority of three to one that the state of public business was urgent the whole power of the House to make rules should reside with the speaker until he should declare that the state of public business was no longer urgent or until the House so determined upon motion. The rule was adopted, but during the remainder of the session nearly two thousand points of order had to be decided by the speaker or chairman of committees. Disputes between the chair and members occupied one hundred and fifty hours of the time of the House.

At the next session more far reaching changes in the rules of procedure were made. They provided that when the speaker or the chairman of committees deemed it to be the evident sense of the House or of the committee that the question be put the presiding officer should so inform the House which would proceed to vote on a motion "that the question be now put." If supported by more than two hundred members or, if less than forty voted in the negative, by more than one hundred, debate would be closed. A discussion lasting through nineteen sittings was necessary before the change was effected. The rule, however, was not put into operation until February 20, 1885, and only once thereafter. In 1887, when the Conservatives were preparing to introduce the Irish Crimes Act, the rule was drastically amended. The right to propose closure was taken from the speaker and given to the individual members of the House, although the speaker could refuse to put the motion if he thought that there should be further discussion. This closure rule was made a standing order on March 18. The next year the majority necessary for the rule was reduced from two hundred to one hundred, the speaker retaining the power of refusing to put the motion if he thought it an infringement of the rights of the minority.

It soon became clear, however, that even more far reaching and at the same time more flexible devices to bring debate to a close were needed. Obstructionists could move amendments to every clause of a government bill. "Closure by compartments" (i.e. by sections and clauses) was therefore provided for, and this became known in common parlance as the "guillotine." A time table of days and hours for the discussion of sections of the bill in committee and on report is set up. At the times fixed the sections must be voted on without debate. Only the clauses of the bill and government amendments can be considered. The debate and votes on other amendments are automatically ended at the prescribed time. Governments, if they have a comfortable majority of the House of Commons, can always secure closure by compartments. In the early days, however, they were reluctant to do so until after considerable privileges had been given the minority. Thus the Irish Crimes Act of 1887 was debated for sixteen days and only clause six was reached. The remaining fourteen clauses of the measure were therefore put without discussion. The Home Rule Bill of 1893 was discussed for twenty-eight days and the Education Bill of 1902 for thirty-eight days before the guillotine was used.

Under the Liberal government of 1909 a new type of closure practise was introduced to meet the difficulty that, under the existing arrangement, important sections of a bill might go completely undiscussed and when inadequacies were discovered the government had to seek necessary amendments in the House of Lords. It was therefore decided to give the speaker or the chairman of Ways and Means authority to select amendments for discussion and to pass

by those which he deemed of scant importance. Thus discussion could jump from one section of a bill to another as the presiding officer determined. Such a form of closure speedily became known as "kangaroo." In its original form it could be used only when specially moved, but in 1919 the standing orders of the House incorporated kangaroo as part of the ordinary procedure. Every one agrees that it is a considerable improvement over closure by compartments, which was resorted to only once during the war—the Military Service Bill of 1918—and only twice in the 1918–22 Parliament. Guillotine was used, however, on the Trade Disputes and Trade Unions Bill of 1927, the Unemployment Insurance Bill of 1927, the Rating and Valuation (Apportionment) Bill of 1928 and the Derating and Local Government Bill, 1928.

Closure in debates on supply is covered by a special order. Since 1896 discussion has been limited to twenty days, with the possible addition of three days upon motion of a minister. Closure rules in Committee of the Whole are the same as those of the House, the chairman of Ways and Means or the deputy chairman exercising the power of amendment selection. In Standing Committee the majority required for closure is twenty instead of one hundred and kangaroo cannot be used.

Continental closure devices vary in severity and manner of application. In some cases closure cannot be moved while there are still *orateurs inscrits* who remain to be heard; in others an extra five minutes is allowed on a speech, or a speech by a minister cannot be prevented, or a two thirds vote is necessary. The result is, however, that dilatory tactics and obstructionist manoeuvers—*Dauerreden* was the term used in Germany—cannot be long continued. In all probability anything resembling the prolonged German and Czech obstructionist activities in the Austrian parliament at the turn of the century will not be repeated.

"Filibuster," the word used to describe minority obstruction in the United States, is now carefully guarded against by the rules of the House of Representatives. In the early congresses minority members did not wish to offend the "sense of the House." Not until the Eleventh Congress was there any use of the previous question (discussed in Jefferson's *Manual*, Sec. 34) and from 1811 to 1828 it was called for only four times. In 1841 a rule was adopted providing that, except with unanimous consent, no representative could speak for longer than one hour. The most spectacular case of obstruction in the annals of the House had to be dealt with by a speaker's ruling rather than a closure motion. Parties were nearly equal in the House; the minority members refused to answer roll calls and the majority was thus unable to get a quorum. Speaker Reed finally put an end to this by the simple expedient of counting as present members whom he saw in the hall. A corporeal quorum, he ruled, constituted a parliamentary quorum.

It soon came about, however, that the most effective forms of closure in the House of Representatives were ad hoc. In other words, they were reported by the Committee on Rules for the consideration of particular bills. Most of the important and controversial business of the House of Representatives is now conducted, not under general rules but under special orders reported by the committee. The rules committee, indeed, has become the American counterpart of the British cabinet, controlling the time and dictating the decisions of the legislative body. There are, however, two important differences. The rules committee, though chosen and supported by the majority, is not a responsible leader securing its ends through a threat of resignation if its proposals are repudiated. In the second place, the committee frequently works by persuading the majority to accept, in advance, a self-denying ordinance depriving the House of the right to vote on anything except the enactment of a measure in the form proposed by the legislative committee. Guillotine and kangaroo in the House of Commons are by no means so extreme as this procedure in their operation.

How closure works in the House of Representatives is well illustrated by the procedure on the Tax Revision Law of 1921, which was substantially the procedure on the post-war tariff legislation. The 1921 rule provided that upon its adoption the House should go into Committee of the Whole House on the State of the Union for the consideration of the Tax Revision Law; that there should be two days of general debate equally divided between the chairman and the ranking minority member of the Committee on Ways and Means, terminating on August 18; that, thereafter, the bill should be considered for amendment under the five minute rule "but Committee amendments to any part of the bill shall be in order any time and shall take precedence of other amend-

ments"; and that on August 20 at 3 P.M. the bill and amendments should be reported to the House "whereupon the previous question shall be considered as ordered on the bill and all amendments to final passage without intervening motion except one motion to recommit: that the vote on all amendments shall be taken in gross." This meant that, despite much discussion, when the hour fixed for a vote arrived the House had but a single opportunity to express an opinion on what should or should not go into the bill. The minority leader could single out only one disputed issue and get a record vote upon it. In short, such a form of closure—not to speak of passage of measures under suspension of rules after forty minutes of debate and with no opportunities for amendments—makes guillotine and kangaroo seem extremely mild.

Practically alone among modern legislative bodies the House of Lords and the American Senate are extremely reluctant to limit debate. The House of Lords, scantily attended and shorn of any real legislative power, is not a forum in which conflicting aspirations struggle for supremacy. The political battle is always much more of a sham than in the House of Commons. Not until 1926 was closure ever resorted to by the House of Lords. Then it was applied to check Labour opposition to the bitterly contested eight-hour bill. Subsequent criticism and discussion seem to indicate that a much more extraordinary emergency will be necessary to justify a second use.

Until 1917 the American Senate had no rules for limiting debate. The rule (XXII) now provides that, upon a motion signed by sixteen senators, the presiding officer shall, without debate, on the following calendar day but one submit to the Senate the question, "Is it the sense of the Senate that the debate shall be brought to a close?" If a two thirds majority is secured the pending measure remains unfinished business. No senator is thereafter entitled to speak more than one hour and no dilatory motion or amendments are in order. The rule was invoked for the first time in November, 1919, when, after several months of discussion, the debate on the Treaty of Versailles was brought to a close. The rule has been used several times since then and its use has been occasionally threatened, but it remains an emergency and not a normal method of procedure. The same result is usually reached in the Senate by a unanimous consent agreement that on particular legislation a time table be adhered to.

In short all legislative assemblies have the problem of attempting to reconcile two irreconcilable conditions: certainty of business and liberty of discussion. A minority which successfully obstructs may in effect defeat. Hence the development of various forms of closure, whose justification can be determined only with reference to the general framework of government in which the particular assembly functions. The House of Lords needs no closure to bring debate to a close. In the American Senate occasional filibusters are preferable to even moderate gagging, for the peculiar position of this body makes closure undesirable. In most other assemblies, however, the problem is to insure adequate discussion and to permit adherence to a legislative time table.

LINDSAY ROGERS

See: PROCEDURE, PARLIAMENTARY; DEBATE, PARLIAMENTARY; OBSTRUCTION, PARLIAMENTARY; LEGISLATIVE ASSEMBLIES; CONGRESSIONAL GOVERNMENT; CABINET GOVERNMENT; COMMITTEES, LEGISLATIVE; LEGISLATION.

Consult: Redlich, Josef, *Recht und Technik des englischen Parlamentarismus* (Leipsic 1905), tr. by A. E. Steinthal as *The Procedure of the House of Commons*, 3 vols. (London 1908) vol. i, p. 133–212; Pierre, Eugène, *Traité de droit politique électoral et parlementaire* (Paris 1919) sects. 918–19, and *Supplément* (1926); Marmorek, Schiller, *L'obstruction au parlement autrichien* (Paris 1908); Alexander, D. A. S., *History and Procedure of the House of Representatives* (Boston 1916) ch. x; Luce, Robert, *Legislative Procedure* (Boston 1922); Rogers, Lindsay, *The American Senate* (New York 1926).

CLOTHES. *See* DRESS.

CLOTHING INDUSTRY. *See* GARMENT INDUSTRIES.

CLUBS. As a form of voluntary association a club is clearly distinguished from all those major associations—the state, the church, the family—in which membership is practically obligatory and which have been considered basic for the continuance of society. It may be defined narrowly, so as to include only the clubs of Pall Mall and their imitators, or so broadly as to include almost all forms of voluntary association. If, however, we adopt a classification of voluntary associations into occupational, religious, cultural and recreational associations, clubs will be found to fall, at least in modern times, mainly in the last two categories. Perhaps their distinguishing mark, as contrasted with other voluntary associ-

ations, is that they are concerned with leisure activities. Whether the interests that they are formed to foster are social, literary, artistic or athletic, their demarcation from such associations as learned societies, joint stock companies, trade unions and political parties is fairly clear.

In primitive communities the dominance of ceremony and ritual in all phases of life makes clubs and secret societies common, and the age groups and systems of consanguinity often furnish a convenient nucleus for them. These clubs and societies are associated with religious and leisure activities and sometimes even perform political or military functions. But they differ sharply from modern clubs because of the entirely different nature of their social setting. Generated by impulses toward ceremony and secrecy and sanctioned by a mass of traditions, they lack the comparatively unregulated and ad hoc character of modern clubs.

Although we can find no duplicate of Brooks's in the history of Greece and Rome we find numerous groups which give play to the same desires and ambitions that animate the English clubman. The Doric συσσίτια were really eating clubs. The ἑταιρεῖαι of Athens were clubs of young men, originally meant to provide pleasant meals and good company, but later becoming involved in politics on the oligarchical side. These hetaeries eventually became full fledged political clubs, instrumental in swaying the deliberations of the assembly and the outcome of elections and active in manipulating the machinery of justice in lawsuits; but, as with most political clubs, their social activities continued. The religious associations, organized to maintain and administer the cults of foreign deities, also constituted a striking feature of Greek life, and with the growing cosmopolitanism of the Hellenistic period their number increased. But by the nature of their purposes they seem to fall rather with the shamanistic societies of the American Indians and the Melanesians than with our modern concept of a club.

The fact that the Roman *collegium* is generally translated "guild" should not obscure its real nature as a club. The groups of artisans which composed these clubs, although banded together primarily to protect the economic interests of the craft, also provided banquets, honorific titles and burial benefits and in general served social rather than economic ends. The *collegia* spread like a network over the whole of the empire; in the large and sprawling Roman world they satisfied the need, especially of the poor, for a compact companionship during life and secure burial after death. The *sodalitas*, associated with the maintenance of cults, was probably a social gathering originally, with feasting at least as important as the religious rites which united it to a simpler past. By Cicero's time, however, the *sodalicia* were as completely and almost as effectively political clubs as Tammany Hall. The great Roman baths with their conversation halls, lecture rooms and even libraries were obviously clubs in all save exclusiveness.

Amidst the large number of autonomous associations that grew up in the complex social life of the Middle Ages there were many forms that were virtually clubs. The guilds, which up to the eleventh and twelfth centuries were primarily leisure associations, obtained an importance in the lives of the middle class (the freemen) greater even than in the time of the Roman Empire. Even when the guilds became primarily economic they still did much to foster drama, music and education; they offered a social life for both sexes and for old and young. The universities before they became endowed institutions were student societies. Religious fraternities were built up around the shrines of the saints to which pilgrims came seeking indulgences, and out of these developed later provident, burial and intercessional associations. Nor is it a remote analogy that sees in much of chivalry, with its orders of knighthood, its oaths and ceremony, its courts of love, the psychological equivalent of certain modern associations.

With the humanistic revival learning became one of the important interests around which clubs were formed and learned academies sprang up. In the seventeenth century in Germany *Sprachgesellschaften* did much to crystallize the vernacular. The rise of modern science in the same century brought in its wake numerous societies of natural philosophy which were chiefly discussion clubs. The modern club in the narrow sense of the word, however, had its typical development in England. Hoccleve's Court of Good Company serves as the starting point for most histories of English clubs. English history since Elizabethan times is full of the names of famous clubs—the Apollo, the Rota, the Kit-Cat, White's, Brooks's, the Carlton. Eighteenth century France had more of these associations than theorists would believe compatible with absolute monarchy—local academies, drinking and feasting clubs, agricultural societies, *chambres littéraires*; in the last named conversation, cards and politics made a combi-

nation almost orthodoxly Anglo-Saxon. The revolutionary clubs, whatever their origin, fused interests so immediately concerned with political change that they became at times coterminous with the government and made world history.

Behind all these eighteenth century clubs we may discern forces which were fashioning a society where classes were taking on new alignments, thought was mobile and innovation was becoming a matter of course. A new world was emerging as a result of the geographical discoveries and the mechanical inventions. A new class, the middle class, was coming to power, and its members were preparing themselves for their mastery of the new world by extending their interests in every direction or were consolidating the advance they had already made by banding together to give one another comfort and congeniality.

The most amazing proliferation of clubs was left to the nineteenth and twentieth centuries. One large category of them was organized for reform purposes of every variety. The regime of feudal aristocracy had left behind institutions which were anachronistic in a middle class society, and the industrial revolution was engendering new iniquities. To combat both, zealous groups of men and women organized themselves into clubs, threw all their energies into their common cause and often evolved the most efficient techniques of propaganda and administration. Abolition and revolution, corn laws and parliamentary representation, civil service, municipal politics and silver standard, temperance and women's suffrage, come readily to mind as foci of interest. Between these and the thousand and one organizations which have stirred public amusement by their insistence on their crotchety purposes the line is often hard to draw; what seems at first an eccentric whim becomes with the widening of humanitarian sentiment a condition of social order.

Another large category of clubs centered about the enlarged interests of groups such as women, working men and children, of whose importance and capacities society was growing more aware. Of these the most significant single development has been the growth of women's clubs, made possible by the economic revolution in the home and the new social status of women. These clubs have directed what might otherwise have been fugitive energies into channels of education and public affairs. Youth too has become more aware of the possible impact of its intensity on the temper of affairs; and while the numerous fraternities and sororities are primarily for social distinction and in the tradition of secrecy, the organizations comprised under the somewhat flexible category of the youth movements indicate a new trend of the development in clubs. Germany particularly, where for a long time music and conviviality thrived under forms of club organization, has, especially since the revolution, turned this organizing propensity in the direction of cultural and physical development. Russia under the Soviet regime has extensively adopted the club form of organization for all sorts of groups with the purpose of mobilizing social energies for the new order. Perhaps the most extraordinary recent development of all has been the formation of sports clubs among all races and in all climates.

Clubs have apparently always helped to satisfy the desire, common at least among western peoples, to run things. They have provided offices and titles, committees, debates, resolutions, oaths, secrecy. Where their aims have not run counter to those of the government they have often played the part of safety valves and have given the common man an importance he would not otherwise have had. In large modern societies they have helped to satisfy human gregariousness. They may perhaps be regarded as taking the place of those extensions of the family, such as the clan and the brotherhood, which have disappeared from advanced societies. Finally, they give an obvious scope to minorities. Underdogs united are often well on the way toward ceasing to be underdogs.

Many social clubs are constantly tending to become something else: political clubs, economic organizations, even religious bodies. The hetaeries and the *sodalicia* became political bodies. Harrington's Rota was full of politics from the start. But White's, originally a coffeehouse run by an Italian named Bianco, became a gambling club and was turned into a Tory club by Pitt. The Jacobin clubs in most provincial centers grew from *chambres littéraires*, masonic lodges, mesmeric societies and such social groups and became during the Terror a religious sect. The Ku Klux Klan, in its origins merely a device to cow the Negroes, suffered a twentieth century revival as a body with unlimited political ambitions. Freemasonry, especially in the Catholic countries of Europe, has a definite political connotation.

The extent to which clubs reflect the larger society of which they are a part is difficult to determine. Their organization is usually mod-

eled on that of the state. The Roman burial clubs and guilds had as officers quaestors, praetors, aediles and so on and met and voted as assemblies. The American club has its president, vice president and secretaries, its constitution and by-laws. A little club at Toulouse in 1789 was presided over by the eldest member, called the *père patriote*, a curious reflection of the position of the *père de famille* in old France. Nevertheless, one cannot say, "like state, like club." The view that certain politically gifted peoples such as the Romans and Anglo-Saxons freely permitted rich association life while less gifted peoples did not is somewhat old fashioned. Fifth century Athens, eighteenth century France and almost any country today sufficiently controvert it. Nor can we definitely associate certain kinds of clubs with certain kinds of government. The stock despotism of the political theorist has of course no room for clubs. But most attempts at absolute government have evoked secret societies, like the Carbonari, in opposition. In democratic Athens the clubs had an oligarchic tinge. In Rome the clubs were used by the republicans to oppose the triumvirs. Although the great London clubs have set a characteristic tone, this has not prevented what must seem—save perhaps to a London clubman—their successful imitation in such different cities as New York, Paris and Berlin. It might appear that the federal form of organization, common to many American clubs, such as the service clubs, was a natural reflection of the federal state. Yet the famous Jacobin network was federal in origin, not by any means imposed from Paris, and nothing could be more genuinely federal, in the sense of a jealous reservation of local characteristics, than many present day federations of sports clubs in centralized France.

Of fashion at a given moment clubs are a surer reflection. For the history of the important part of human life summed up under the word fashion there are no better sources than the Athenian symposium, the Roman baths, the French salon, the English club, the American woman's club. Indeed, in one form or another the social club is perennial. Clubs have also helped to set the fashion in literature and the arts. The Mermaid Tavern group, "The" Club, the Cénacle, the Athenaeum and many others can hardly be omitted from literary history. The influence of clubs in literature, however, is not constant. "The" Club was a main factor in English letters of the later eighteenth century, but the romanticists of the next generation eschewed clubs. And if clubs often set the fashion they tend equally to become fashionable. Often membership in a woman's club is a result not so much of genuine interest as of social necessity. And for many in political life the political club, the chamber of commerce and the fraternal society represent each a nexus whose maintenance is a matter of prudent generalship in the struggle for votes.

The amazing variety of clubs in modern societies sets still other problems. Do clubs buttress class distinctions and attempt to fix standards? It is true that any club which brings its members together in their hours of ease to eat, drink, talk, play, will have them conform to common social habits; and it is true that groups, as such, resist change. Yet it may be doubted whether clubs in modern societies seriously add to class hostilities. In the first place, what Pareto calls the circulation of élites works particularly through clubs. Even Pall Mall has always maintained an alliance with the City and admitted those who have made commercial successes. The self-made man finds club life one of the best ways of entry into the ruling classes. Again, the diversity of clubs may serve to dissipate rather than to concentrate class feeling, especially such simple class feeling as that between rich and poor. Finally, many if not most modern political clubs were originally minority groups devoted to some great cause. Their composition cuts completely across class lines, for their cause is rarely a purely economic one. Jacobin clubs, abolition societies, the Anti-Saloon League, have numbered rich and poor alike among their members.

What is the true place of clubs in the modern state? Guild socialists may almost be said to plan a state composed of independent clubs, and the pluralists are generally favorable to these as to other groups within the state. In the past governments have generally attempted to encourage clubs favorable to themselves and to suppress clubs considered hostile or subversive, a policy not unknown even today. The simple solution, that of allowing complete freedom of association, is hardly acceptable, save to the philosophical anarchist. For the most harmless clubs have a way of acquiring a program of trying to get something done, a process which means today influencing or even controlling the government. Clubs are the natural instrument for a form of tyranny perhaps peculiar to modern democracies, the tyranny of altruistic minorities. Governments may be justified in suppressing or restricting such clubs. It must be admitted, how-

ever, that a mechanism for so selective a repression is yet to be found.

CRANE BRINTON

See: ASSOCIATION; VOLUNTARY ASSOCIATIONS; GROUP; CLUBS, POLITICAL; LEARNED SOCIETIES; SECRET SOCIETIES; GUILDS; WORKINGMEN'S CLUBS; CIVIC ORGANIZATIONS; WOMEN'S ORGANIZATIONS; BOYS' AND GIRLS' CLUBS; YOUTH MOVEMENTS; AGRICULTURAL SOCIETIES; FARMERS' ORGANIZATIONS; FRATERNAL ORDERS; FREE MASONS; CULTS; CEREMONY; LEISURE; RECREATION; AMUSEMENTS, PUBLIC; SALON; FASHION; SPORTS; REFORMISM; MIDDLE CLASS; PROPAGANDA; REVOLUTION; FREEDOM OF ASSOCIATION; PLURALISM.

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CLUBS, POLITICAL. The political club is perhaps best distinguished from other types of political associations by its possession of quarters available for social use by its members. It is less readily distinguishable from the general social club because the very idea of a club implies social activity and any club may on occasion acquire a political significance. Perhaps it is enough to classify as political those clubs in which social or recreational features are more or less subordinated to the political interests of the membership. Even this definition tends to exclude some of the more prominent national political clubs in the United States, but this may be merely another way of saying that these clubs are of slight political significance.

The club is older than its clubhouse, the place of the latter having long been supplied by the tavern or the coffeehouse. The ancient guilds and the early masonic lodges were true clubs and many possessed local political importance. But the real prototype of the political club was Shaftesbury's Green Ribbon Club which flourished in the time of Charles II. This developed all the technique of leadership of the London mob and it played an active role in the Rye House and Popish plots and numerous political currents of the day. It may be credited with the earliest systematized "whispering" campaigns, and in the election of 1679 it functioned as a campaign headquarters. In many ways it anticipated the methods of the clubs of the French revolutionary era. Of the same era was the Rota (1659), or Coffee Club as Pepys calls it. The English coffeehouses generated clubs spontaneously. White's and Brooks's, which still survive, illustrate the evolution. The former was opened as a coffee or chocolate house just before 1700, the latter about 1764. As Tories became more numerous at White's and Whigs at Brooks's they developed into political clubs—genuine party centers. In the last half century the social features have overshadowed the political and these clubs, without losing a party tone, have been less important politically.

Political clubs were unimportant in France before the revolution, but with the turbulence that attended that upheaval a group of important clubs sprang into being. The most famous was the Jacobin Club, so called from the monastery which became its headquarters. This group had originally been the Breton Club, but with the revolution its members styled themselves "Les Amis de la Constitution," which they later amended to "Les Amis de la Liberté et l'Égalité." This was Robespierre's organization and had chapters widely scattered in the departments. The Cordeliers' Club, numbering among its members Danton, Marat and Desmoulins, had more influence in Paris, however, and was more outspokenly radical. The moderates too had their clubs, particularly the Club of 1789 (also known as the Fayettists) and the Feuillants' Club, which had fewer members but wider influence. Even the royalists organized a club of their own—the Monarchical Club. With the passing of the revolutionary turmoil the clubs either went out of existence or con-

tinued with less political emphasis. These clubs were all essentially political parties.

The last quarter of the eighteenth century saw the growth of Whig clubs, and as the menace of the French Revolution became clear Pitt clubs were organized in all of the principal cities of England and Scotland. After the post-revolutionary reaction the renewed attack on the old order led the Tories with Wellington at their head to establish the Carlton Club in 1831. Five years later the Liberals countered with the Reform Club, which in a decade largely replaced Brooks's in the party councils. The Liberals also have among others the Manchester Reform Club (1871) and in London the Eighty Club (1880) and the more recent National Liberal Club. The Carlton remains the center of Conservative activity. There is a democratic atmosphere about the English political clubs which sets them off sharply from the English social clubs. The carefully preserved absence of haste which the English cherish gives these clubs a leisurely character that their American counterparts have never attained.

Persecution has always been an important stimulus to the formation of political clubs. There is a type which thrives only under oppression and languishes as soon as that is relaxed. The Dutch and Huguenot clubs of the early sixteenth century, the numerous clubs of all political complexions, but particularly the Puritans and Levellers, of seventeenth century England and all revolutionary clubs throughout their history from that day to this illustrate this tendency. In some cases clubs ostensibly non-political have had political aspects. Thus the Bohemian branches of the Sokol, a Slavic athletic and gymnastic organization, were rallying points for Czech nationalists before the war.

If politics were a matter of discussion the club would be an ideal instrument of political action. But modern politics is largely a matter of organization and discipline; it requires businesslike efficiency and active work among the voters. A clubhouse is a rather expensive type of headquarters and not well adapted to the making of contacts with the whole range of society. The modern French *cercles* and the German *Vereine* which belong to the discussion type, while highly significant in relation to political opinion, are organically negligible apart from the parties with which they affiliate. Before the war there existed throughout Germany among voters of the third class a type of ward club (*Kommunal Wahlbezirksverein*) which took an active part in nominations for local office. These tended to follow national party cleavages, particularly in the larger cities, and devoted much time to the study of municipal problems.

Political clubs in America can probably be traced to the Sons of Liberty (about 1735) and the Tammany Society of New York City (1786). By 1800 branches of the latter society existed in Rhode Island, Pennsylvania and most of the southern states. The same period saw dozens of Jacobin clubs spring up in various parts of the country. With the victory of Jefferson the latter organizations subsided, but the Tammany societies survived into the second decade of the nineteenth century. The New York Tammany Society has had a continuous history in the politics of New York City and state from its inception down to the present day. Three of its leaders, Martin van Buren, Horatio Seymour and Alfred E. Smith, were candidates for the presidency. In 1868 the Democratic National Convention was held in its Fourteenth Street clubhouse. Of enduring importance are the Union League clubs, which still thrive in varying degrees in the larger cities of the North and West. The parent clubs were founded in Philadelphia in 1862 and in New York in 1863, the latter in order "to discountenance and rebuke, by moral and social influences, all disloyalty to the Federal Government." After the Civil War it added a resolve "to resist and expose corruption, and promote reform in our national, state and municipal affairs." The Democrats of New York City promptly countered by forming the Manhattan Club (1865). Several of the party's candidates for the presidency during the next half century, including President Cleveland, were members of this club, and many national leaders continue on its roster. It could hardly be said today that any of the Union League clubs, or the Manhattan Club, or even the National Republican or National Democratic clubs, play any important role in the affairs of their respective parties. It is noteworthy that there are no great party clubs in the city of Washington, so that the New York City Democratic Club in 1906 and the New York Republican Club in 1917 called themselves the national clubs of their parties.

The American ward club is a rather different thing from those thus far described. The politics with which it has concerned itself has not been the politics of issues of state but rather the distribution of patronage. American politics is more highly organized than politics in the

countries of Europe; particularly in large cities it is dominated by compact and well disciplined organizations. The unit of control is the ward. Within this the nuclei of political life are the clubs. The organization may be named after the founder who once dominated it and may still be doing so, as in the case of the Edward J. Ahearn Association or the Patrick H. McCarren Democratic Club, or it may bear a name of historical or geographical significance only. The dues are low enough to permit anyone to belong —usually about two dollars a year and rarely more than fifty cents a month. The membership ranges from three or four hundred to as many as a thousand. Much of this membership is nominal; business men and others in the neighborhood, since they may some day need a favor of the club, deem it a good policy to pay dues. The clubhouse is usually a three or four-story house originally intended as a family residence. In some sections of the city where real estate is too expensive the organization may have to content itself with two or three floors above a store. The appointments are frugal—a general room with chairs that can be folded and put aside to permit dancing, a pool room, a card room or two and spittoons everywhere. This simple equipment suffices even for the most powerful of such organizations. In addition to monthly "affairs" held at the clubhouse there are two "balls" each year held in some public hall—one between Election Day and Christmas and one between New Year's Day and the beginning of Lent. There is also a summer outing or clambake at some popular picnic center.

The membership is drawn from the neighborhood. The great majority of active members and habitués are civil servants or aspirants for public jobs. They "run" the club and in their hands it becomes a powerful instrument for the control of nominations to local offices. An aspirant to the mayoralty or governorship who did not have the support of these organizations would make little headway against one who did. In the well oiled urban political machine, such as the Tammany organization in New York City and the Vare organization in Philadelphia, there is a "regular" or centrally approved club in each ward. Elsewhere local politics within each party is a conflict between the various ward clubs ceasing only when a city leader or "boss" emerges. Even in the cities named there is always a miscellany of minor clubs, such as the 19th Assembly District Porto Rican Democratic Association or the John Scavani Association. When an aspirant for leadership in a dominant club finds his ambitions thwarted he usually swarms his followers and moves off to form a new hive.

One recent tendency may be worth noting. The bar was once the very center of life in these clubs. With prohibition this has been largely suppressed, though a few New York and Chicago clubs and a somewhat larger number in Philadelphia have a "speakeasy" department. Women's suffrage has also added to the respectability of the clubs. In some places, however, the inner group, while maintaining the clubhouse for formal and routine business, has moved out to a nearby speakeasy or gambling house for the transaction of its affairs.

These ward and district clubs have been entrenched in power virtually since the Civil War. The few occasions when the self-styled "better elements" have captured control of particular cities have always resulted from conflicts of rival clubs within the party organization. It was in recognition of this power that the Reform Club, organized in 1888 by a group of citizens in New York City particularly interested in tariff revision, turned its attention to civil service and electoral reforms. This and the City Club, founded in 1892, were attempts to meet the machine cohorts on their own ground. The sponsors of the City Club hoped to establish local units in every ward of the city. A few of these were actually opened but soon foundered, and the City Club persists today as a variant of the Voters' League type of civic organization. City clubs now exist in over a dozen American cities and almost as many flourishing women's city clubs have since been established. This type of organization has achieved a stable place in reform politics.

JOSEPH MCGOLDRICK

See: CLUBS; ASSOCIATION; VOLUNTARY ASSOCIATIONS; SECRET SOCIETIES; DISCUSSION; CONSPIRACY; REFORMISM; SALON; FRENCH REVOLUTION; POLITICS; MACHINE, POLITICAL; CAMPAIGN, POLITICAL; SPOILS SYSTEM; PARTIES, POLITICAL; MUNICIPAL GOVERNMENT; CIVIC ORGANIZATIONS; WOMEN'S ORGANIZATIONS; FREEDOM OF ASSOCIATION.

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CLUNET, ÉDOUARD (1845–1922), French international jurist. In 1873 he founded the *Journal du droit international privé*, more commonly referred to as "Clunet," and still current as the *Journal du droit international*. He was among the first in Europe to realize the immense practical importance which judicial relations resulting from the growing development of international commerce were eventually to acquire. Moreover he felt it necessary to provide the practising lawyer with a working tool hitherto lacking, and accordingly undertook in his *Journal* to collect with care and to classify methodically all the legal facts which constitute the thread of international life—treaties, statutes, judicial decisions, of the principal countries of the world. At the same time Clunet opened his review freely to the doctrines of French and foreign theorists. Most of the new conceptions and recent developments in the modern conflict of laws have been discussed in the *Journal*, which still remains one of the best reviews of international law and the most important agent in Europe for harmonizing the practise of courts with the achievements of theory.

JOSEPH H. BEALE
MAURICE CAPITANT

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CLUNIAC MOVEMENT. The Cluniac movement, emanating from the abbey of Cluny during the tenth, eleventh and twelfth centuries, had as its object the restoration of the religious life of monasteries throughout Europe. At the beginning of the tenth century monastic life was almost universally characterized by a complete relaxation of discipline, a virtual abnegation of the Benedictine Rule. Foremost among the causes responsible for this condition was the fact that control of most monasteries had passed into the hands of feudal lords or princes, who administered them directly or indirectly like any other benefices and exploited their offices and revenues. The need of a new impulse to monastic virtue was met by the establishment of the monastery of Cluny. The original charter of Cluny was granted in 910 by William, duke of Aquitania and count of Auvergne, who located the abbey in the valley of the Grosne in Burgundy and placed it under the immediate jurisdiction of the Holy See, exempting it from all other jurisdiction both ecclesiastical and secular. The papacy perceived the importance of William's offer and by a charter issued in 931 granted the monastery its special protection. Thus from the beginning Cluny was potentially the nucleus of an international institution.

The crystallization and uninterrupted spread of the Cluniac reform was favored by the fact that during two centuries the monastery came under the domination of only six abbots, each one of whom had been reared in the tradition of Cluny and had been imbued with its doctrines. In substance the Cluniac rule was a reiteration of the monastic customs instituted by St. Benedict, with the difference that Benedict's requirement of manual labor was discarded and more time allotted to prayer and devotional exercises. This rule, first well established in Cluny, began to be extended to other monasteries during the regime of the second abbot of Cluny, Odo (926–42), who has been characterized by the historian Flotard as the "savior of French monasticism." By the time of Odo's death Cluniac customs had been widely adopted in France and Italy and under his successors, St. Aymard (942–65), St. Maieul (965–94) and St. Odilo (994–1048), they spread into Belgium, Spain, southern Germany and even into Poland. This reform represented much more than an extension of Cluniac practises; it marked the evolution of an international congregation of monasteries acknowledging in greater or less degree the sovereignty of Cluny. Of the older institutions which submitted to the reform some were converted into chapters of Cluny and othere were reduced to the rank of priories subject to the immediate jurisdiction of Cluny. A group of

about twenty important abbeys, boasting an ancient glory, were allowed to retain their independence and became merely "affiliated" with Cluny, which signified that the abbot of Cluny was consulted in the election of their officers and that they promised to uphold, in so far as they could, the fundamental article of the Cluniac program—freedom from secular authority. In addition new monasteries were founded in great numbers by the representatives whom the mother abbey dispatched to every corner of Europe. In some cases the feudal lords were induced to recognize the political immunity of monasteries within their territories; but with or without such recognition Cluny acknowledged no sovereign for itself or any of its dependents except its own abbot and the pope. "Cluny is an army," said Adalbero, bishop of Laon, "marching under the orders of Odilo, an army more numerous than the leaves of the Asiatic trees or the grains of sand along the shores of Africa." The animosity hidden beneath Adalbero's satire reflected the attitude of all members of the secular clergy, who saw their own prestige in the church weakening as the influence of Cluny progressed. Their rancor was hardly appeased when shortly after the succession of St. Hugh as abbot in 1049 Pope Leo IX began to regard him as his chief collaborator in a campaign for general ecclesiastical reform.

The campaign which Leo IX, Gregory VII and in lesser degree other popes of the eleventh century envisaged was essentially an outgrowth of the Cluniac movement. The success of Cluny in extruding the influence of the laity from the monastic sphere encouraged the papacy to attempt a similar reform among the secular clergy. The investiture contest waged with the empire, the battle against simony, the struggle to enforce the celibacy of the priesthood, were varying aspects of this attempt. The popes drew heavily upon the support of St. Hugh and his "army" of monks; in the congregation of Hirsau, which was affiliated with Cluny, German bishops who favored the claims of Henry IV against Hildebrand found their most intense and formidable opposition. Moreover, in demonstrating the close relation between clerical independence and the moral and spiritual integrity of the church the Cluniac reform had gone far toward preparing the Christian world to countenance the political demand of the popes. The Cluniac abbots themselves never formulated a definite antifeudal program, except in regard to their own congregation, and entered into the papal struggle only as the "obedient and courageous defenders of the Holy See"—a phrase used by Hildebrand in 1087. But the mere fact that a large portion of Christianity had taken Cluniac life as a symbol of protest against the abuses of the feudal system made the order an enormous power in the papal war against those abuses.

The monks of Cluny were also the chief supporters of the church in the propagation of the idea of peace. Hardly less than the church itself Cluny was an international institution transcending the boundaries of fiefs and nations and unconsciously leveling antagonisms between them. The Peace of God, which aimed to protect the property of ecclesiastics and Christian non-combatants against the ravages of war, and the Truce of God, forbidding members of the church to participate in war on prescribed days, accorded well with the religious ideals of Cluny; and from the moment of their promulgation its monks did their utmost to popularize and enforce them. It was through the influence of Odilo that the Truce of God was extended in the middle of the eleventh century to include the period between Wednesday evening and Monday morning of each week. The pacifistic efforts of the Cluniacs were successful not only in France and Italy but also in Germany. At the end of the eleventh century they persuaded even the imperial court to respect the Peace of God. In the following century they engaged in a veritable campaign of peace education beyond the Rhine, attempting to propagate the idea of chivalry through the dissemination of translations of the *Chanson de Roland*.

In the course of this peace movement the Cluniacs evolved a distinction, which the church accepted, between "right" and "wrong" war. War to the detriment of Christians was "wrong"; war against the infidel was in the highest degree "right." Confident in the justice of this distinction the Cluniacs supported the crusades and the military orders which were founded to annihilate the infidel or to save Christians from his power as fervently as they supported the Truce of God in Christian Europe. When Alphonse VI, king of Castille, expressed his intention to abdicate and enter a monastery he was informed by the abbot of Cluny that his first duty was to free Spain from Islam. During the latter half of the eleventh century the Cluniacs themselves dispatched several armed expeditions beyond the Pyrenees to aid in the battle against the Moors. The crusades were first launched by a former prior of Cluny, Pope Urban II, who after his

elevation to the pontificate remained in close communication with his old monastery. Perhaps the chief intangible resource of Urban and of his successors who conducted the war against the infidel was the spirit of Christian unity which had been revived by Cluny and which caused the faithful of so many different lands to band together in the pursuit of a common ideal.

The Cluniacs were far too busily occupied to participate in the theological speculations of the time. But a summary of their social importance would be incomplete without stating that their economic organization enabled them to care for seventeen thousand victims during a year of famine; that their copying of ancient manuscripts was a connecting link between antiquity and the Renaissance; and, finally, that their architecture, the most splendid monument of which was the basilica of St. Peter at Cluny, became a model throughout Europe.

In the twelfth century signs of decadence began to appear in Cluny. Peter the Venerable, abbot from 1122 to 1156, struggled bravely against them, but by the middle of the century it was St. Bernard and the Cistercians who represented the idea of reform in the church. A hundred years later the king of France was given a voice in appointing the abbot of Cluny, and Cluny's glory was a thing of the past.

GEORGES GOYAU

See: CHRISTIANITY; RELIGIOUS INSTITUTIONS; RELIGIOUS ORDERS; MONASTICISM; PAPACY; FEUDALISM; CRUSADES; TRUCE OF GOD; DOMINICANS; FRANCISCANS.

Consult: Champly, L. H., *Histoire de Cluny* (2nd ed. Paris 1930); Sackur, E., *Die Cluniacenser in ihrer kirchlichen und allgemeingeschichtlichen Wirksamkeit bis zur Mitte des elften Jahrhundert*, 2 vols. (Halle 1892–94); Berlière, Dom Ursmer, *L'ordre monastique des origines au douzième siècle* (3rd ed. Paris 1924) chs. iv–v, containing bibliography; Smith, L. M., *The Early History of the Monastery of Cluny* (Oxford 1920); Heimbucher, Max, *Die Orden und Kongregationen der katholischen Kirche*, 3 vols. (2nd ed. Paderborn 1907–08) p. 242–49.

COAL AND IRON POLICE. *See* POLICING, INDUSTRIAL.

COAL INDUSTRY. Coal is one of the basic materials of modern industrialism. It supplies at present three fourths of the energy used in industry and appears directly or indirectly as an indispensable ingredient in the production of such important materials as iron and steel. It is claimed with some reason that the industrial hegemony of England was made possible in part by the exploitation of its rich coal resources and that the same factor partly accounts for the rapid industrial expansion of Germany after 1870. National survival in time of war is also largely dependent upon coal, for it is essential in the manufacture of armaments and chemicals. There are significant instances in European history where the desire to possess certain new territory can be explained by that territory's coal resources. It was in part coal which made Belgium essential to France in 1807; it was coal which influenced France in her Ruhr-Lorraine policy during the past decade; it is coal which has made difficult the attainment of an equitable solution of the Saar problem.

The significance of coal in the world economy dates from the eighteenth century, although the technique of its mining and use as fuel were known long before that. It is believed that coal was used by the Chinese before the Christian era and by the ancient Britons before the Roman conquest. Authoritative British records mention coal in connection with certain transactions as far back as the middle of the ninth century, and there is definite evidence that by the thirteenth century it was quite generally used in Great Britain, primarily by brewers and smiths. From Newcastle, then as now an important coal marketing center, large amounts of coal were shipped to London, where part was consumed and part reshipped to the continent. As early as 1306 there were complaints about the injurious effects of coal smoke in London; in that year Edward I attempted by an ineffective decree to compel all but smiths "to eschew the obnoxious material and return to the fuel they used of old." By the sixteenth century the export trade was so developed that Newcastle coals were described in 1552 as "that thing that France can no more lyve withoute than the fyshe withoute water." About the same time the growing depletion of the English timber resources and the ensuing legislation designed to prevent the use in iron production of such timber as was adaptable for shipbuilding stimulated efforts to substitute coal for wood. The century following witnessed many unsuccessful attempts in this direction, and repeated failures led to the shutting down of iron works in many places. The coal trade remained of limited significance, and coal was used primarily as a household fuel in London.

Mining methods during these early years were crude and wasteful. Coal mines were in the main shallow bottle necked holes in the ground which rapidly filled with water. Since drainage

was always difficult and frequently impossible, mines were abandoned after a relatively short period of life. In the technical difficulties of mining was seen a potent threat to Great Britain's fuel supply, and in 1549 and again in 1552 Parliament tried to restrict coal exports lest they drain the resources of the country.

The first great impetus to coal mining came in 1709 with the truly epoch making discovery of the practical application of coal to the smelting and manufacture of iron. It has been correctly said that the most important effect of the industrial revolution in the eighteenth century was to release the iron industry from its dependence on charcoal. An endless supply of a cheap substitute for charcoal for the foundry and the forge had at last been found, with the result that the supply of cast iron increased at a phenomenal rate and was followed by a stream of iron products. From this time on modern civilization was to depend on coal for its material existence.

The second impetus to the coal trade came with the invention of the steam engine. Here the relation was a dual one. The steam engine made possible the expansion of coal mining because it enabled men to cope with difficulties presented by the depth of the mines, by water, by underground haulage distances. Coal, on the other hand, made practicable the industrial use of steam power because it was a cheap fuel and because it made possible the production of the cast iron cylinder and of relatively cheap cast iron.

The tremendous growth which followed from these inventions in the production of machinery and those goods which could be made by steam driven machines brought with it an ever increasing expansion of the coal trade. The industry's output grew from 2,148,000 tons in 1660 to 6,205,000 tons in 1770 and to 10,000,000 by the end of the century. Approximately one fifth of this amount was used in the iron and textile industries alone. During the next fifteen years the output doubled and by 1850 production equaled 56,000,000 tons. In that year the industry was employing about 200,000 miners. Coal had assumed a dominating position in modern economic life.

With the industrialization of continental Europe coal became a factor in the world's international trade. At the beginning of the nineteenth century Belgium was the only continental country with an important developing coal industry and the coal consuming countries of Europe were dependent upon Great Britain for their supplies. By 1840 British exports reached a total of 1,606,000 tons and in 1850 they amounted to 3,800,000 tons. Coal played a dominant part in stimulating Britain's foreign trade and in the growth of her shipping and commercial leadership. It furnished a paying outward cargo to British ships, thereby cutting freight rates on imported raw materials and foodstuffs, the cost of which has played a large part in fixing Great Britain's competitive position in the world markets. Coal contributed over 45 percent of the addition of £92,000,000 to the value of British exports from 1870 to 1900.

With the building of railroads and the extensive employment of steam power in manufacturing in the second half of the nineteenth century important coal mining industries developed on the continent and in the United States. Belgium, which mined about 5,000,000 tons as far back as 1807, quadrupled her output by the end of the century. The production of France was about 4,000,000 tons in 1850 and 33,000,000 in 1900. Particularly rapid was the growth of coal mining in the countries of young and virile capitalism, Germany and the United States; by 1900 the latter was the largest coal producer in the world.

TABLE I

PRODUCTION OF COAL IN THE PRINCIPAL COUNTRIES, 1860–1900

(Millions of metric tons)

YEAR	BELGIUM	FRANCE	GERMANY	UNITED KINGDOM	UNITED STATES
1860	9.6	8.1	12.3	80.0	15.2
1871	13.7	12.9	29.3	117.4	42.5
1880	16.9	18.8	47.0	147.0	64.8
1890	20.4	25.6	70.2	181.6	143.1
1900	23.5	32.7	109.3	225.2	244.6

Source: Compiled from United States, Bureau of Labor, *Coal Mine Labor in Europe* (Washington 1905), and Woytinsky, Wl., *Die Welt in Zahlen*, vol. iv (Berlin 1926) p. 119–21.

The forces which brought about the rapid expansion of coal mining in the nineteenth century continued to operate in the next decade despite the increasing competition of other types of mineral fuel, such as petroleum and natural gas, and the growing utilization of water power as a source of energy. The World War provided an additional impetus to the expansion of coal mining in the countries with an established coal industry as well as in those countries which depended normally upon coal imports. The figures for coal output in the principal countries in the last pre-war year and in 1927,

the last year for which complete figures are available at present, are given in Table II.

TABLE II

COAL PRODUCTION IN THE PRINCIPAL COUNTRIES OF THE WORLD, 1913 AND 1927
(Millions of metric tons)

COUNTRY	1913	1927
North America		
Canada: coal	13.6	12.3
lignite		3.5
United States: anthracite	83.0	72.7
bituminous and lignite	434.0	469.7
Other countries	*	1.0
South America	1.6†	2.1
Europe		
Austria: coal	16.5‡	0.2
lignite	27.4	3.1
Czechoslovakia: coal	**	14.0
lignite	**	19.6
Belgium	22.8	27.6
France: coal	40.1	51.8
lignite	0.8	1.1
Germany: coal	190.1	153.6
lignite	87.2	150.5
Saar	**	13.6
Hungary: coal	1.3	0.8
lignite	9.0	6.2
Netherlands: coal	1.9	9.5
lignite		0.2
Poland: coal	**	38.1
lignite	**	0.1
Russia: coal	33.8	25.9††
lignite		1.7††
Spain: coal	4.0	6.6
lignite	0.3	0.4
United Kingdom	292.0	255.3
Other countries	2.0	11.4
Asia		
China	13.8	*
India, British	16.5	22.4
Japan:‡‡ coal	21.6	35.6
lignite		0.2
Other countries	3.6	10.1
Africa		
Southern Rhodesia	0.2	0.9
Union of South Africa	8.0	12.6
Other countries	—	0.5
Oceania		
Australia	12.6	15.2
New Zealand: coal	1.9	1.3
lignite		1.1
Other countries	0.7	*
Total	1342.3	1473.0

* Estimate included in total.
† Estimate for Brazil and Colombia included in total.
‡ Does not include Bosnia-Herzegovina.
** No separate pre-war figures available.
†† For year ending September 30.
‡‡ Including Taiwan and Karafuto.

Source: United States, Bureau of Mines, *Coal* for 1922 and 1927.

Until the eighteenth century coal was used mainly as fuel for household purposes, but since the industrial revolution its most important use has been in supplying energy for industry. Despite the growing use of other mineral fuels and water power for the generation of energy the coal mine still remains the only available source sufficient to meet industry's ever increasing demand for fuel. At present coal furnishes about 73 percent of the world's industrial energy. Even in the United States, where the inroads of substitute sources of energy have been particularly great, some two thirds of the mineral fuel energy used is derived from coal. The other important use of coal is as a raw material in the production of iron and steel, but despite its significance in a civilization based upon the extensive employment of these metals the consumption of coal for this purpose approximates only one sixth of its output.

TABLE III

THE WORLD'S CONSUMPTION OF COAL BY USES

USES	PERCENTAGE
As raw material	22
Pig iron production	10
Steel production	7
Gas works	5
As fuel	78
Industry (mainly for steam raising)	29
Railways	23
Electric generating stations	6
Ships' bunkers	3
Households	17

Source: League of Nations, *Memorandum on Coal*, 2 vols. (Geneva 1927) vol. ii, p. 6.

The coal deposits of the world are widely dispersed. In the United States, the world's largest producer, coal is commercially mined in twenty-nine states. Great Britain, Germany and Russia have the largest coal resources in Europe, although much coal is found also in France, Poland, Belgium, Czechoslovakia, Holland and Spain. In Asia the important fields are in China, India and Manchuria. New South Wales in Australia and the Transvaal and Natal in Africa have the most important workable supplies on their respective continents.

These coal supplies vary greatly in quality. Commercial classification is based upon the content of fixed carbon, volatile matter and moisture and runs from high grade anthracite containing a very large percent of fixed carbon and little volatile matter and moisture to low grade lignite and peat, which are nothing more

than partially carbonized vegetable matter with a high moisture content. In between come semi-anthracite, closely resembling pure anthracite but with a lower fixed carbon content, semi-bituminous, bituminous, sub-bituminous or "black lignite," lignite or "brown coal" and peat; each with a progressively smaller carbon content and more volatile matter and moisture in the order named.

The great heating power and the smokeless qualities of anthracite make it an ideal household fuel; the bulk of its output is used for domestic purposes. Supplies are relatively limited and are confined in the main to eastern Pennsylvania in the United States, South Wales in Great Britain and the Donetz basin in Russia. The largest known resources are in Asia, but their great distance from markets makes them of no commercial significance for the immediate future.

The bituminous varieties are the steam and metallurgical coals. They furnish the energy of modern industry as well as the coal derivatives so essential to the production of chemicals. From bituminous come tar, pitch, sulphate of ammonia, paraffin hydrocarbons, benzol, toluene and dyestuffs. Bituminous is found in virtually all countries which have any coal resources.

The lignites, until recently little used save in those places where bituminous was too expensive, have in recent years increasingly supplanted bituminous coal. This has been particularly true in Germany, where "brown coal" has become increasingly important in the generation of electricity, the production of nitrates and the manufacture of glass. Lignite comprised about 229,000,000 tons, or 15 percent of the world coal output, in 1929. Huge supplies are scattered throughout the western part of the United States, continental Asia and Europe. It is used largely in the form of briquettes.

The combined workable world reserves of all grades of coal are today something like seven trillion tons. At the present rate of consumption this amount would meet the world's needs for the next 4000 years. This is not to say, however, that the problem of reserves is not one of vital significance. The supply of some varieties, particularly high grade anthracite, is fast being depleted as far as western civilization is concerned, and in some countries many of the better and easily accessible beds of bituminous have been exploited to an extent where further supplies can be secured only at increasing costs per ton. The workable English reserves, for example, at the present rate of output are estimated to last but four or five centuries, and in the United States the better anthracite reserves have already been worked out. To be sure, the resources of Asia have hardly been attacked, but their location is such that they cannot be looked upon as sources of energy supply for the Occident in the calculable future.

TABLE IV

ESTIMATED WORLD COAL RESERVES
(Millions of metric tons)

CONTINENT	TOTAL	ANTHRACITE AND SEMI-ANTHRACITE	BITUMINOUS	SUB-BITUMINOUS AND LIGNITE
Europe	784,190	54,346	693,162	36,682
America	5,105,528	22,542	2,271,080	2,811,906
Asia	1,279,586	407,637	760,098	111,851
Africa	57,839	11,662	45,123	1,054
Oceania	170,410	659	133,481	36,270
Total	7,397,553	496,846	3,902,944	2,997,763

Source: The Coal Resources of the World. An Inquiry Made upon the Initiative of the Executive Committee of the XII International Geological Congress, 3 vols. (Toronto 1913).

Coal is found in more or less horizontal seams of varying lengths and thicknesses at different depths beneath the earth's surface. When seams lie close to the surface, mining consists of removing the overlying surface soil and digging out the coal either by hand or with a steam shovel. This method, known as "open work" or "strip" mining, is practised in very few fields, for the amount of soil overlying most seams is too great to make it profitable. Although common in the Rhineland it is virtually unknown in Great Britain, and in the United States it accounts for only 4 percent of the output.

When coal lies too deep for stripping and where the general contour of the country is hilly, the coal seam may crop out on a hillside. In such cases a horizontal tunnel called a "drift" or "slope" is driven into the side of the hill and the coal brought out through this opening. Such drifts are uncommon in most mining areas outside of the southeastern American coal fields. In level country coal is usually reached by sinking vertical shafts from the surface.

The actual mining may proceed by either a "long wall" or "room and pillar" system or by a combination of both. The former is characterized by digging away the entire seam in the area worked and filling the space from which the coal has been taken by allowing the earth overlying the coal to fall and close in behind the miners as they advance or by packing in such waste rock

as comes down with the coal. "Long wall" mining is almost universally used in Great Britain and other countries and is found here and there in Illinois, Iowa and Colorado.

In the "room and pillar" method, the common method of coal mining in the United States, roads, or "main entries," are driven from the bottom of the shaft into the coal. Other roads called "side entries" are then dug from the "main entries," usually at right angles. From these side entries, in turn, "rooms" are dug out, right and left; the main output of such a mine is the coal dug out in the making of these rooms. Pillars of coal which form walls between the rooms support the ceiling above the coal during mining operations, and after rooms have been worked out as far as is safe and practicable attempts are made to extract the pillars. As a general rule, however, a fairly large percentage of pillars are left untouched with the consequence that the proportion of the coal left unmined in a given working may vary from 8 to 65 percent.

The simplest and cheapest way of getting coal from a seam is by blasting. Mere blasting, however, shatters the coal into many small pieces and fine dust, and since the commercial value of coal is in part dependent upon the proportion of lump which it contains most of the coal mined is "undercut" before it is blasted in order to enable a small blast to break the coal into large lumps. When a very high proportion of large lumps is desired, slits are cut also above the coal seams and in some instances even along the sides.

Undercutting may be done "by hand," i.e. with a pick, or it may be done by machinery. The proportion of machine cut coal has been steadily growing in all parts of the world. In the United States approximately three fourths of the coal mined today is cut by machines, 14 percent is undercut by hand and some 8 percent is "shot off the solid." In Great Britain, where the quality of the coal makes it unnecessary to do much undercutting, machinery undercuts only about 24 percent of the country's output, an amount which is about three times as great as in pre-war days. In certain British mines coal is chopped off the seam with a pick and there is no need even for the use of explosives. In the Ruhr coal fields of Germany the machine cut output is at present over 85 percent of the total, a most extraordinary increase over 1913, when less than 5 percent of the output was produced by machinery. Over 80 percent of the Belgian and about 60 percent of the French output are obtained by machine cutting.

Once the coal is cut from the seam it must be transported to the shaft. For this purpose elaborate underground railway systems are essential. The mule in the United States and the pony in Great Britain were until the beginning of the present century the predominant motive power employed to haul mine cars from the coal face to the shaft bottom. Indeed, in Great Britain the pony is still in many cases the main source of haulage power, although he is fast being supplanted by endless ropes kept in motion by steam, electricity or compressed air. In the United States and in Germany the electric locomotive is generally used to move mine cars. Since 1920 conveyors have been gradually supplementing the underground rail haulage systems. They are particularly adaptable to "long wall" mining and their use is widespread in Germany. In the United Kingdom 12 percent of the coal output is moved by conveyors. The prevalence of "room and pillar" mining in the United States makes the conveyor less adaptable to American mines; slightly over 3 percent of the American production is conveyor handled.

In recent years loading machines which reduce the labor of hand shoveling have also been introduced into the mining industry with the result that it is possible, except for incidental cleaning up, virtually to eliminate the hand shoveling of coal into the mine cars. The use of loading machines is, however, still experimental and they are constantly being changed and improved. In 1929 these machines loaded only between 3 and 4 percent of the American output, but their significance in the industry is great because their number is fast increasing. Indeed, their capacity increased almost tenfold between 1923 and 1929.

The increased mechanization of mining has revolutionized the character of mine labor. It has transformed the miner from a skilled craftsman, working alone or with a "buddy" and wholly or partially responsible for important decisions with regard to choice of sectors for blasting and working, timbering of mines for safety and the like, to a factory hand, working in gangs, on a specialized routine subdivision of the job under the direction of foremen and experts. This change in the character of work to be performed will probably affect the status of the miner and lead to a substitution wherever possible of low paid unskilled labor on time instead of piece basis, to a jeopardizing of licensing

regulations for newcomers in the industry and to a breaking down of traditional working rules and organization. On the other hand, the occupational hazards of the miner will probably be decreased. With mechanization has come a concentration of working area, making possible better control of ventilation and a smaller time period for working each area with a consequent decrease in the possibility of accidents. The substitution of general safety standards, set by specialized experts, for the common sense decisions of the skilled craftsman whose desire for production on a piece basis put him under pressure is another factor making for a decrease in accidents.

The business organization of coal mining is on the whole similar to that of manufacturing and trade. That is, organization varies from private ownership with ruthless competition at the one end to government ownership and operation at the other. Between these extremes a wealth of intermediate forms can be found: selling associations, output and price cartels, mine operations transforming coal at the pit into coke and by-products or electric energy, "captive" mines owned by industries dependent upon coal as an important raw material. The fact that mining involves the ownership of mineral deposits to be extracted has come, however, to exercise a certain modifying influence upon the form of organization which prevails in the industry. While in Anglo-Saxon countries the ownership of mineral deposits has since the time of Elizabeth been vested in the surface owner, on the continent it is vested in the state. It must not be inferred that public ownership led necessarily to government operation: the exploitation of deposits was generally carried on by private enterprise under a government concession, and in the German states from the sixties to the beginning of the twentieth century the right to free prospecting was generally coupled with the grant of a property right in the deposits to their discoverer. In Great Britain and the United States the competitive pattern has been predominant, while on the continent government regulation is more thorough and extensive. In some continental countries, such as Holland and Prussia, a number of coal mines have for some time been operated by the government.

Mining involves an unusually high proportion of fixed capital investment and the unregulated competitive form of organization has not proved particularly suitable to the coal industry. Closing a mine exposes it to the possibilities of caving, floods and other forms of deterioration and may even involve a complete loss of investment. It is frequently cheaper therefore to run a mine at a loss than to shut it down. Nor can capital once invested be easily withdrawn, since a mine cannot be turned to other uses. The common practise in the industry, therefore, is to continue producing at a loss, for owners can for a time more easily cope with small losses from sales at low prices than with the larger losses which might follow the closing down of their operations.

Conditions are made even more chaotic by new mines which are continually coming into operation. The desire to cut fuel costs, for example, leads to the opening of new mines adjacent to the larger consuming centers, irrespective of the surplus capacity already in existence elsewhere. The opening of new railroads into undeveloped coal areas, the possibilities of securing new markets as a result of readjustments in freight rates, the existence of low wage rates for labor in a given locality—all these play their part in bringing new mines into operation or in expanding the underground operating area in mines already in operation.

As long as the demand for coal kept growing at the compound rate of 4 percent a year, as was true during the generation preceding 1920, the product resulting from this planless expansion of capacity was with minor exceptions steadily absorbed. But with the World War the situation was changed. The interference with the free movement of coal stimulated the use of substitutes in some countries and in others it resulted in the maximum development of the existing coal resources. Thus capacity was tremendously increased at a time when forces were developing which were to check the steady growth in demand that had been characteristic of the past. In recent years the coal industry has been suffering from overcapacity throughout the world. It has been plagued almost everywhere with irregularity of production, overmanning and unprofitableness. In Germany the margin of surplus capacity is estimated to be about 25 percent, in the United Kingdom capacity is a third to a fourth larger than output and in Poland and the United States it is almost 50 percent larger.

The difficulties from which the coal industry suffers are particularly evident in Great Britain. In the early years of the industry's history the growing demand for coal brought unending profits to the British mine operators, who were

generally the local aristocracy that owned the land under which coal was mined. In some areas where coal cropped out on the surface or was easily accessible, as in Staffordshire and the Midlands, small capitalists worked the shallow shafts on coal lands leased from owners under a royalty system. Later, leasing became general and funds raised through joint stock companies came into the industry. By and large, however, much of the expansion came through the reinvestment of the profits which came out of the mines, with the result that many of the larger operations today are still dominated by the same families which were active in mining two or three generations ago.

The coal owners of Great Britain have always been highly individualistic. Such formal relations as they have had with each other have been in the nature of organizations for mutual protection against labor unions and social legislation rather than for the coordination of activities in the conduct of their industry. The steady growth of the industry following the constantly increasing demand for its product both at home and abroad gave no occasion for modifying existing practises, and attempts to change managerial or marketing methods have always been opposed as unnecessary. Such matters as difficult natural conditions or inefficient underground haulage were until recently of little concern to the coal owners, for they were concealed by the continually increasing profitableness of the industry. Over a period of thirty years the industry had never had an extended depression. Every drop in output had been followed within a year by a recovery which outran the highest production of preceding years, while the margin between costs and market value steadily grew. From the mines of Great Britain at the outbreak of the World War came some $65,000,000 a year in the form of profits and approximately $30,000,000 a year in royalties. From these mines also came the livelihood of 1,118,000 miners and their families—almost 10 percent of Great Britain's population—a livelihood, incidentally, which was substantially higher than that of other wage earners in the country.

The product of the British mining industry has always been distributed by middlemen, for the coal owners have held distribution to be beyond their province. Although a considerable amount of coal is sold by the mines directly to the consumer, more than one half of the output frequently goes through three or four hands before it reaches its final destination. Some 2000 wholesalers or factors purchase the product from the mines and then resell it either to large consumers or to the 27,000 retailers. Occasionally the retailers resell to each other or to hawkers who vend on the streets a fairly considerable portion of the coal used for domestic heating in some of the larger cities. Foreign sales are in the hands of exporters who maintain their own sales agencies at the various ports and frequently at certain continental purchasing centers. They are in the main brokers whose function it is to place prospective purchasers in contact with mines, arrange for shipping, financing, etc. In most cases they do not confine their attention to the exploitation of coal alone, the majority being interested also in the coastwise coal business, shipping, brokering, lumbering and other activities.

The disadvantages arising from the complete separation of the marketing and mining activities of the industry have long been the subject of criticism. The small mines are frequently at the mercy of the coal merchant, who controls mine prices by setting mine against mine in a system of price cutting competition. During 1927 and 1928 some attempt was made to remedy the marketing situation by the formation of district selling associations. Some of these undertook to regulate the amount of coal sold by their members in the home market, with the idea of raising domestic prices, and others to regulate the output of the member mines and to subsidize the export trade with the proceeds of a tax levied on all coal produced. Still others were associations which merely fixed minimum prices. Thus far these schemes have not proved very effective. None of them includes all of the producers in their respective districts, and independent mine owners are always free to upset the calculations of the marketing organization. The schemes, moreover, are local in character; they cover only certain districts and make no provision for the elimination of interdistrict competition. That some sort of coordinated scheme may soon come into existence is evidenced by the interest of the present British government in the problem of coal marketing and its intimation that, if necessary, the establishment of marketing organizations may even be made compulsory. Once some sort of agreement among all the mine owners is attained, a national selling organization may become possible, at least for the export trade, and may extend eventually to the domestic market.

The history of labor in the British coal industry has been most checkered. At times the

industry has presented a picture of callousness and brutality unequaled anywhere in modern times. The employment of women and children as beasts of burden underground, a system of indenture, a fourteen-hour day, all have prevailed at one time or another in the British mines. The elimination of these conditions has come only after years of battle on the part of the miners, and such improvements as have been attained have usually been incorporated into the routine of the mine by way of parliamentary statutes. Indeed, the first of the working class members to be sent to the House of Commons were miners' leaders.

Although organization has prevailed among the miners for several generations it was until 1908 primarily local in character. Not until that year was complete national unity in the form of a federation of the district unions achieved, a unity which culminated in the attainment of the passage of a minimum wage act in 1912. Throughout the greater part of their existence the miners' unions have been advocates of the nationalization of their industry, a creed which has been an integral part of their program and which was deemed of sufficient importance in 1919 to justify their attempting the organization of a general strike for its realization. It is today more than ever before to the Miners' Federation of Great Britain the sine qua non of an efficient and prosperous mining industry.

The belief in the efficacy of nationalization has been made particularly firm by the distressed state of the mining industry throughout the decade following the war. During that period the development of many mining areas abroad, the growing substitution of fuel oil and hydro-electricity and the active competition for export markets by countries which in the past were themselves consumers of British fuels have all cut into Great Britain's ability to sell coal for export. In the home market the increasing efficiency in the field of coal utilization and the decline in iron and steel production have seriously curtailed sales. Annual production during the decade, despite several world fuel shortages in the interim, did not come within 10,000,000 tons of the output of 1913 and has consistently run from 11,000,000 to 50,000,000 long tons below the 287,000,000 ton production of that year. At the same time there has been a fall in coal prices, and despite the fact that costs have been lowered by increasing the length of the miner's working day and by curtailing the number of workers on the industry's pay roll to the extent of 200,000 few of the mines have been able to operate on a profitable basis.

In 1921 the entire economic structure of Great Britain was shaken by the "most serious stoppage in British industry"—a three months' strike waged by the miners to protect the prevailing wage level. In 1926 Great Britain was for a short period in the throes of a revolution waged by organized labor in the form of a general strike called to assist the miners in their fight against a wage reduction, an increase in working hours and the denial of their rights to negotiate wage agreements on a national basis. Neither of these struggles was of much avail against the determined refusal of the mine owners to readjust their industry to changed circumstances, an action which was essential to maintaining the gains for which these battles were fought. The miners were left impotent and are unable to bring about the realization of any far reaching changes. Without legislative compulsion there appears to be little hope of bringing to pass those radical changes which might put the British coal industry into a position of such moderate prosperity as might make possible a return to the conditions of work and wages which the British miner formerly enjoyed.

Coal mining has for several generations been better organized in Germany than in other countries. In the early days the mines were the property of the royal or noble families. Later, under Frederick the Great, the industry was fostered by the granting of mine concessions and certain tax exemptions. In 1780 the Prussian government undertook to regulate coal mining within its borders by fixing prices, providing for the installation of equipment and generally improving productive conditions. With the development of the railroads after 1850 the growing demand for iron products became reflected in the demand for coal and thus stimulated production. The railroads also made available new markets in districts to which coal had never before been shipped. Thereafter the mining industry experienced a rapid growth, surpassing in its rate even that of Great Britain.

The fine coking qualities and high volatile content of the Ruhr coals provided the basis for a great iron and steel center in that area. Originally the metallurgical producers were dependent upon the coal owners for their fuel supplies and the iron merchants were to a considerable extent at the mercy of the coal industry. The production and sale of coke were under control as far back as 1882 and prices

were more or less rigidly fixed. To free themselves from this control the metallurgical producers began in the eighties to acquire mines of their own and thus to furnish their own fuel requirements.

Overexpansion and falling prices during the seventies led to an organized attempt to eliminate competition in the German coal export trade, and in 1877 the Westphalian Coal Export Association was formed. Although it accomplished little more than to secure some orders for coal from the German navy and obtain lower freight rates for its product from the state railways it was the forerunner of organized control in marketing. In 1878 the National Mining Association made the first of the numerous attempts to control, through production agreements, the output of the entire Westphalian coal area, but due largely to the looseness of its agreements and the many reservations and exceptions contained therein it was not very successful in accomplishing its ends. In the next decade the Coke Association, created at first to regulate the price of coke produced in the Dortmund mining district, soon developed into a selling syndicate with the exclusive right to sell the coke and coal produced by its membership. And in 1893 came the first Rhenish-Westphalian Coal Syndicate, which in a sense was the precursor of the marketing organization prevailing in the German coal industry today.

The purpose of the Rhenish-Westphalian syndicate was to control the coal market by the elimination of competition between the Ruhr producers. Control was exercised through a selling organization to which all members of the syndicate delivered their allotted outputs at an arranged price. The product was in turn sold through a single sales agency and profits distributed in accordance with respective outputs. In disposing of the product the syndicate maintained two price policies. One was for territories where it did not have to meet the competition of fuel from other coal fields and where accordingly rigid prices provided an assured remunerative return. In other markets prices were freely cut and the syndicate used any means at its command to combat competition. To insure adherence to the terms of the syndicate's agreement, particularly to those clauses which fixed the size of the output of the respective members, fines and penalties were imposed for violations.

The syndicate agreement, which was to expire in 1903, was renewed with considerable modification and remained in force until 1916. The syndicate succeeded in raising prices, in some cases to unwarranted heights, despite the fact that it was held in check by the Prussian fisc, which sold a part of the output of its Ruhr mines in competition with the syndicate. The syndicate policy led also to the purchase by larger coal operators of small mines in order to profit by the quotas allotted to the latter, to the acquisition of coal mines by iron and steel companies and to a considerable increase in the output of independent mines. It was anticipated that the conflicting interests of these groups would prevent the renewal of the agreement, a contingency which was not welcomed even by the government because the syndicate had succeeded in stabilizing the industry and regularizing the employment of miners. In July, 1915, the federal government therefore promulgated a decree enabling the states to make coal syndicates compulsory unless agreements covering no less than 97 percent of the output be established voluntarily; under this threat the syndicate agreement was renewed. With the growing acuteness of the coal shortage particularly detrimental to the interests of small consumers the government created in 1917 an official machinery for rationing the distribution of coal which reduced the syndicate and the middlemen to the position of government agents.

The Treaty of Versailles left the German coal industry in a highly disorganized state. Germany lost the Saar district, a large part of the coal in the Aix-la-Chapelle field and after 1922 about nine tenths of the coal reserves of Upper Silesia, a total of more than one fourth of her pre-war reserves. In addition she was compelled to deliver to the Allies as reparations some 40,000,000 tons of coal per annum, a requirement which she never entirely fulfilled. She did, however, deliver between 15,000,000 and 18,000,000 tons annually until 1923, when she was declared in default and French and Belgian troops temporarily took possession of the Ruhr. For eight months the economic life of the Ruhr was at a standstill and coal production fell from the 1922 monthly average of 8,000,000 tons to an average of 2,000,000 tons. The necessity of meeting reparation requirements as well as the requirements of the home market and the additional need of regaining foreign markets to pay for imports, coupled with the fact that the German coal resources were reduced, made it essential that radical measures be adopted for the reorganization of the industry.

Important steps were taken as early as 1919,

when the attempted socialization of the coal industry resulted in the creation of an apparatus for a radical reorganization of the fuel economy of the republic. In accordance with the law of that year the coal mines of Germany are grouped into ten compulsory coal syndicates and one coke syndicate, which are modeled closely after the Rhenish-Westphalian syndicate. Together with the states operating mines these syndicates form the Reichskohlenverband, which fixes production quotas for its members and maximum prices for their products. Over and above the Verband is the Reichskohlenrat, whose membership includes the representatives not only of mine owners and miners but also of shipping, transport and other important coal consuming industries. Its function is to formulate general policies for the industry and to supervise the activity of the Verband to the extent of vetoing its decisions by making representations to the minister of national economy, in whom final control is vested. While later developments reduced the importance of these organizations for the industry, the ability of the government to intervene at any time through the agency of the compulsory syndicates is a stabilizing factor in the situation.

Since the marketing machinery had been provided for by earlier legislation, the main attack after 1924 has had to be made on the organization and technique of the production sector of the industry. Domestic requirements, particularly those of power plants, were met to a large extent by the increased use of lignite, the production of which has grown from 85,000 tons in 1913 to 175,000,000 tons in 1929. In the bituminous branch of the industry, where the loss of resources was most acutely felt, concerted action brought about a complete overhauling. As a result the output of coal mines which Germany retained after the war was raised from 141,000,000 tons in 1913 to 163,000,000 tons in 1929. By 1925 she had regained 22,000,000 of the 35,000,000 tons she exported before the war, and through the aid of the British coal strike her sales abroad (excluding reparations) in 1926 almost equaled the banner year 1913. In 1929 she exported 28,000,000 tons.

"Rationalization" has been the watchword of the day. Amalgamations and the purchase of quota allotments have led to the closing of surplus and high cost mines, and production has been concentrated in low cost operations. In the Ruhr, where normally 80 percent of the bituminous coal and 95 percent of the coke of the country is produced, 77 undertakings normally employing 60,000 workers were shut down in a single year. The number of operating companies in that area is now less than 70. This relatively small number of companies with 175 mines produced 152,000,000 tons in 1929, a significant achievement when compared with the British coal industry, where 1400 companies with 2100 mines produced 240,000,000 tons.

Next came the reequipment of the mines. Wherever possible mechanical energy was substituted for human labor. Within a few years the energy used in running mining machines rose from 4 to 15 horse power per hundred workers and that used in operating such hand implements as compressed air picks grew from 8.5 to 42.5 horse power per hundred miners. Conveyors came to be almost universally used at the coal face and electric and compressed air locomotives entirely supplanted the mine pony on the haulage systems. Automatic equipment for handling coal cars at the shaft and improved cleaning, grading and washing machinery, which increased the efficiency of the labor employed on the surface from 50 to 70 percent, were generally installed. In fact, every detail of coal production even to the equipment of repair shops was modernized.

Coal utilization was also modernized. Mines became "coal using factories" and the production of coke, by-products and power became an integral part of mining. Between 1925 and 1928 the installation of new coke ovens increased the production of coke in some plants by almost 100 percent, without any increase in labor forces. Markets were sought for by-product gas, and long distance pipe lines now extend for hundreds of miles from the coke ovens to the consuming centers of Westphalia and the Rhineland.

Lower production costs, achieved mainly as a result of technical improvements, involved also sacrifices on the part of mine labor despite the fact that it is strongly organized. Since the early nineties there have existed in the coal industry two trade unions operating on a national scale, the "free," or Social Democratic, and the Christian. In the early post-war years Communist unions secured considerable power and the free union reached a peak membership of 467,000, far outnumbering the second strongest group, the Christian unions, which had a membership of 155,000. Even after the period of rationalization, when labor forces were considerably reduced, the membership of the free union remained at 285,000, a figure which com-

pares favorably with the 104,000 membership of 1913. Moreover, the miners have been well represented on the coal syndicates and in the Reichskohlenrat. Nevertheless, labor was forced to rescind the gains made in the revolutionary period in the length of the work day of surface workers and to consent to a wage scale which is below that of Great Britain, even when allowance is made for the differences in the cost of living and such supplements to wages in Germany as the services provided by social insurrance and municipal agencies.

European coal fields outside of Germany and Great Britain have until recently been of limited significance. France is the largest of these continental producers, with an output (including Alsace Lorraine) of approximately 52,000,000 tons. The bulk of this output has come from the mines of Nord and Pas de Calais, which have furnished about two thirds, and the balance from the mines of central and southern France. During the World War the mines of Nord and Pas de Calais were destroyed, and at the termination of hostilities their output was but 12 percent of the pre-war average. In reconstructing this area the mines were completely rebuilt and modernized and they now turn out over 20 percent more coal than before the war. Mechanical equipment has been installed and more than 60 percent of their output is machine mined. Particular attention has been given to electrical generation at the mines, and surplus power is sold as far away as Calais, a distance of fifty miles. The entire output of this district, both the coal coke and by-products, is marketed by a central selling agency. There is also a common organization of mine owners for the purchase of mine timber. The other mining districts have organizations for the study of markets, and despite the absence of a formal selling syndicate for the entire industry there is sufficient cooperation between the various districts to make possible a large degree of price stability.

Before the war more than one third of the coal used in France was imported; almost 20 percent came from British sources. In the past ten years French coal consumption has increased substantially despite the fact that hydro-electrical developments generate enough power to supplant between 12,000,000 and 18,000,000 tons of coal. France has drawn on reparation coal from Germany and on annexed coal resources in Lorraine. Yet she has not been freed from dependence upon foreign countries for the coking coal used in her blast furnaces. Indeed, owing to the fact that the returned provinces consume nearly three times as much coal and coke as they produce, she is more dependent than before upon foreign sources. Nor can the Saar, which is under French control, furnish the necessary requirements. For Saar coal has poor coking qualities and the general region itself consumes whatever coke it produces.

Poland, with an output of 46,000,000 tons in 1929, is the fourth largest coal producer in Europe. During the first seven years after the war her industry was in a depressed condition and despite the acquisition from Germany of the coal resources of Upper Silesia her production was consistently below that of pre-war years. As elsewhere the tie up in the British coal fields in 1926 gave a fillip to Polish production and in 1928 the volume of her output attained its earlier high level, while in 1929 she surpassed it by 6,000,000 tons. This growth was mostly due to a large increase in her exports. Foreign sales of coal comprise in value over 13 percent of the total of all goods sold abroad, a percentage more than twice that of any other coal exporting country. The Polish government regards the development of its coal industry as a national necessity, and exports, particularly to Scandinavian and Baltic markets, are subsidized by the remission of coal taxes, railway rebates and fixed remunerative prices on the home market, a policy which has seriously curtailed British exports to northwestern Europe. The marketing is controlled by a central organization which regulates the rail deliveries of coal both within the country and to certain foreign destinations, fixes prices and imposes fines upon those mines which fail to observe formulated regulations.

Although small in area Belgium is the fifth largest producer of coal in Europe. Before the war her annual output averaged approximately 23,000,000 tons and her internal consumption amounted to 24,000,000 tons. Since the quality of her own coal is such as to make it of no value to her largest coal consumer, the iron and steel industry, Belgium exported about one third of her output and imported an equal quantity of coking coal. Good coking coal has been recently found in the Campine coal fields in northern Belgium and developments of new mines with large capacities are making the Belgian metallurgical industries less dependent upon foreign sources. Production did not greatly increase in the post-war decade and output has never surpassed 27,500,000 tons, the production for 1927. Consumption, due to the expansion of the iron

and steel industry, has about doubled since the war. The difference has been made up by reparation coal, purchases from Great Britain, Holland and France and private purchases from Germany.

The technical equipment of Belgian mines has been greatly improved in the recent past; 81 percent of the output is machine cut and the production per man has been increased by nearly 10 percent in the southern coal fields, from which the bulk of the output comes. Privately owned royalties were abolished in 1928 and other methods for reducing costs have been inaugurated by the government in the form of low mine taxes, controlled imports and reduced freight rates on long haul shipments. In 1929 a central coal selling agency was created for marketing the Belgian product.

Considered from the point of view of relative growth the Dutch mining industry presents the most spectacular picture in Europe. Early in the twentieth century Holland launched a program of mine development through state operation in order to escape the domination of private concessions by foreign capital. Since then the industry has steadily increased its production at a rate unsurpassed on the continent. In terms of coal requirements the country is now virtually self-sufficient, while before the war the Dutch market was largely supplied by competing German and English producers. An appreciable amount of the special quality coal is still imported, but it is offset in considerable part by the export of other qualities.

The new state mines, which produce over 70 percent of the country's output, are among the largest and most modern in Europe. Some have been exploited for a short time only and their output will be considerably increased in the near future. Special preference, varying from 10 to 25 percent of the normal freight rates, is given to coal originating in the Limburg district, where state mines are located. Two thirds of the country's output is sold through a single marketing agency and the balance distributed by independent dealers.

Russia's coal resources are the largest in Europe and her fields are the potential source of a tremendous production. Russian mines supplied approximately three fourths of the domestic needs before the war. During the war and particularly in the years 1918–21 the output fell catastrophically, amounting in 1921 to less than one third of the normal. The Soviet government, which operates the mines as well as the other important industries, had a difficult struggle in its reconstruction work, the principal difficulties being the dispersal of labor and of the technical force and the dilapidated condition of mine equipment. While considerable quantities of timber and oil are used as fuel, Russian industry is largely dependent upon coal from the Donetz basin. As a result of tremendous efforts on the part of the government new equipment is being increasingly installed in the mines of that region, so that 23 percent of the Donetz output by 1928 was machine mined as compared with the pre-war figure of 1 percent. Considerable quantities of lignite are being mined in other parts of Russia and used at the pit in the generation of electrical power, which is looked upon as a basic factor in the success of the Soviet economic system. Although until 1930 coal production in the country as a whole did not keep pace with the output program set for the industry, because considerable difficulty had been experienced in securing an efficient and stable labor supply, it is steadily growing and has already attained a level of some 34,000,000 tons, which is 5,000,000 tons more than the output of 1913 in the areas now retained by Russia. A limited export trade in coal has also been developed; the major portion of the foreign shipments go to Italy. Some anthracite has been shipped even to the United States, where complaints have been voiced about the dumping policy of the Soviet government.

The decided movement in the less important coal producing countries of Europe toward supplying as far as possible their own fuel and power requirements has brought about an appreciable growth in the productive capacity of the continent. Although these countries are still dependent upon outside sources for their supplies of special types of coal, their purchases abroad have fallen appreciably. Outside of Europe there has also been a decided expansion in coal output, and Pacific markets, largely supplied by Europe in the past, are receiving increasing quantities of coal from nearby sources. The result has been a contraction in the foreign sales of Great Britain and Germany, where the successful operation of a large portion of the mining industry has been dependent upon them. It is likely that many of these war and post-war changes in the distribution of production will remain permanent and, if Russia succeeds in her coal expansion program, will even be intensified. Should this prove true, the coal industry of Europe is destined to remain in a disorganized

condition for many years, and countries like Great Britain will have to continue operating on a restricted scale, at least until such time as their domestic consumption becomes equal to the unused capacity of their mines.

On the continent of Asia coal production is still in its infancy, the total Asiatic output constituting only about 6 percent of the world's production. Of the three principal coal producers in Asia, China, India and Japan, China is richest in resources. The Chinese anthracite reserves are the greatest in the world, but her anthracite output is used merely for household heating in the larger cities. In recent years it has been gaining a foothold in the transportation markets, and river shipping is beginning to consume anthracite for steam raising. Mining is concentrated in the hands of a relatively small number of large operators, one company in northern Honan mining about 5 percent of the country's total output. Bituminous coal is used in China exclusively for the production of power, and this coal is mined only at points adjacent to railroads. Here too large producers dominate and as much as 4,500,000 tons are produced annually in the operations of a single organization. The total output of the country averages about 20,000,000 tons, or 7,000,000 more than in 1913. Exports average around 3,000,000 tons, but these are offset by imports about equal in size to sections of the country inaccessible to the domestic product.

Coal has been used in Japan for centuries, but prior to the opening of the country to the culture of the Occident it played no part in the economic life of the country. The last quarter of the nineteenth century witnessed a great growth in the use of coal, so that at the outbreak of the World War over 21,000,000 tons were coming from the mines of Japan and about 4,000,000 tons were being exported abroad. The growth in the industrial output of the country and the difficulties experienced in securing foreign fuel supplies stimulated coal production during and immediately after the war. The increase in output averaged over a million tons a year. Like all other mineral resources coal is reserved to the state in Japan and mining is in the hands of private companies who operate under a government lease.

The Indian output has remained more or less static during the past decade and equals about 22,500,000 tons, or about 6,000,000 tons more than before the war. It is consumed primarily by the manufacturing and railroad industries and a considerable amount is sold for ship bunkers. Export and bunker sales comprise over one seventh of the total output.

The coal fields of the United States contain every known variety of coal. As has been said above, anthracite is confined to an area of less than five hundred square miles in northeastern Pennsylvania. The major bituminous areas are the Appalachian region extending from northern Pennsylvania into Alabama and the eastern interior region comprising Illinois, Indiana, Ohio and western Kentucky. These regions have a well nigh inexhaustible supply of high grade coal and together produce about 90 percent of the coal mined in the country. The balance comes from coal beds scattered over the middle western states, Texas, the Rocky Mountain area and the northern plains, the latter containing large deposits of lignite.

Due to the difference in the geological make up and the use made of their products anthracite and bituminous mining must be considered as distinct industries. Anthracite is used primarily as a domestic fuel, although some 30 percent of the output competes with bituminous on the industrial market. Because household consumption is less affected by industrial variation and because the historical development of the industry was less disorderly and anarchic, anthracite production is more stable than bituminous. In the early days of the industry railroads were built as adjuncts to anthracite mining and since then there has remained a close relationship between the transportation agencies and the mining companies. Indeed, at one time the railroads mined some 73 percent of the tonnage produced and controlled over 90 percent of the available reserves. In 1920 there were 174 producers owning 374 producing units in the anthracite industry; 13 of these producers contributed 79 percent of the total output. This centralized ownership made possible more rational development as well as a more effectively controlled output than has ever been possible in bituminous mining.

With the exception of abnormal years of labor difficulty the output of anthracite remained almost stationary from 1913 to 1926. Since then there has been a decline in consumption. Production failed to equal the average of other years, and from 1927 to 1929 the output for each year was progressively smaller. The 1929 output of about 75,000,000 tons was the smallest on

record for any year free of labor disturbances over a long period.

The cause for this decline is to be found in the substitution of fuel oil and manufactured gas in the heating of households. In 1928, for example, 60 percent more fuel oil was consumed in household heating than in 1926. Fuel oil has also made inroads into coal consumption in the heating of other types of buildings. Much of this substitution has been caused by the greater convenience in the use of fuel oil. Some portion of the change, however, is to be attributed to the desire of the household owner for an assured fuel supply, something which has not always been possible for anthracite consumers. Twice within the past decade the anthracite supply has been curtailed by labor disturbances, and although during periods immediately following it has appeared that the industry has regained the majority of its customers an appreciable portion was never recovered. To counteract this decline in anthracite consumption organized efforts have been recently made for careful cleaning and sizing of coal, and the industry has made available engineering forces for training retail dealers in the fundamentals of combustion. Indeed, it has gone so far as to serve anthracite consumers directly in solving their heating problem.

The anthracite industry employed in 1929 154,000 men, a decline of 9 percent since 1926. The anthracite miners are virtually all members of the United Mine Workers of America and constitute the only large group in the American coal industry which has retained its solidarity. The beginning of their organization was laid in the anthracite strike of 1902, which was largely financed by the bituminous miners. For a decade thereafter the anthracite locals were still weak and unable to hold their membership. The award of the Anthracite Coal Commission in 1903 failed to provide for a closed shop, and the arbitration machinery set up on the basis of the commission's decision was not satisfactory to the miners. Even after 1912 the demands for a closed shop and for a change in the arbitration machinery persisted and were important factors in the prolonged strikes of 1922 and 1925, the latter of which was terminated by a five-year agreement. Recognizing the need for steady production if the industry is to retain its markets the miners negotiated in 1930 a new wage agreement covering a period of five and one half years; at this time their demand for a closed shop was finally granted in the form of the check off system of collecting union dues.

The American bituminous coal industry has been described as the worst functioning industry in the United States. Although its rated annual capacity has been as high as 970,000,000 tons and the maximum attained output 579,000,000 tons (1918), there have, nevertheless, been four occasions since 1917 when threats of a coal shortage have been so menacing as to cause the federal government to undertake the rationing of the supply. The immediate causes of these shortages have been labor disturbances and railroad car shortages. These, however, have been but the surface evidences of more important forces. The real causes lie in the organization of the industry, the character of our bituminous resources, our legal concepts of property rights in natural resources and our blind insistence on competition irrespective of its results.

TABLE V

PRODUCTION AND CAPACITY OF BITUMINOUS COAL MINES IN THE UNITED STATES, 1913–1929

(Millions of net tons)

YEAR	PRODUCTION	CALCULATED CAPACITY *
1913	478	635
1914	423	668
1915	443	672
1916	503	673
1917	552	699
1918	579	717
1919	466	736
1920	569	796
1921	416	860
1922	422	916
1923	565	970
1924	484	871
1925	520	822
1926	573	821
1927	518	835
1928	501	760
1929	535	760

* Estimated on the basis of 308 working days.
Source: United States, Bureau of Mines, *Coal* for 1928 and *Weekly Coal Report*, no. 691.

The demand for coal is seasonal, and since coal cannot be economically stored at the mine the industry works spasmodically. For over a generation the capital invested and the labor employed in bituminous mining have been idle on the average 93 working days in every calendar year. Moreover, the industry's capacity and labor force have always been larger than any immediate needs would justify. Competition for coal traffic has led the railroads to open new fields to be exploited, and strikes and high wage rates in union fields have encouraged the

opening of new mines in districts where labor is not organized. The desire to be assured of a cheap supply of fuel has led many railroads and large industries to open their own mines, thereby further swelling existing capacity. These "captive" mines produce as much as one fifth of the country's output. A system of mine rating which compels a railroad serving a coal field to put in a siding and supply coal cars for every new operation still further aggravates the situation, for the opening of new mines has meant that the available supply of cars has had to be distributed among a larger number of operations. In times past this has frequently meant that in periods of great activity, when there have not been sufficient cars available to meet the total requirements of the coal fields, the newer operations have secured cars at the expense of the old and irregularity of operation has thereby further increased. Finally, capacity has been increased by the increasing use of mechanical devices in the coal mines. Coal cutters, conveyors and loaders, used in conjunction with more efficient mine layout and underground transportation systems, have increased both capacity and output without at the same time increasing the number of operations in existence.

All of these forces have led to a situation where in a single year, 1920, there were approximately 15,000 bituminous mines operating in the United States. Of these almost 4500 were so-called wagon mines with a total annual output of 4,500,000 tons, and 1440 were local workings with an average production of less than 300 tons each for the year. These 6000 mines together produced less than 1 percent of the total output of the country. The remainder of the coal, 563,000,000 tons, was produced by 6277 operators working 8921 so-called commercial mines having direct facilities for loading their output into railroad cars. The latter varied in size from operations totaling only 2000 tons a year to others with an annual output of 5,000,000 tons or over. The bulk of the production, approximately 500,000,000 tons, came from the larger units, 4147 in number, with an average annual output of over 50,000 tons. Of these, 1732 mines, or 11.7 percent of the total number of mines, turned out two thirds of the total coal produced.

The post-war decade witnessed a radical decline in the American production of bituminous coal. Output has never equaled the maximum of 579,000,000 tons attained in 1918, and in only one year, 1926, when the world was cut off from British supplies by the miners' strike, has the industry come within close distance of that figure. Had the rate of growth experienced before the World War continued, the production in 1927 would have been some 680,000,000 tons. The actual output in that year was only about 518,000,000 tons.

The failure of production to regain its former heights, despite the steady growth in the industrial output of the United States and an increase in energy consumption of about 17 percent, can be explained by several factors. The first has been a growth in the use of oil, gas and hydro-electric power as sources of energy. The second has been the great improvement in the efficiency of fuel utilization. Finally, there has been a slight decline in exports.

In terms of heating value bituminous coal furnished 52.6 percent of the energy consumed in the United States in 1929 as compared with 66.0 percent in 1920. The proportion of energy supplied by oil, on the other hand, grew from 15.0 percent to 24.6 percent, and by natural gas from 3.8 percent to 7.6 percent. The contribution of water power to our energy consumption increased during the same period from 5.0 to 7.9 percent.

In the field of fuel utilization the consumption of coal per unit of work performed has radically declined. Between 1919 and 1928 the railroad industry, which absorbs about 24 percent of the bituminous supply, cut its consumption per thousand gross ton miles of freight service by 25.3 percent. The consumption of electric power plants per kilowatt hour fell by 45 percent, and in the iron and steel industry the consumption of coal in making a ton of pig iron declined by 14.6 percent. In the general manufacturing industries a similar tendency has prevailed: the total coal consumption between 1909 and 1923 increased by 30 percent, while the output of manufactured goods grew by 64 percent.

The falling off in coal consumption during the ten years ending with 1930 was reflected in a rather marked change in the size and organization of the bituminous mining industry. The number of mines in the industry was radically cut and 1928 saw 6450 commercial mines in operation, a number which was 2881, or 30 percent, less than that in 1923. With this change came also a shift in the number and importance of the larger mines supplying the country's needs. The number of mines producing over 200,000 tons per year increased from 748 to 773, and their production, which comprised 47.2 percent of the country's output in 1923, grew to

60.7 percent in 1928. The shrinkage in numbers and output was confined mostly to mines with an output of from 10,000 to 100,000 tons. Concurrently came a sharp drop in the employment of workers, whose number declined by 26 percent as compared with a contraction in output of about 12 percent in the same period. This difference is to be accounted for by the growth in the number of larger mines, which, in effect, has meant the discharge of the entire working force in abandoned mines and the shift of part of their output to larger operations, a shift which necessitated the employment of but few additional workers by the latter. It is to be explained in part also by the development of mechanization in the mining of coal, as evidenced by the growth in machine cutting from 66.9 percent of the total in 1923 to 73.8 percent in 1928. The effects of both these sets of forces are revealed in the production per worker, which at 4.73 tons per day in 1928 set a maximum record for the industry.

TABLE VI

DAILY OUTPUT PER WORKER IN BITUMINOUS MINES, UNITED STATES, 1920–1928

(Net tons)

YEAR	OUTPUT
1920	4.00
1921	4.20
1922	4.28
1923	4.47
1924	4.56
1925	4.52
1926	4.50
1927	4.55
1928	4.73

Source: United States, Bureau of Mines, *Coal* for 1928.

Bituminous coal reaches the market through various channels, of which the most direct are sales from the mine to industrial consumers and retailers without the intervention of an intermediary. The smaller mines, however, cannot maintain sales agencies and they must seek an outlet for their product through wholesalers or jobbers. These dealers either buy the product of the mine outright or act as agents for producers on a commission basis. They rarely if ever actually handle the coal they sell. The larger portion of the mine sales to consumers and intermediaries is made on contract covering deliveries for six months or more, and over 70 percent of the tonnage is disposed of in this fashion. Almost one half the tonnage handled by independent sales agencies is purchased under long time contracts. Sales of this sort have a tendency to make more regular the operations of the industry, and diversion from this practise tends to increase new mine development and irregularity. Contract sales also make for a steadiness in price. Indeed, in times of runaway markets it is the "spot" portion of the output, i.e. such coal as is not subject to contract, which furnishes abnormal profits to the operator and the wholesaler.

TABLE VII

CONSUMPTION OF BITUMINOUS COAL IN THE UNITED STATES BY USERS

USERS	PERCENTAGE
Railroads	27.7
Coke ovens	16.0
Electric utilities	7.7
Steelworks	5.4
General manufacturing	19.5
Gas works	1.0
Mining and quarrying	1.9
Bunkers	1.5
Domestic heating and other uses	19.3

Source: United States, Bureau of Mines, *Coal* for 1927.

Little of the bituminous coal produced in the United States is exported abroad. In the abnormal years 1920 and 1926, when Great Britain was unable to meet the requirements of her customers, exports from the United States exceeded 35,000,000 tons and were about twice the average. Even this amount, however, was but 6 percent of our production as compared with over 20 percent which Great Britain exports even in years of depression. In normal years American bituminous exports run under 20,000,000 tons, and the average since 1924 has been about 16,000,000 tons. Most of this tonnage goes to Canada and only one fourth is distributed to other parts of the world. Brazil, Cuba and Italy represent the only other countries which use any appreciable quantities of American bituminous coal, and the demand from some of these markets is steadily shrinking. By and large, seaborne exports of bituminous are uncertain, fluctuating and speculative. Sales to Canada, on the other hand, are of long standing and have steadily remained around 13,000,000 tons.

Organized labor has played a most dramatic part in the history and growth of the industry. Bituminous mining has witnessed some of the most intense and spectacular struggles ever waged in America, and some of the coal fields have been the scene of actual civil war. Organization among the workers dates back to the

middle of the nineteenth century; the first national organization of any significance was formed in 1885. In the last quarter of the nineteenth century intermittent employment, low wage scales and unsatisfactory working conditions prevailed throughout the coal fields. This period was marked by the development of many new coal fields as well as by the expansion of railroad facilities, and markets which had previously been sectional were for the first time made available to producers from distant mining areas. Competition, already severe, was further intensified, and labor was made to bear the burden of falling prices by wage cuts. Labor conditions were further aggravated by conditions in the isolated mining towns, where compulsory purchases at company owned stores, the payment of wages in scrip and long hours gave occasion for justified dissatisfaction. Cases are on record, for example, of mining companies which offset part of their losses by profits made from the sale of necessities to the labor force at company stores. Others recouped their losses by short weighing the output of the miners, refusing to pay for certain work ancillary to the actual mining of coal and by abnormal deductions from miners' wages for coal which contained dirt and other impurities.

In 1897 the United Mine Workers of America, which has since come to be the dominant labor organization in the industry, called a strike in the eastern coal fields. While its membership did not exceed ten thousand, 150,000 miners in virtually all of the major fields laid down their tools and within a short time the greater part of the industry came to a standstill. From this strike there resulted an interstate joint conference of the miners and operators of the four main coal producing states, Illinois, Indiana, Ohio and western Pennsylvania, which are known as the Central Competitive Field. This joint conference fixed wage rates and working conditions for certain basic points in each of the four states. These were fixed with the purpose of protecting the competitive position of operators in each district. For specific mining sections within each district further adjustments were made in relation to the basic rates and working conditions, allowance being made for distance from markets, differences in geological conditions, quality of the coal and other factors which enter into the cost of mining and the competitive position of the operator in the market. Changes made in basic rates were also reflected in the rates paid in other organized mining districts lying outside of the Central Competitive Field. Interstate joint conferences were held more or less regularly from 1898 to 1927, when the refusal of some of the former participants to negotiate a new agreement with the union led to the virtual abandonment of the Central Competitive Field as the basic unit of wage determination.

Since 1927 the effectiveness of the United Mine Workers of America has been steadily declining. The reasons lie in the existence of non-union fields centering in West Virginia, eastern Kentucky, Alabama, Tennessee and certain sections of Pennsylvania. Operators in these fields have consistently refused to become parties to a joint agreement with the union and have claimed that their natural competitive advantages would be lost through such action. They have sought with every device known to labor warfare to keep organized labor out of their domain and have been singularly successful. The absence of union interference has left the non-union operators free to fix for themselves the wage scale paid to their employees. Each mine makes its own wage scale and individual bargaining prevails. In many mines there are not even standard rates for a given class of work and each laborer makes his own bargain with his employer, the miner's wage being in large part determined by his bargaining ability.

The high quality of the coal in many of the non-union districts and the easier access to the coal seams has always given them an advantage over the union districts. The existence of uncontrolled wage determination gives them a further advantage, particularly in times of slack demand and limited employment, when by manipulating wage rates production costs can be adjusted to meet varying market conditions.

Unable to meet the competition of non-union mines a large number of operators in the organized fields have regularly and repeatedly demanded from the union a readjustment of their wage scales. The union, recognizing the futility of granting such concessions, since the non-union mines would still be free to cut their rates further in order to meet any such readjustment, has sought rather to force the non-union mines into the ranks of the organized. For thirty years it has centered its efforts on the organization of non-union fields, and the bulk of its funds, as much as $3,128,924 in a single year (1921), has been spent for this purpose. Its efforts have been ineffective; the non-union operators have steadily increased their contribution to the country's production and have driven from many of the

important markets a large portion of the union mined coal.

In 1922 the organized operators attempted to force down the union wage scale. A four-month strike followed, which the miners won. Their victory, however, was Pyrrhic, for non-union tonnage continued to increase and as soon as an opportune moment arrived many operators abrogated their agreements with the mine workers' organization. A federal commission appointed in 1923 was unable, despite a most thorough and searching investigation, to make effective any of its recommendations for stabilizing the situation. As contracts with the union expired an increasingly large number of owners began to operate their properties under non-union conditions. The non-union portion of the country's output, which in 1922 approximated 30 percent, increased by 1925 to 60 percent and it is estimated that in 1930 it ran as high as 80 percent. In West Virginia, the most important of the non-organized sections, production grew from 108,000,000 tons in 1923 to 132,000,000 tons in 1928; in Kentucky from 45,000,000 to 63,000,000; while the total for Ohio, Illinois and Indiana, former strongholds of the United Mine Workers, has fallen from 146,000,000 to 87,000,000 tons, a decline of 40 percent.

The effects of this situation on the fortunes of the United Mine Workers of America is made readily apparent by the course of its membership. In March, 1923, it was the largest trade union in America, with a tax paying membership of 445,734, of whom about 380,000 were in the bituminous industry. By June, 1929, its ranks had been so decimated that there were approximately one third of this number on the tax paying roll of the organization. The end of the third decade found the union in a disorganized condition with important sections in revolt. Federal commissions and congressional investigations have proved futile in helping the situation. Without an attack upon the general organization of the industry and a radical change in the American attitude toward competition as a medium for bringing about stability in the bituminous industry, it is doubtful whether any attempt at solving the difficulty will be effective.

Although the importance of coal in the world economy has been in part diminished by the growing use of substitutes, it appears that for many generations at least coal will remain the primary source of industrial energy. Relative to coal the supplies of oil and natural gas are being rapidly depleted, and there is a definite limit to the expansion of hydro-electricity. Despite the inroads of these substitutes the consumption of coal in absolute figures has continued to expand. In the shipping industry there is already evident a reversion from fuel oil to coal. Indeed, the net effect of substitute fuels appears to have been merely to check the rate of expansion in coal consumption.

Although the immediate effect of the new developments in the technology of fuel utilization has been to curtail the growth of coal consumption, these developments make it possible to anticipate a growth in the use of coal at a rate even greater than that which prevailed before the World War. Every day brings to light previously unknown wealth which has been hidden in coal. In the form of benzol coal already furnishes a significant portion of the fuel consumed in internal combustion engines, and successful laboratory tests lend credence to the idea that we shall some day lubricate the wheels of industry with oil made from the product of the mine.

In the meantime the pressing problem is one of bringing some sort of order into the world's coal industry. Europe has been searching for a means to this end. Since the crux of the difficulty lies in surplus capacity, the League of Nations and the International Labour Office have been seeking a way of adjusting output to demand. They have dismissed national measures as inadequate and the view has been officially expressed that without an international agreement between the producers concerning outputs, markets and prices, measures for equalizing wages, hours of labor and the abolition of artificial trade restrictions, as well as artificial stimuli to production, nothing will be accomplished. Thus far international agreements, particularly those affecting coal markets, have proved unattainable. They presuppose well coordinated national marketing systems, and such prevail in none of the more important producing countries except Germany. Without England as a party to an international agreement little of advantage can be expected; yet there is small evidence in Britain pointing even to the creation of a unified marketing system within its own borders. Nor do present evidences point to any probable reversal in national policies which have as their end the stimulation of industry within national frontiers. The desire to remain self-sufficient, particularly in the realm of fuel supply, for purposes of "national security" has proved and will probably

continue to prove a great obstacle in the way of an international agreement for restricting production. The memory of experiences during the recent war is still too vivid. For the immediate present, at least, the amelioration of conditions in the world coal industry by international agreement appears to be outside the realm of practical politics.

ISADOR LUBIN

See: MINING; NATURAL RESOURCES; CONSERVATION; METALS; IRON AND STEEL INDUSTRY; OIL; POWER, INDUSTRIAL; INDUSTRIAL REVOLUTION; CARTEL; GOVERNMENT REGULATION OF INDUSTRY.

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COALING STATIONS. *See* NAVY; SHIPPING.

COALITION.

Apart from its meaning as a temporary alliance or as a combination of states for joint action the term coalition, as employed in a political sense, commonly denotes a cooperative arrangement under which distinct political parties, or at all events members of such parties, unite to form a government or ministry. Although it is derived from *coalescere*, to grow together, the word as actually used somewhat belies its nominal meaning; for the units or elements brought into combination by a coalition very seldom grow together in any literal sense. The qualities of integration and permanence attach more frequently to a bloc than to a coalition, because the former is more likely than the latter to be based upon deep seated and enduring community of interest, as opposed to momentary convenience or necessity. Coalitions, however, are sometimes difficult to distinguish from blocs, and, moreover, they occasionally evolve into blocs.

Three familiar types of situation are mainly responsible for coalitions: the inability of any single party, where a multi-party system exists, to form a ministry commanding a working majority in the lower house of parliament; an even balance between parties under a bi-party system, leading one of the two to ally itself with any minor group or party strong enough to keep it in power; and a national crisis necessitating the suspension of party strife and the concentra-

tion of all forces in a common direction for the common safety.

The first type of situation is found most frequently in continental Europe. Russia and Italy are at present one-party countries, but elsewhere one meets a multiplicity of parties, ranging from six to seven in France and Germany to twenty or thirty in Czechoslovakia and some of the Balkan states. In all such countries every government is necessarily a coalition government. Sometimes the parties cooperating in support of the ministry are of the Left, sometimes of the Right; not infrequently they represent curious affiliations between groups of both Left and Right. Sometimes a coalition is based primarily on racial community, sometimes on religious alignments, sometimes on economic interest. It is often purely casual or accidental and rarely is it of long duration. On the other hand, it seldom happens that a coalition is swept from office integrally. As a rule, when dissension or ineptitude overwhelms it, its lines are merely reformed; certain parties hold on and others give way to newcomers, in a combination as tenuous, and often as illogical, as the one which it has superseded.

England is the classic land of bi-partyism, and it is there that coalitions under the second and third types of situation mentioned have been most conspicuous. At no time has the idea of coalition been popular among Englishmen, and at the present day no political term, perhaps, is in greater disfavor among them. Nevertheless, it was a coalition that drove Shelburne from office in 1783; George IV attempted to create one in 1827; Queen Victoria built up a short lived one in 1853; the Liberal Unionists were practically in coalition with the Conservatives from 1886 until, after a generation, they became merged with the larger party; in the years 1892–95 the Irish Nationalists were in league with the Liberals; and from 1905 until the World War, particularly after the elections of 1910, both Nationalists and Labour were aligned with the Liberals.

The most famous of all coalitions, however, and one that well exemplifies the third type of situation, was that organized in England during the war emergency. In May, 1915, the Liberal premier, Asquith, brought together in his reconstructed ministry representatives of all existing parties except the Irish Nationalists. Government on this basis encountered a considerable number of obstacles, and a political crisis of December, 1916, not only brought Lloyd George to the premiership but resulted in a coalition "war cabinet" which for almost three years managed affairs essentially as a dictator. On the ground that it would be disastrous to handle the peace negotiations and the problems of reconstruction on a party basis, the coalition appealed to the electorate in 1918 and won a fresh lease of life. Englishmen, however, were of no mind to see it, or anything like it, continue indefinitely. In 1922 most of the Conservatives withdrew their support, as Labour and Independent Liberals had done previously, and thereupon straight party government was resumed. The political situations resulting from the elections of 1923 and 1929 raised the question of a Labour-Liberal coalition, but did not stir genuine favor for the plan in any quarter.

In multi-party countries coalitions are taken as a matter of course; in English speaking countries they are regarded at best as stop gaps or emergency measures. They have their uses, but certainly also their drawbacks. One of their effects is, naturally, to promote compromises in politics. Everybody must yield something, although mutual surrender is rarely sufficient to guarantee stability or strength for more than a fleeting interval. It is perhaps a not undesirable corollary of this quality in coalitions that they tend to curb radicalism and likewise to liberalize conservatism. Radical parties usually feel that they are expected to yield most, and they are usually least inclined to affiliate. Even where coalitions are a practical necessity they make for rapidity of political changes and shifts, tempered only by the already mentioned tendency of coalition ministries to renew themselves partially rather than integrally. Finally, and perhaps this is the most weighty objection, a coalition operates to release a government from the restraint and responsibility which, under a smoothly working bi-party system, a front opposition bench normally imposes.

FREDERIC A. OGG

See: BLOC, PARLIAMENTARY; LEGISLATIVE ASSEMBLIES; PARTIES, POLITICAL; CABINET; CABINET GOVERNMENT; SUCCESSION, POLITICAL; COMPROMISE; OPPORTUNISM.

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COBB, FRANK IRVING (1869–1923), American journalist. After some years of newspaper work in Michigan Cobb became chief editorial writer, and later editor, of the New York *World*, where from 1904 until his death he exerted a strong influence upon the conduct of American politics. Although little known to the public he was in his own profession regarded as one of the ablest men of his day. As editor of the *World* he became the foremost journalistic champion of the "Independent Democrats"—a group not clearly definable which, although much more liberalized, succeeded the Cleveland following of an earlier day. This group, while clinging to the essential tenets of the Democratic party, rejected the rule of party regularity and held itself free to throw its influence to any political leader whose principles and record pointed toward good government. During the war period Cobb was the chief journalistic aid of President Wilson. He was absorbed in his profession and wrote very little for publication in periodicals other than the *World*. After his death a selection of his editorials and public addresses was compiled by J. L. Heaton and printed in *Cobb of "The World"* (New York 1924), from which an impression may be gained of one of the most forceful personalities of his time.

JOHN L. HEATON

COBBETT, WILLIAM (1763–1835), English journalist. Cobbett, who was the son of a small farmer, ran away from home to join the army. He was promoted rapidly but retired after a few years having meanwhile become discouraged by the abuses of army life. He attempted to expose the conditions he had observed but found that military corruption was so widespread that his charges were being distorted against him. Accordingly he fled to France and crossed thence to America. There he flung himself into the pamphlet war between Federals and Democrats and his powerful and brilliant pen was of great service to the former. He returned to England in 1800 At this time he was a Tory and a Jingo. In 1802 he founded the *Political Register*, the great weekly organ which he conducted until his death. The more he saw of politics at home the less he found that the pleasant picture of English life he had formed in America corresponded to the facts. He soon became a radical criticizing abuses with a freedom that brought him into trouble, at one time even serving a sentence in jail for an article attacking the flogging of militiamen.

Cobbett's quick mind, his Berserker manners and his incisive pen made him a great force in public life; Hazlitt said of him that he formed a fourth estate of himself. He was a violent, overbearing man who quarreled with all the radical leaders in turn: Hunt, Burdett, O'Connell. He was a difficult colleague but excelled in the leadership of men in the mass, men who read his *Register* but never saw him; for it was the common virtues and common misfortunes of mankind that held his attention. He was a failure in Parliament, where he sat from 1832 to his death, but as a popular writer he was unequaled. His wit, his sarcasm, his graphic and pointed invective, his power of clever and sparkling analysis and ridicule made him an incomparable master of controversial prose. These gifts were used to the utmost against fund holders, money lenders, landlords and tithe holders: all the powerful classes to whose interests, he believed, the agricultural laborer had been sacrificed. For whatever the cause he was urging at the moment all his politics was governed ultimately by one desire. "I wish," he wrote, "to see the poor men of England what the poor men of England were when I was a boy." Most of the radicals looked forward; he looked back. He knew more about the agricultural laborer than anyone of his time. He had just the gifts—confidence, shrewdness and enterprise—which made many men of his class and type successful leaders in the industrial revolution, but he used those gifts as England's last peasant leader.

JOHN LAWRENCE HAMMOND

Important works: *The Parliamentary History of England*, 36 vols. (London 1806–20); *Advice to Young Men* (London 1829; ed. by H. Morley, 1887); *Rural Rides* (London 1830; new ed. by Pitt Cobbett, 2 vols., 1885); there is a complete bibliography of Cobbett's works in Benjamin, L. S. (Lewis Melville), *The Life and Letters of William Cobbett*, 2 vols. (London 1913) vol. ii, p. 265–309.

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COBDEN, RICHARD (1804–65), British statesman and publicist. Cobden was the son of a Sussex farmer who lost his property in the crisis following the Napoleonic wars. He had a few years of wretchedly poor schooling and at fifteen

entered his uncle's business office in Manchester. He became a commercial traveler, established an independent business with two friends in 1828 and in 1831 opened a textile factory. His business success gave him leisure, which he devoted to study and systematic travel.

Before 1838 he had published several pamphlets on political and economic subjects and had been a candidate for Parliament. But it was the founding of the Anti-Corn-Law League in 1838 which gave him his opportunity in public affairs. The agitation for the repeal of the corn laws had a broader significance for Cobden than for most business and working men who favored repeal. To the manufacturers, repeal meant a better market for their goods; to the working men, deliverance from the semi-starvation of the "hungry forties." To Cobden it represented, in addition, the prelude to a new political method, which has received the name of "Cobdenism." Cobden repudiated the theory that trade follows the flag, arguing that international policy should aim at peace, since the real battle would, in any case, "be won by the cheapest." Hence Cobdenism was synonymous with the removal of all restrictions on trade, laissez faire in industry and non-intervention in the affairs of foreign countries.

Cobden entered Parliament in 1841 and immediately made his mark in the House. He won over Sir Robert Peel, who had been pledged to maintain the corn laws, and repeal was carried. This was the crowning triumph of Cobden's life. The consequent dissolution of the league dispersed the elements of the ad hoc alliance. The manufacturers, having got what they wanted, cared little for Cobden's pacifism, and his opposition to the Crimean War led to his defeat in the election of 1857. The working classes turned to other reforms, to which Cobden was hostile or indifferent. The evils of the factory system were as glaring as those caused by the bread tax and Cobden opposed the factory acts; the working engineers were just then laying the foundations of modern trade unionism, a movement which Cobden hated. Moreover, Cobden's policy of non-intervention conflicted with the desires of continental liberals, who received little encouragement from him, although the struggles of the oppressed nationalities for freedom were ultimately to draw Great Britain into the World War. Nevertheless, the failure of later Cobdenism was only relative. In 1860 Cobden succeeded in making a commercial treaty with Louis Napoleon which, apart from marking a great step in the breaking down of age old Anglo-French enmity, became the model for many other commercial treaties and checked the tendency to increased tariffs that set in after the wars of the sixties and seventies. He resolutely opposed interference in Denmark, China and Mexico; and on the question of the Civil War, as on almost every other great political problem, he stood with John Bright as a steady supporter of the North and opponent of intervention.

F. J. SHAW

Consult: Morley, J. M., *The Life of Richard Cobden*, 2 vols. (new ed. London 1908); Hobson, J. A., *Richard Cobden, the International Man* (London 1919); Shaw, F. J., and Chesson, W. H., *Anglo-American Relations, 1861–1865* (London 1919) chs. iii–iv, vi; Dawson, W. H., *Richard Cobden and Foreign Policy* (London 1926).

COCCEJI, HEINRICH VON (1644–1719), German jurist. He succeeded Pufendorf at Heidelberg as professor of natural law and the law of nations. In his lectures on the philosophy of law he combated the ideas of Grotius and Pufendorf. He rejected the doctrine of sociality as the source of natural law, which, according to him, originated in the will of God and derived its binding character therefrom rather than from contract or a supreme principle of reason. His theory thus remained rationalistic in so far as he conceived this divine will to be known through reason rather than revelation. His references to the limitations of reason and his critical attacks upon the prevailing system of natural law paved the way for its ultimate subordination. But it was perhaps his greatest merit as a jurist that neither his inclination toward natural law nor his admiration of Roman law prevented him from founding the first independent system of German constitutional law in his *Juris publici prudentia* (Frankfort 1695). Like Conring he started from traditional German rather than Roman law and derived his principles of constitutional law from historical materials rather than reason.

ERIK WOLF

Consult: Stintzing, R. von, and Landsberg, E., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880–1910) vol. iii, pt. i, p. 112–17.

COCCEJI, SAMUEL VON (1679–1755), German jurist. He was the third son of Heinrich von Cocceji and achieved high judicial and administrative office under Frederick the Great. In order to investigate existing abuses in the judicial system he made extensive journeys through

the Prussian provinces under the king's commission and succeeded in effecting far reaching reforms in the administration of justice. These were embodied in his *Projekt eines Codicis Fridericiani Pomeranici* (Stettin 1747) and his *Projekt des Codicis Fridericiani Marchici* (Berlin 1748). Cocceji began also the preparation of a code of substantive law for the Prussian states upon the basis of natural law and the precepts of enlightened absolutism. But death interrupted his labors and the *Projekt des Corporis Juris Fridericiani* (Halle 1749) never went into effect. As a jurist Cocceji was more completely than his father under the influence of Roman law, which he attempted to harmonize with natural law in his *Elementa jurisprudentiae naturalis et romanae* (Berlin 1740). His chief work as a scholar was the editing of his father's lectures, which he published with notes under the title *Grotius illustratus* (4 vols., Breslau 1744–52). The ideas of the elder Cocceji on natural law are known chiefly in this form. Hence the names of both father and son are inseparably linked in the history of jurisprudence.

ERIK WOLF

Consult: Trendelenburg, F. A., "Friederich der Grosse und sein Grosskanzler Samuel von Cocceji" in K. Akademie der Wissenschaften zu Berlin, *Philologische und historische Abhandlungen* (Berlin 1863) p. 1–74; Stölzel, A. F., *Brandenburg-Preussens Rechtsverwaltung und Rechtsverfassung dargestellt im Wirken seiner Landesfürsten und obersten Justizbeamten*, 2 vols. (Berlin 1888) vol. ii; Stobbe, Otto, *Geschichte der deutschen Rechtsquellen*, 2 vols. (Leipsic 1860–64) vol. ii, p. 448–53; Stintzing, R. von, and Landsberg, E., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880–1910) vol. iii, pt. i, p. 215–21.

COCHIN, AUGUSTIN (1876–1916), French historian. Cochin, a member of a prosperous and distinguished Parisian family, led his class at the École des Chartes, immersed himself in the documentary study of the French Revolution and was ripe for productive greatness when he fell in battle in 1916. Yet in spite of the incompleteness of his work he must be given a place of importance in the historiography of the revolution. The *Crise de l'histoire révolutionnaire* (Paris 1909) reviewed in the work of Taine and Aulard the eternal contrast between the haters and the lovers of the revolution, and made one more appeal for objectivity in the historical treatment of this controversial subject. Here too is to be found Cochin's distinction between the plot theory and the circumstances theory, the two explanations of the Terror which he finds running through all histories of the revolution. The posthumous *Sociétés de pensée et la démocratie* (Paris 1921) and *Sociétés de pensée et la révolution en Bretagne* (2 vols., Paris 1925) show Cochin developing his own variant of the plot theory. The revolution was the work of a well organized minority, prepared during the latter part of the eighteenth century by the activities of various literary societies, agricultural societies, salons and other groups. Cochin made a careful study of the documents pertaining to the groups which existed in Brittany and concluded that they formed a genuine political machine of a kind familiar enough to Americans. Working with Charles Charpentier he collected vast stores of documents to show that the Terrorist government adopted policies which had been marked out and formulated by the provincial societies; one volume of these documents has been published as *Actes du gouvernement révolutionnaire* (Paris 1920). Cochin's work may be said to continue the tradition of Taine, but to have profited by modern historical method and training. It has exerted great influence on historians of the conservative side, but has scarcely lessened the gap—the true nature of which Cochin himself did so much to make clear—between such historians and orthodox republican historians of the official school.

CRANE BRINTON

Consult: Martin, G., *Augustin Cochin et la révolution* (Toulouse 1926); Goyau, G., "Une belle vie d'historien, Augustin Cochin" in *Revue des deux mondes*, 7th ser., vol. xxxii (1926) 621–53; Lacombe, Bernard de, "Augustin Cochin, historien de la révolution" in *Correspondant*, vol. cccxvi (1929) 822–36.

CODE CIVIL is the title now applied to the instrument embodying the private substantive law of France, framed under the inspiration of Napoleon Bonaparte as first consul and formerly called the *Code Napoléon*. On August 12, 1800, Napoleon promulgated a decree appointing a code commission of four, consisting of Tronchet, president of the Court of Cassation; Malleville, a former judge of the court and a student of Roman law; Bigot de Préameneu, government commissioner of the court; and Portalis, government commissioner in the Prize Court, a Provençal of mediocre parts but philosophic in temperament and a moderate. There was, in fact, little that savored of republicanism in the commission.

The decree of appointment contained instructions to the commission to conclude its work in the ensuing November. While the period seemed absurdly brief, it appeared from what

followed that Napoleon really desired from the commission a draft which would afford a basis of discussion; for, upon receiving it, he caused it to be sent to the Court of Cassation and the Court of Appeal for study and comment. Then he sent it to the Council of State for consideration, first by its section on legislation and afterward by the general session of the council. In the discussions before the latter Napoleon took a direct and active part. He presided at many of the sessions and surprised his colleagues with his intimate knowledge of the technical subjects discussed and the freshness of his approach to them.

When the Council of State had at last approved the draft, it was referred to the Tribunate, where it was criticized as a "hasty" production but finally approved, and then to the National Legislature. Opposition there was eventually overcome and on March 21, 1804, the *Code civil* was promulgated.

Attempts at codification had often been made in France; as late as 1793 the Convention had appointed a committee headed by Cambacérès to report a draft within a month. Some have thought that the labors of this committee were utilized by Napoleon's commission. But the committee's product seems to have been too superficial to afford much assistance, and the real sources of the Napoleonic code lay farther back. Doubtless the *Institutes*, both of Gaius and of Justinian, afforded the model of the instrument; but most of the Roman law contained in it seems to have entered through French channels. There were the great commentators: Domat, whose *Lois civiles* had been published in 1694, and Pothier, whose *Traité des obligations* had appeared in 1761 and furnished, it is claimed, "three fourths of the Code"; while "entire chapters" were provided by the *Grandes ordonnances* framed by Chancellor D'Aguesseau before the middle of the eighteenth century.

But other sources can also be traced. In theory at least, Roman law prevailed only in that southern part of France known as *les pays du droit écrit*. Paris, where the code was drafted, was the center of *les pays du droit coutumier*, which furnished also most of the councilors of state. The *coutumes*, however, were no longer unwritten. Those of Paris had been reduced to writing before 1580 and the revised text of that year was used by the codifiers. Decisions of the *parlement* of Paris were also resorted to. Last in the enumeration of sources may be cited the legislation of the revolutionary era, partly included in the *Bulletin des lois de la république française*.

In arrangement the *Code civil*, like Blackstone's treatise and those of other institutional writers, follows *pro tanto* the Gaian order. It is divided into three books which treat respectively of persons (civil status, absentees, marriage, divorce and separation, adoption, legitimation, *patria potestas*, guardianship, interdiction), property (ownership, usufruct and servitudes) and the acquisition of ownership (intestate succession, donations *inter vivos* and testaments, obligations, marital property, liens and mortgages, sequestration). Roman law is evident as a source, for example, in the classification of property and qualified interests and in the law of obligation; the influence of the *coutumes* in the provisions for intestate succession; the decisions of *parlements* in the provisions regulating the status of absentees; the republican legislation in the law of divorce and adoption, subjects on which the code made the earliest provision in modern western law; the law of testaments and the prohibition of entails derive from D'Aguesseau's *Ordonnances*. Although several of its articles deal with remedial adjective law, the instrument is for the most part what it purports to be—a code of private substantive law, the first of such codes unless we include Justinian's *Institutes*.

It will be seen that the *Code civil* contained little, if any, matter which was really original with its framers. What they did was to fuse the materials of the existing law into a new product in which the Roman contributions prevailed but with the Teutonic element not wholly wanting. Broadly speaking, it was the final step in the reception of Roman law in France. Like the contemporary French critics of the code, Savigny later criticized it as "the very hasty work of the known redactors," and such it no doubt was. If, as Amos contends, Napoleon's chief object was "political and legal unity," the special aim of the redactors was conciseness and simplicity. In many particulars of the code these results were attained at the cost of superficiality. Nevertheless, it appeared at the psychological moment when the Latin world, both European and American, had become painfully aware of the need of a restatement of its law. The *Code civil*, being the pioneer, was eagerly accepted as the model and became "to a great extent the code of all the Latin races." From its promulgation to the end of the century no

civil code was framed anywhere which it did not profoundly influence, and many of the later codes do little more than reproduce it. In France it has won popular devotion and has become a part of the legal consciousness of the people. While its outward integrity has been preserved, its content has been frequently and substantially modified by subsequent legislation.

CHARLES SUMNER LOBINGIER

See: CODIFICATION; CIVIL LAW; CUSTOMARY LAW.

Consult: *Code civil: livre du centenaire* (Paris 1904); Brissaud, J. B., *Manuel d'historie du droit français*, 5 vols. (Paris 1898–1904) vol. i. tr. by R. Howell in Continental Legal History series, vol. i, pt. iii (Boston 1912); *Cambridge Modern History*, vol. ix (Cambridge, Eng. 1906) ch. vi; Viollet, Paul, *Droit privé et sources: histoire du droit civil français* (3rd. ed. Paris 1905); Lobingier, Charles S., "The Napoleon Centenary and its Legal Significance" in *American Bar Association Journal*, vol. vii (1921) 383–87; Crabites, P., "Napoleon Bonaparte and the Code Napoleon" in *American Bar Association Journal*, vol. xiii (1927) 439–43. See also bibliography following the article on CIVIL LAW.

CODE NAPOLÉON. *See* CODE CIVIL.

CODIFICATION. In its broadest sense, and as used by the historical school of jurists, codification means the reduction of law to written form. It presupposes the advancement of law through the preceding stages of legal history represented by *fas* (will of the gods), *mos* (customary law) and *jus* (judicial precedent), as well as the invention and diffusion of the art of graphic expression. Indeed Maine considers codification "a direct result" of the latter, although he recognizes as a contributing force the popular desire for accessibility of laws. But while codification in this sense is hardly distinguishable from other forms of legislation and marks the end of the purely customary stage of legal development, it does not attempt a complete displacement of custom by written law. In fact the earliest of the so-called codes are little more than partial expressions of long established custom. Thus in the Twelve Tables we find a provision (v, 6) recognizing the ancient *gens* and requiring succession by its members in default of agnates. This had long been the law, attained through a slow process of social evolution in the course of which the whole theory of succession had been revolutionized. In this particular the principle becomes fixed, further change is rendered difficult if not impossible and a new sanction is acquired—the will of the state expressed in written form. But all the while the background of the principle—the nature of the *gens*, its composition and legal status—is left to customary law.

By far the most ancient as well as the most elaborate code of this type was that of Hammurabi, king of Babylon, promulgated about 2100 B.C. It was based upon the preceding customary law and treats quite fully, and often in a fairly modern way, of procedure, property and persons. Probably much influenced by it, although appearing some fourteen centuries later, was the Hebrew "Book of the Covenant" (now contained in *Exodus* XX, XXIII) followed, about a century after, by the "Book of the Law" (*Deuteronomy*, "second law"). These collections mark the progressive transition from Israel's purely customary law.

The classical example of such a code is the Roman Twelve Tables, which did not purport to embody the entire law and were most nearly complete in those subjects lying nearest the heart of the proletariat, such as debt, neighborhood regulations, procedure and funeral ceremonies. Nearly contemporary with the Roman code, although probably quite unconnected with it, was the collection known as the "Laws of Gortyn," recovered less than half a century ago and constituting the nearest approach to a code of early Hellenic law. Hindu law has always been to a great extent customary. Its leading repository, the so-called "Code of Manu" (*Manava Dharma Shastre*), is now believed to be of relatively late origin (400 A.D. by one writer) although containing material of great antiquity. This code, much of which treats of subjects other than law as now understood, was in force in Burma and Siam as well as India.

In China, too, customary law antedates the period of Hammurabi but written law seems likewise to have existed almost from the beginning. There were several early compilations but the most complete, and also the earliest which has come down to us, was the code of the T'ang dynasty, promulgated in 630 A.D. Some of its provisions, departing from the exclusively penal character of its predecessors, treat of marriage. Republished with certain modifications under the Ming dynasty it afforded the basis of the so-called "Manchu Code" (*Ta Ching Lü Li*) of the seventeenth century, which is, of all the Chinese codes, the one known best among foreigners by reason of its partial rendition into English by Sir George Staunton. It is still in force except so far as modified by recent Chinese legislation, including the penal

code and such portions of the new civil code as have been promulgated.

In its modern and restricted sense codification means much more than the mere reduction of law to written form; for that process has long since been accomplished in all but the most primitive societies. As mankind advances and laws multiply in number and complexity the need periodically arises for rewriting them with a view to greater accessibility and intelligibility. The earlier codes, being fragmentary, are in due course supplemented by legislation; but this likewise is usually of a piecemeal character and the written law leaves many gaps which must be closed, if at all, by resort to customary law or, what is practically the same, authoritative interpretation.

This may be illustrated from Roman law. The Twelve Tables announce (VIII, 5) the general doctrine of delictual liability, but without specifications. After more than a century and a half that meager provision was supplemented by a *plebiscitum* known as *Lex aquilia* which fixed as the measure of damages for the destruction or injury to property its value within a given period. But for injury the *lex* failed to prescribe the highest value and as late as the time of Gaius this was a disputed point, although some of the jurisconsults interpreted the *lex* as necessarily meaning the highest. It also left unsettled many questions regarding parties and the circumstances under which liability might be enforced. The praetor sought to meet the situation by granting new remedies (*actiones utiles* or *in factum*) in addition to that provided by the *lex* and meanwhile the jurisconsults were busy with interpretations, not always harmonious. Thus long before Justinian's time this particular branch of Roman law—typical of many others—had to be sought not only in the archaic Twelve Tables and the *Lex aquilia* but also in numerous and undigested praetorian *edicta* and still more numerous, and often conflicting, *responsa* of jurisconsults. Justinian solved the difficulty by harmonizing, often through interpolations, this mass of material and incorporating it in one work—the *Digest*.

It was as the repository of such exhaustive consolidations of analogous matter that the *Digest* approached most nearly to a code in the modern sense. Yet it lacks the requisite of scientific arrangement in its larger outlines, not being limited to any one of the law's grand divisions. For while the *Digest* contains more private, substantive law than any work of the *Corpus juris civilis* (*q.v.*) it includes much procedural, not a little public, and even some penal, law. Its predecessor in the *Corpus*, the *Institutes*, in this respect much more resembles a modern civil code, although too limited in scope. Of the others the *Codex* contains more criminal and ecclesiastical law than the *Digest*, but also a considerable amount of private, substantive law; while the *Novellae* deal with all sorts of subjects. Thus none of the Justinian books conforms entirely to the standards of today.

The first vernacular imitation of the *Corpus juris* on an extensive scale appeared in Spain about the middle of the thirteenth century. This was the famous *Siete partidas* of the learned Alfonso. As their title indicates they consist of seven books treating successively of canon law, public law, persons, obligations, property, procedure and maritime law. Although retaining their model's defects in form and arrangement the *Partidas* contain some original features, notably an abundance of legal forms, valuable even today. Through its extension to the Spanish colonies the work has played a part hardly inferior to the *Corpus juris* itself in extending the field of Roman law.

With the exception of Alfonso's code the influence of the Justinian books, which were promulgated in Constantinople, was naturally earliest in eastern Europe. It is noticeable in the *Liber statutorum civitatis Ragusii* (1272) and in the code of King Stephen Dushan of Serbia (1349), which incorporated a considerable amount of ecclesiastical and Byzantine law. "The Renewed Code of Ferdinand II" of Bohemia (1627) likewise embodied canonical doctrines as well as Roman law, but was framed under German rather than Byzantine influence. In Russia, however, the latter was paramount from the beginning. The *Ulozhenie* (Regulations) promulgated by Czar Alexis in 1649 drew from Justinian's *Novellae*, from the *Ecloga*, the *Procheiron* and other works of Basil the Great, as well as from previous Russian legislation, and contain constitutional law, judicial organization, procedure, contracts, property and penal law. However, the *Svod Zakonof* (Collection of laws) promoted by Speransky, the learned chancellor of Nicholas I, and framed by a commission selected in 1826, drew much from the *Code Napoléon*. A new penal code was promulgated in 1903 and the draft of a new civil code was placed before the Duma in 1907. Meanwhile the most purely Slavic code, framed by Pro-

fessor Bogišić, had come into force in 1888 in Montenegro.

By decreeing the abolition of private property the Russian revolutionists of 1917 assumed that they would thus dispense with the need of either a civil code or a code of civil procedure; while the "people's courts" and other judicial functionaries of the new regime found themselves without a body of legislation to guide them and were obliged to rely on intermittent and unrelated decrees. By 1921 "a new economic policy" was announced, in which private property was recognized. Soon the preparation of a new civil code was undertaken and its drafting and adoption (1922) were carried through expeditiously. Except for its comparative brevity (it contains only 435 articles against 2281 in the *Code Napoléon*, 2385 in the German and 4063 in the Argentine) this code in the essentials of its form does not differ greatly from the others. But while the captions under which its material is classified—persons, property, obligations and inheritance—are reminiscent of its predecessor, their incorporation of the economic and social principles of the new regime give the code a distinctive character. Many subjects are treated in separate decrees. On January 1, 1927, a criminal code came into force, displacing that of 1922.

In northern Europe the earliest expressions of the code idea were in Scandinavia, where the simultaneous foundation in 1476 of the universities of Copenhagen and Uppsala seems to have stimulated the scientific study of law. After a series of commissions and no less than four revisions the *Danske Lov* was proclaimed by King Christian V of Denmark in 1683. It was pronounced by Bentham "the least incomplete of all the codes," although he found much omitted from its five books, which included (1) judicature (courts and procedure) (2) ecclesiastical regulations, (3) municipal affairs and domestic relations, (4) maritime law, (5) obligations, succession, property. Influenced by this code Sweden appointed a commission for codification in 1686 but it was nearly half a century before the final results were realized. The Swedish code of 1734 likewise contains five books, but their order and subject matter are considerably different from those of the Danish code, with which Bentham contrasts it unfavorably. The *Code Frédéric*, or Prussian *Gesetzbuch* of 1751 (later *Landrecht* of 1794), did not purport to be complete, although Savigny favored it more than the *Code civil*. A Sardinian code was produced in 1770, which recognized Roman (which it calls "common") law as its foundation.

But the first instruments which really approximate the modern code requirements are the Napoleonic products of the early nineteenth century. The *Code civil* (*q.v.*), while containing some adjective law, is mainly confined to the private, substantive branch; but it does not exhaust the latter nor is its arrangement approved by the best legal experts of today. The other Napoleonic codes, however—the *Code de procédure civile* (1806), the *Code de commerce* (1807), the *Code d'instruction criminelle* (1808) and the *Code pénal* (1810) effect a delimitation of the fields outside the *Code civil* which has ever since been followed in civil law countries. Whatever criticism they have encountered has been not of their formal features as codes but of their alleged defects in substance. These Napoleonic codes have furnished the model for all subsequent codifications and were themselves the nucleus of a group in which they were reproduced with but few changes. The *Code civil* was adopted in the year of its promulgation in Belgium; in Haiti and Louisiana (largely) in 1825; in Bolivia in 1831; in the Netherlands in 1838; in Costa Rica in 1841 (now superseded); in Santo Domingo in 1845; in Rumania in 1864; in Italy in 1865; in Quebec in 1866; in Portugal and Venezuela (now superseded) in 1867; in St. Lucia in 1876; and in the Siamese draft code of 1908. These codes form a distinctively French group and, in spite of occasional modifications here and there, present a striking uniformity. Through their influence on the Chilean code of 1855 they furnished the model for that of Peru (1855); on this in turn were modeled the codes of Costa Rica (1856), Nicaragua (1871), Colombia (1873, still retained with modifications in the Panama Canal Zone), Guatemala (1877), El Salvador (1880) and Ecuador (1887). Apart from this Chilean group and approaching even more closely to the distinctively French group were the civil codes of Mexico (1870, since revised) and of Honduras (1880). In Argentina, thanks to her eminent jurist Sarsfield, an independent course was followed, resulting in 1869 in the most elaborate code of all, which was adopted in its entirety by Paraguay (1889) and influenced the code of Uruguay (1895). A Spanish group was initiated in 1889 by the *Código civil*, extended in the same year to Cuba, Porto Rico and the Philippines, in all of which it continues with

modifications, and was followed closely by the Panama code of 1922.

Distinct from all of these groups, especially as regards arrangement and certain underlying legal conceptions, is the *Gesetzbuch* (German civil code, *q.v.*). Promulgated in 1900 after more than a quarter of a century of continuous preparation, it embodies not only the acme of German juridical philosophy but the national aspiration for legal unity. This great work found a contemporary imitator in the civil code of Japan, was largely utilized by the framers of the Swiss codes (1912), adopted in its entirety by Turkey (1926) and is now being followed in completing the Chinese civil code. The latest among the epoch making codes is that of Brazil, promulgated in 1917 after eighteen years of endeavor. While utilizing German concepts and theories of arrangement it is yet a correct expression of Portuguese law as developed in Brazil.

No survey, however cursory, of modern codification would be complete without reference to the *Codex juris canonici*, which came into force throughout the Catholic world in 1917, marking the climax of nearly nineteen centuries of canonical evolution. It was completed by a commission working under the supervision of Cardinal Gasparri and consists of 2414 canons (corresponding to articles of secular codes) which are distributed among five books under the headings *Normae generales*, *De personis*, *De rebus*, *De processibus*, *De delictis et poenis*. A similar codex prepared for the churches of the Oriental Rite is now approaching completion by a commission of which Monsignor Dherbingny is president.

In England Bentham was the pioneer of codification. "His voluminous writing," says Amos, "had no purpose more distinct nor more recurrent than that." He was not a Romanist nor was he greatly influenced by the continental movement for codification already in full swing before his time. His work produced little apparent result during his long life, but within a generation after his death came evidences of his influence in the codes of India. The reaction of these on British home legislation is apparent in the judicial and procedural reforms of 1873, the Bills of Exchange Act of 1882, the Partnership Act of 1890, the Sales of Goods Act of 1893 and the Marine Insurance Act of 1906. Bentham also contributed to the movement for codifying American law, not only by his writings but also by forwarding to Congress his draft of a proposed code.

More effective, however, in American codification was the continental influence as manifested in Louisiana, whose law was codified early in the nineteenth century, and especially in the work of Edward Livingston. Another New York lawyer, David Dudley Field, inspired also by the continental movement, devoted much of his time after 1839 to the preparation and advocacy of codes of American law. His civil code was adopted in California and the Dakotas and in a modified form in Georgia. His procedural (civil and criminal) codes became the model for those now in force in about two thirds of the states, while many states have also penal (criminal) codes like his. New York state, however, for which all of the Field codes were primarily drafted, adopted only the procedural, and those in a modified form. The Federal Penal Code of 1910 is a late example of this class. In recent years the progressive element of the American bar has concentrated upon uniform legislation, and the conferences of state commissioners for that purpose, beginning in 1890, have resulted in the preparation and adoption throughout American territory of codified sections of the law on important commercial branches like negotiable instruments, bills of lading, warehouse receipts. Since 1923 the American Law Institute has been at work on a restatement of important branches of the common law (contracts, agency, torts) and conflict of laws, which are expected to provide the bases for future codifications.

For half a century or more the codification movement has been tending to become international. The York-Antwerp Rules initiated by the International Law Association in 1877 may be taken as a beginning. The conferences called by the Netherlands government in 1893, 1894, 1900 and 1904 to consider plans for harmonizing the conflict of laws marked some progress, and committees of various organizations are now at work on drafts of special branches for a proposed code of international law. A conference has also met at The Hague for the codification of international law as to territorial waters, nationality and national responsibility for damage to aliens.

According to modern standards a code should have three characteristics differentiating it from ordinary legislation: completeness in containing all the law in force governing the subject of which it treats; logical, scientific and at the same time convenient arrangement; and, finally, clear and concise phraseology which avoids

prolixity on the one hand and ambiguity on the other. Thus, while the ancient codes treated of law indiscriminately, although never completely covering any branch, the modern ones purport to cover exhaustively each a special branch. The traditional ones are: civil code (private substantive law); code of commerce (mercantile transactions); penal code (crimes and punishments); code of criminal procedure; code of civil procedure; political code (public law). Some instances, indeed, indicate a tendency to carry subdivision even farther; thus in recent years we have the Indian Contract Act and the Swiss Code of Obligations, the Montenegrin Code of Property and the Indian Evidence Act, while the English speaking nations have nearly all codified their law of negotiable instruments. Definitions and rules for interpretation are no longer considered essential or even desirable features. While the above requisites have operated as ideals in modern codification it is quite generally recognized that they have rarely if ever been attained in any single instrument. "Of all the codes which legislators have considered as complete," said Bentham, "there is not one which is so." It is worthy of note that although the nature of codification is such as to discourage innovation in form, new schemes of arrangement within the particular codes have appeared in the German, Swiss and Brazilian instruments.

"A code," said Austin, "must be the product of many minds." As a rule the great codes, ancient and modern, have been framed by commissions which functioned by a division of labor. Thus, traditionally at least, the Twelve Tables were drawn up by decemvirs, although there are no details as to how the work was done. Tribonian and his associates in preparing Justinian's *Digest* are believed to have distributed their material in three parts, each assigned to a special group of the commission; the first taking institutional or special works, the second, commentators on the praetor's edict and the third, miscellaneous treatises. Meeting in plenary session the commission would call for all material collected by any group or member on the topic under discussion, the most suitable being utilized and the remainder discarded. In the Napoleonic codification selection of personnel played an important part, and while Savigny severely criticizes the attainments of the commissioners they were probably the best available at the time and were certainly calculated to reflect all elements and phases of the old law. The regional principle was employed when the Spanish codifiers were appointed under the royal decree of 1880 providing for a general codification on the basis of the 1851 draft.

Amos, writing nearly sixty years ago, proposed as the successive processes for codifying the laws of England: a commission of three to devise the plan and arrangement, "inviting advice from all quarters"; two assistant commissioners, at least one of whom should be "a barrister in large practice," to draft the text for each grand subdivision, reporting periodically at brief intervals to a commissioner; and finally, submission of drafts to "the very highest legal ability in the country." Very similar to this is the plan of the American Law Institute where each of the main branches chosen for restatement was assigned to a "reporter," supposedly a specialist in that line, with whom later cooperated a group of "advisers," meeting periodically and submitting their drafts to the assembled institute at its annual meeting. The National Conference of Commissioners on Uniform Laws follows a somewhat similar plan. Probably the most extensive use of experts and specialists was in preparing the *Gesetzbuch*. Here we find such names as those of Ihering, "greatest Romanist of our day," Windscheid, Sohm and others of world wide fame. The drafts were submitted to judges and university professors, as well as to commercial bodies, and all were invited to express their views. Munroe Smith declared that "the kind and grade of capacity demanded are higher in the case of the codifiers than in that of the ordinary legislator or judge," and that "the variation from the ideal is greatest in our codifiers." Too often, especially in the United States, have such commissions been overloaded with mere politicians. Amos points out with telling effect the New York codifiers' palpable ignorance of Justinian, to whom they so glibly referred and whose *regulae juris* they attempted to incorporate in their own production. Its ill digested and unscientific character probably had quite as much effect as did hostility to codification per se in finally frustrating David Dudley Field's great project.

Codification by commissions has not been the exclusive method. Notable instances are found, both in ancient and modern times, of codes which were largely, and even entirely, the work of a single individual. Such appears to have been the case with Solon's legislation, with the Montenegrin code of Bogišić, not to mention

Bentham's or the so-called code of Nathaniel Ward of Ipswich. To a great extent Sarsfield was the author of the Argentine civil code and Bevilaqua of the Brazilian.

A priori there would seem to be little room for difference of opinion as to the desirability of so expressing the law in written form as to render it complete, logically arranged, concise and clear. Those are desirable features in presenting formally any body of information. The continental opponents of codification have not usually assailed it in the abstract. Their objections have generally been directed to a particular code, to special features or methods of codification or, as in the case of Savigny, to the time of the undertaking. Although Savigny readily found particular deficiencies in the *Code civil* his essential objection was that the state of French jurisprudence at that time precluded the possibility of producing a truly scientific code. He failed to foresee that codification would bring relief from legal chaos in France, afford a basis for general improvement in the substance of the law and result in the initiation of a world wide movement looking toward restatement and reform.

The truth was that the epoch in question offered conditions which proved highly favorable to codification. With the overthrow of the old regime there arose popular desire for new institutions throughout the social structure. Moreover, power was concentrated in one who sensed the possibilities, political and social as well as legal, of codification. Even before Napoleon's rise to power there had been a republican demand in the Assembly for a code which had resulted in the appointment of a committee functioning under Cambacérès. The failure of this committee to produce anything worth while illustrates the difficulties of codification by means of the democratic process. In such an instrument as a code of law so many interests are affected and so many differences of opinion arise that unless authority exists to overcome them the effort, however well supported by popular sentiment, is apt to fail because of a deadlock.

A circumstance especially favorable to codification is the existence of a nationalistic sentiment in its formative state. It is doubtful, for example, whether the Constitution of the United States, which in a limited sense is a code of public law, could have been adopted much earlier or later than it was. Nationalistic sentiment is in turn promoted by codification. Hammurabi was clearly aided by his code in consolidating his realm; Frederick the Great and Napoleon planned their codes primarily with that end in view. Victor Emmanuel frankly declared that the Italian civil code, which was largely an imitation of a foreign instrument, was "one of the chief factors of national unity." The effect of the *Gesetzbuch*, although then less than a score of years old, in holding Germany intact during the perilous aftermath of the World War can scarcely be estimated. Even the Turks, although unprepared as yet to frame codes of their own, have recognized their importance in promoting national unity and borrowed from Switzerland and elsewhere instruments to terminate the divisive operation of separate legal systems for the various religious communities. The importation of the Swiss code was all the more significant because this code was itself the product of a national movement for legal unity beginning when every Swiss canton had a separate legal system.

In English speaking countries a stock objection to codification has been its crystallizing effect. It is argued that codification displaces that "delicate elasticity" of English law which is "just sufficient to admit of its reaching the most minute modification in a new state of facts without involving any perilous amount of vacillation." This is a legitimate argument against premature codification but it is hardly one against all codification. Premising a certain sequence of legal development it would follow, in this aspect, that the most favorable time to codify a legal system is when it has reached a static, or at least advanced, stage of development, such as that of the Roman law in Justinian's age. Chalmers, the English jurist, criticized the French *Code de commerce* because it was based on the sixteenth century ordinances of Colbert, and French commercial law's "development was thus arrested and it remains in substance what it was 200 years ago." The defect in that instance, however, was not inherent in codification, being partly due to the selection of an antiquated source.

To Munroe Smith, who followed a via media between its extreme opponents and champions, codification involved "the transfer from the courts to the legislature of the future development of all our law; the elimination, as far as may be, of the judiciary as a factor in the making of our law." Such a change he considered undesirable as to that portion of private law intended "primarily to secure the advantage of individ-

uals." He deprecated the use of the term "elasticity" in connection with the common law and declared that "ease of amendment . . . is the chief advantage of judicial legislation," i.e. of "common" over codified law. The former "may be amended by decision. When a case arises which shows that an existing rule of common law was originally ill formulated, or has ceased to express the existing sense of justice, it is in the power of the courts to amend the rule." But, as Sir James F. Stephen long before pointed out, one might need to wait a century or more before "a case arises" which involves the precise point in question. Smith also deplored the diversifying effect of separate codification by each American state and the consequent interruption of that steady nationalization of American law which he viewed as taking place by judicial interpretation, especially on the part of the federal tribunals.

There is little doubt that some branches of law lend themselves more readily than others to codification. The rules determining the consequences of negligence and fraud, for example, may be stated in general terms; but the applications of them are too multifarious to foresee and no codifier has done much more than to fix the standards of conduct. The English law of real property would be harder to codify than the law of negotiable instruments has been; but the prior selection of the latter was due not to any apparent simplicity but to the demands of the commercial rather than the professional classes for its uniformity as well as restatement. In the last analysis any branch of law worthy of the name must be reducible to principles and these are necessarily capable of classification and expression in written or code form. To the objection that "the common law can not be crystallized into forms of words and . . . rules" Munroe Smith well rejoined that it "is not only possible but is in fact precisely what the English and American courts have been doing ever since they began to decide cases."

In modern times there has long been an undercurrent of opposition to the idea of codification. While the code idea has advanced despite this sentiment, practical experience with codification has tended to dispel certain popular illusions as to its merits. The first is that of permanence. Various codifiers have said, and doubtless many more have felt, that their work at least would endure for all time. But such a result is impossible. For codification, like architecture, is at best only a transitory process. The period of transition to a new code may, indeed, be much longer where the work is well done; but the end must come, and usually much sooner than the authors anticipate. The *Corpus juris* had been in force less than two centuries when a successor of Justinian found it necessary, or at least advantageous, to promulgate the *Ecloga*. A shorter period elapsed before the ponderous *Basilika* appeared to supplant both of its predecessors, but it was destined in its turn to give way after some five centuries to the briefer *Hexabiblos*. Most restatements have been far less enduring and while none of the modern codes has been subjected to such an acid test of time many have already been superseded in whole or in part. As the conditions of society change new legislation is required, old problems lose their importance and codes become obsolete, even without formal repeal, by slow attrition on the one hand and slow accretion of new laws on the other.

Another illusion regarding codes is that of the possibility of attaining complete simplicity. Frederick the Great hoped that his code would prove to be so simple that "the whole body of modern advocates will be rendered useless." So the French republicans, according to Barrère, aimed "to make the law simple, democratic, and accessible to every citizen." But this was only another chimera. Clearness we have seen to be one of the requisites of a true code; but that does not mean that it must be equally clear to all minds—to the peasant as well as to the philosopher. Law, like other branches of knowledge, has its terminology and its network of concepts, accumulated through many centuries and often passed on from one civilization to another, as is evidenced by the Roman legal terms in English. Even the Constitution of the United States uses terms like bill of attainder and habeas corpus, which have not only a technical meaning but a long legal background. The technical language should of course be clear to those whose task it is to apply the code, but to go further and attempt to bring the language within the comprehension of the masses is to invite uncertainty and thus defeat one of the prime purposes of a code.

Frederick likewise at first "prohibited all interpretation and ordered that recourse should be had to the legislative power." In this he was but following Justinian and anticipating Napoleon, both of whom forbade commentaries—the normal civil law method of interpretation. But

Frederick was compelled later to withdraw his prohibition, while those of Justinian and Napoleon were ignored. For interpretation arises in response to the need of determining authoritatively whether a particular case falls within that provision of a code which is alleged to govern it. Unless the question can be so determined the case can never be decided and the code fails of its purpose. No codifier, however experienced, can foresee more than a fraction of the myriad questions which may arise under any provision he may frame. On the other hand it cannot be gainsaid that most modern codes anticipate and provide for a greater number of contingencies and future cases than does any consuetudinary system. Codification, then, does not dispense with interpretation but does reduce the need for it. As Sir James F. Stephen remarked, a code may relieve the uncertainty of waiting a century or more for some one to bring a lawsuit in which your question may be decided. Nor is interpretation inimical to codification. Any legal instrument is the richer for being subjected to the scrutiny and construction of experienced jurists applying it to concrete cases. Bryce was not far wrong in attributing to the judicial interpretation of the Constitution of the United States an importance not inferior to the original text. Thus interpretation is at once the normal complement of codification and the measure of its usefulness.

As a corollary from the foregoing is the illusion held by certain of the early advocates of codification that a proper code would make the law so plain as to render resort to the courts unnecessary. That involved, among others, the assumption that litigation results mainly from the law's uncertainty. Of litigation so caused there should be, and probably (for no exact statistics are available) is, less, proportionately, on matters controlled by a code. But experience has demonstrated that litigation continues even though the law itself is clear, increasing with the growth of population, the expansion of trade and industry and the growing complexity of society. But except for the fact that a new and innovating code sometimes requires frequent preliminary interpretation there is nothing to support the countercharge that such increase results from codification. In fine, while codification is intended to introduce further stability, certainty and rationality into the law it is not a prelude to the millennium.

CHARLES SUMNER LOBINGIER

See: LAW; JUDICIAL PROCESS; LEGISLATION; CASE LAW; CORPUS JURIS CIVILIS; CODE CIVIL; GERMAN CIVIL CODE; CUSTOMARY LAW; ROMAN LAW; CANON LAW; CIVIL LAW; COMMON LAW; CRIMINAL LAW; MARITIME LAW; COMMERCIAL LAW; INTERNATIONAL LAW.

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CODRINGTON, ROBERT HENRY (1830–1922), English anthropologist. Codrington's study of primitive life during his thirty years of missionary service in the Melanesian Islands resulted in contributions to anthropology which are best represented by two important works, *The Melanesian Languages* (Oxford 1885) and *The Melanesians* (Oxford 1891). He belongs to that select body of field workers in anthropology who have approached their task with adequate realization of the barriers separating the savage from the civilized mind. Supremely aware that he possessed his "full share" of the "prejudices and predilections" common to missionaries he managed to achieve objectivity by aiming consistently to "set forth as much as possible what natives say about themselves, not what Europeans say about them." With his knowledge of the Melanesian tongues Codrington was able to gather from the spontaneous utterances of the more intelligent natives at least the general import of their beliefs; and very few interpreters of primitive religions have achieved even this de-

gree of success. His famous generalization that "the Melanesian mind is entirely possessed by the belief in a supernatural power or influence called almost universally *mana*" rests in the bed rock of native evidence thoroughly sifted and attested. In stating this principle Codrington confined himself strictly to the facts as found in Melanesia, making no assumption, as later students of the magico-religious have done, that it is of world wide application. Others tend to assume that the mana principle (or "dynamism," as Van Gennep would say) has a validity apart from and in contrast to that of animism; but Codrington faithfully reports that in the Melanesian region the doctrine of mana and the belief in spirits overlap in manifold ways. The widespread speculative and controversial treatment of mana at least illustrates the immense impetus given to science by conscientious and penetrating ethnographic research such as Codrington's.

R. R. MARETT

COEDUCATION. The term "coeducation" is commonly understood to mean the education of both sexes in the same institution and in the same classes; it has also been applied to education of men and women in the same university but in separate classes or in affiliated colleges.

Real coeducation is a modern phenomenon. In ancient Greece the sharp separation of the sexes in social and economic life had its reflection in the educational system. Greek women received only a slight literary education and coeducation was unknown. Although the status of women in Rome was distinctly higher than in Greece education of boys was separate from that of girls save in their early years, when plebeian girls were permitted to attend the *ludi*, or elementary schools, in the forum. From the dawn of the Middle Ages until late in the eighteenth century social usage and ideas sharply separated the functions of the sexes, relegating to women housewifely tasks and the rearing of children, and to men all other social, economic, political and intellectual functions. Under such a regime coeducation could not exist.

The late eighteenth and early nineteenth centuries saw the beginnings of coeducation. Pestalozzi, the Swiss educational reformer, taught boys and girls together in his famous elementary school at Burgdorf, which was visited by educators from many countries. Coeducational schools were established by the Society of Friends in several American states after the revolution. Naturally the growth of coeducation could not come about until the desirability of opening educational opportunities to women had been recognized.

The most powerful influence in furthering the view that girls should be given schooling comparable to that of boys was the industrial revolution, which profoundly altered the lives and the status of women. Scores of thousands of women by working exhausting hours in factories demonstrated that women could achieve economic independence. Little by little this fact was recognized not only by public opinion but by law, one civilized state after another acknowledging the rising status of women by revising in the direction of independence for wives legal codes which had so long borne hardly upon women.

As a further consequence of the economic revolution women of the middle classes, who for centuries had been chained to the spinning wheel and the loom, now enjoyed considerable leisure with a resulting demand for increased educational opportunities.

These developments, in a milieu pervaded by a democratic ideology assuming equality of opportunity for all and state responsibility for the education of the nation's children, combined to pave the way for the growth of coeducation. The discovery that segregated schools were more expensive also aided the spread of coeducation.

These factors have operated more potently in America than in Europe, where ancient traditions of segregation have proved a greater obstacle to coeducation. In Catholic countries the power of the church has been consistently exercised against coeducation, at least in any school above the elementary. In general, equality of educational opportunity has been interpreted in European countries as signifying nothing more than the opportunity for girls to study much the same subjects as boys, with much the same methods of instruction; nor has the feminist movement exerted any significant influence in changing this situation except in the realm of higher education, being apparently content on the whole to accept segregation of boys and girls in secondary schools so long as these institutions afforded to girls approximately equal opportunity to secure preparation for the university or for a vocation. True, in cities or small towns, where no special secondary school for girls exists, it is not uncommon for girls to be admitted to the boys' school. But coeducation under these circumstances has been described as a last resort (*pis aller*), adopted only for economic reasons.

Elementary coeducation is general only in Holland, Switzerland, Jugoslavia and Greece, although it is by no means uncommon in Great Britain.

Answers to a questionnaire circulated extensively among European teachers of secondary schools in 1929 revealed that a large majority of countries provided segregated secondary schools but tended to make programs and methods identical save for gymnastics and manual work. Although boys and girls in France are instructed in separate *lycées* or *collèges* the programs of study leading to the *baccalauréat* have been since October, 1924, practically identical. In England and Wales the public schools controlled by the Board of Education and receiving state subsidies are preponderantly of the segregated type. In the Irish Free State, Belgium, Germany, Austria, Hungary, Spain, Italy and Greece coeducation is not favored in secondary schools.

On the other hand, a few countries have been trying out coeducation with more or less satisfactory results. An interesting type of secondary school has recently appeared in Hamburg, Bremen and a few other German cities. These so-called "community schools" (*Gemeinschaftsschulen*) are frankly experimental in character and have introduced the innovation of coeducation as a part of a calculated policy of minimizing sex distinctions in response to changed social conditions. In Poland, in 1929, 26.7 percent of the total public and private secondary schools were mixed. Holland, Jugoslavia and Russia are the only European countries in which the majority of secondary schools are coeducational. In Holland there are no secondary schools solely for boys and only one fifteenth of the total secondary schools are reserved for girls. Jugoslavia reported in 1928–29 that 75 percent of her public secondary schools were mixed. Soviet Russia has adopted a deliberate policy of coeducation from the elementary school through the university. When the historical status of women in Moslem countries is considered it is significant that Turkey recently became interested in coeducation and in 1927 tried the system in several middle schools. European universities are almost without exception open to qualified women, who have flocked to them in ever swelling numbers since the World War.

The history of coeducation in the United States presents a sharp antithesis to that in Europe. Murray's *New English Dictionary* and the *Standard Dictionary* state that the term "coeducation" originated in the United States. In the colonial era girls were generally excluded from the boys' schools with the exception of the dame schools and the elementary schools in Dutch New Netherlands. But after the revolution the elementary and secondary schools of the new states were gradually opened to girls. Most of the early high schools dating from the eighteen twenties and thirties were boys' schools. Coeducation was forced to wait until public opinion had been converted to a belief in secondary education for girls. This belief spread rapidly after 1850 and the tendency toward coeducation in public high schools became increasingly powerful. In 1926 out of an estimated number of public secondary schools of 22,500, only 102 of the segregated type were reported, most of these being established in old eastern cities. On the other hand, many such private schools and academies exist in the United States. In 1928, 74,954 boys and 78,775 girls were enrolled in segregated private secondary schools, while 115,520 were receiving instruction in coeducational private schools. Colleges and universities have not so wholeheartedly accepted coeducation as have the public high schools. Not only are certain endowed universities, such as Harvard, Yale and Princeton, all but closed to women, but the state universities of Virginia and North Carolina admit women only under restrictive conditions. One compromise in the struggle arising out of proposals to open American universities to women has been the coordinate college, such as Barnard and Radcliffe at Columbia and Harvard respectively, where women are offered substantially the same curriculum as in the men's division and under the same general auspices. Approximately 100 separate colleges, exclusive of junior colleges, have been established for women, with an enrolment of 41,180 in 1925–26. Most of these colleges are located in eastern, southern and central states.

Economy has been a cogent reason for the adoption of coeducation in the United States. The leaders of the free school movement were not slow to see that the same standard of excellence in grading, instruction and equipment could not be maintained in segregated schools without a much larger teaching force than would be required in coeducational schools. Democratic theories have also played their part in the outcome. A Bureau of Education *Circular* (no. 2, Washington 1883) summarized reasons for adopting coeducation sent in by more than 500

cities. Several cities gave as their motive "justice to both sexes"; 14 declared the system to be more "impartial"; 158 declared it to be "beneficial" to both sexes; 101 favored it as "economical," 81 as "customary," 78 as "convenient" and 59 as "natural." In 1902 an educator explained the prevalence of coeducation in the West as follows: "The necessities of frontier conditions and the influences of education by the state paved the way for educating them [both sexes] together."

When American women had achieved a measure of economic and legal independence in the sixties and seventies they worked individually and collectively to extend the opportunities for higher education to their own sex. Unquestionably feminist influence has been powerful in America, both in bringing about coeducation in state universities and in securing the foundation of separate and affiliated colleges for women.

Somewhat of a reaction against coeducation set in about the opening of the twentieth century and various difficulties were brought to light by critics of the system. It was asserted, and still is in some quarters, that women need a course of study and methods of instruction that take more account of their peculiar psychological nature and needs and of the special social demands that will be made upon them. Critics have also cited as arguments against coeducation: the moral problems created by the free association of girls and boys in high school during the unsettled period of early adolescence; the election by college women of the humanistic subjects in such numbers as to drive the men from those courses on the ground that they are "feminine stuff," thus depriving men of the liberal culture they greatly need; the difficulties created for deans of women and deans of men in coeducational universities by the round of social activities participated in by men and women who are so absorbed in the opposite sex that they develop no serious interest and purpose in study; the more rapid mental development of girls after the twelfth year, often resulting in superior class work on the part of the girls and discouragement of the boys; competition with boys and men in meeting the exacting intellectual standards of high school and college, which is injurious to the health of young women. Of these last two contradictory criticisms the latter has been so abundantly refuted by investigation that it is rarely heard at present.

On the other hand, the advocates of coeducation point out that: the whole trend of modern social and economic life is in the direction of a closer approximation of the interests, activities and life work of men and women and requires similar education; if men and women are to work and play together and to strive for common ends they should learn to understand and appreciate each other by being educated together; there is considerable testimony of educators to the effect that except in occasional instances the daily association of adolescent boys and girls has, instead of affecting morals adversely, lifted the moral tone of coeducational schools above that of segregated institutions; men and women educated in common run together better "in the harness of married life"; the rich and varied offerings of our coeducational high schools and colleges make it possible for each sex to choose those courses which best meet individual tastes, talents and life purposes; if men are driven from the humanistic courses by the presence of women in the classes the solution of the difficulty would seem to lie, not in banishing women, but in educating young men to accept association with women in college, as in life, as a matter of course.

In recent years there appears to be a trend in American education toward differentiating the education of men and women in the secondary and collegiate stages. Increased stress on home economics courses in high schools, courses in euthenics at Vassar which include study of the physical and mental development of the child, and the Institute for Coordination of Women's Interests at Smith are indicative of this tendency. Whether these specialized courses will be widely elected by women cannot yet be determined, but their development in coeducational institutions may well dissipate many objections to coeducation founded on the view that women have special interests and needs that demand special educational treatment, without abandoning such advantages as coeducation provides.

WILLYSTINE GOODSELL

See: EDUCATION; PUBLIC EDUCATION; EDUCATION, SECTARIAN; UNIVERSITIES AND COLLEGES; WOMAN, POSITION IN SOCIETY.

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COEN, JAN PIETERSZOON (1587–1629), founder of Dutch power in the East Indies. As a young man Coen studied commerce, especially in Italy, and in 1607 he entered the service of the East India Company. In 1613 he became director general of the Dutch factories in the East Indies; from 1619 to 1623 and from 1627 until his death he was governor general in active service.

Coen, like the Portuguese Albuquerque, definitely fixed the direction of his country's colonial expansion. The Dutch East India Company from its founding in 1602 until Coen's assumption of supreme power had merely maintained a few small factories in the Malay Archipelago, the governors general traveling from one to another with the fleet which gathered the spice crop. Coen realized the utility of establishing strong settlements and a real central base. In 1619 he founded Batavia, which he made the seat of administration, and subsequently strengthened the position of the company in Java and the Spice Islands by the foundation of military posts. His task was made difficult by the presence of the competing English, whom he could not fight openly because of the alliance between the United Provinces and England. Coen did succeed in making their existence difficult, however; he was morally responsible for the massacre of Amboina in February, 1623, when twelve Englishmen (according to some authorities, nine) were condemned to death by the head of the Dutch factory. Coen was so hated by the English that in 1624 they caused the Estates General to forbid him to return to the Indies, and he was able to rejoin his post only by making use of a subterfuge. On his arrival in Batavia the English left the city and Dutch superiority in the East Indies was definitely assured.

Toward the natives Coen was strict and even cruel, his conduct being the almost inevitable consequence of company orders to establish commercial monopoly. His importance as an early colonial leader has only recently been recognized.

CHARLES DE LANNOY

Consult: Colenbrander, H. T., *Jan Pietersz. Coen, Bescheiden omtrent zijn bedrijf in Indië*, 5 vols. (The Hague 1919–23); Bokemeyer, H., *Die Molukken* (Leipsic 1888) ch. v; Deventer, M. L. van, *Geschiedenis der Nederlanders op Java*, 2 vols. (Haarlem 1887); Lannoy, Ch. De, and Linden, H. vander, *Histoire de l'expansion coloniale des peuples européens*, 2 vols. (Brussels 1907–11) vol. ii, p. 67–73, 111–18. For a short popular biography, see Huijbers, F. H. M., *Jan P. Coen* (Utrecht 1914).

COERCION as a trait of human behavior may be said to obtain wherever action or thought by one individual or group is compelled or restrained by another. To coerce is to exercise some form of physical or moral compulsion. Among human beings the nature and significance of coercion may be specified in terms of: the prior relations of the coercer and the coercee; the specific forms which the act of compulsion takes, and the act's total consequences during a certain period of time. A coercionless society is inconceivable. Coercion takes place whenever two or more living organisms different from one another live together.

Their compulsions and restraints may be direct or indirect. The indirect make up much of what is called the social order, but the sense of direct coercion always imminent is no small component in their sanction. It is the force in conscience and underlies much that is normal as well as neurotic in human behavior. Neurotics suffer from repressions in which the repressing agent is a desire or an attitude—called by psychoanalysts "censor"—set up and sustained by the ineffable mores of the community in which the sufferer grows up. Operating automatically with unchallenged authority the mores establish as habitual the conflict in an individual's life wherein his neurosis consists. If it is not recognized as the consequence of coercion by society it is because the coercion is reflex and automatic, incorporated, so to speak, in the personality of the coercee.

Where a coercion is not so incorporated it is recognized and is called coercion. When it is

direct we call it physical; when indirect, moral. Both compel or restrain conduct by *force majeure*. The force lays down the performance gradients along which the action unwillingly takes place.

Whether such coerced action is sanctioned depends upon the prior relations of the protagonists. Where these are not implied by the institutional structure of society, but are chanceful or episodic, the coercee committing, say, robbery or murder under the threat of death, is not held responsible. But where the protagonists are related as parent and child, master and servant, principal and agent, the coercee is held responsible. It would seem that the relations of coercer and coercee are regarded as not extensible from sanctioned to disapproved coercions. Sanctioned coercions are identifiable through the fact that they evoke conformity (*q.v.*), Under sanction, coercer and coercee are presumed to be members of each other on the analogy of parent and child in the family. The coercive intent is generally acknowledged as good, in itself or by its consequences, for both protagonists. It is this sentiment which sustains the legal system, taxation, compulsory education, established religion, the forms of manners and morals current and all those modes of coercion which are used in times of national crisis, such as war, pestilence or famine. The presumption is that security and other advantages accrue to the coercee—in the case of punishment for crime, security from subsequent coercion. This presumption both rationalizes and sustains what is in the end the brute, irrational superior force, actual or fancied, on which coercion depends.

It is customary to assume that sanctioned and unsanctioned coercions differ in kind. No such difference appears on analysis. An unsanctioned coercion is one operated by an outsider. The outsider is such only because he does not belong, according to custom or law, to the "duly constituted authority" in a given field. He has no "sovereignty," he is an interloper. According to the scale and range of his operations he may be anything from a highwayman to a Bonaparte, a cipher in a lynching mob to a volunteer crime commission or vigilance committee. The higher his scale and the wider his scope the more likely are his coercions to acquire those sanctions which convert unwilling deeds into willed duties and shift the emphasis from the coercer to the coercee, from coercion to conformity. Sanctions accrue to an act by an initial conformity with the mores through the repetition of long established usage and through assumed satisfactory consequences to the community as a whole. Usage has sanctioned the boss system in American politics; recency keeps its equivalent in other fields, known as "racketeering," an unlawful form of coercion. Lynching, although a statutory crime, is so congruous with the southern mores that it goes practically unpunished there. For the same reason the Eighteenth Amendment can be enforced hardly anywhere in the United States. On the other hand, because of the satisfactory consequences presumed to accrue from them, compulsory education and the income tax meet with conformity close to free consent. The sanctions described establish the only discernible differences between blackmail and taxation, between graft and tribute or "reparations," between conscription and forced membership in labor unions and trade associations or churches.

Most social coercion is indirect; it only threatens force. Its statutory formula is, "under the penalty of the law." But all coercions involve fear of penalties. Without belief that the coercer can and will impose penalties no indirect coercion can be effective. Authority, which is the sanctioned exercise of indirect coercion, rests upon and is nourished through this belief. The coercer is credited with the power to impose feared penalties and his authority holds only so long as his credit is good. The credit may accrue to him variously: through once making his authentic force directly felt (as does a highwayman or a successful pugilist); by delegation from another (a notion which is a component in all views of the source of authority—such as theories of divine right, natural right, legal right—since they all refer back to an ultimately supernatural original source); by chance or coincidence leading to a delusory belief that the coercer actually possesses delegated power.

It may be doubted whether these modes of establishing credit for coercive strength could long sustain it except for the lengthy period of direct coercion and authority practised by adults upon the young. The prolonged human infancy carries with it prolonged subordination and dependence of the young upon the old. This creates in each new generation a habit of submission and obedience and at the same time a belief in the strength of the old which long outlives this strength. Thus authority, as *patria potestas*, survives the power to enforce it; it lives on the mores into which it has become incorpo-

rated and they sustain it arbitrarily. With the growth of society, the division of labor and the specialization of functions the scope of the habit of submission spreads from parent to school, church, state and to all the other institutional forms and persons that serve as emotional surrogates for the *patria potestas*. Surrogates must either harmonize with a community's mores or be able to destroy them. The latter is possible only to radical alterations of the conditions of social life, like machine industry. Hence dictatorships, even of revolutionary origin like Napoleon's or Mussolini's, and civil disobedience like Gandhi's, can flourish, while "dictatorship of the proletariat" makes industrialization its basic effort. Under conditions of crisis or catastrophe—war, pestilence or famine—enhanced coercion such as dictatorship is often set up because the mores are relaxed, men are at loose ends, standards and conventions go by the board, society tends to break down from an organization of institutions into an aggregation of individuals and a succession of mobs. Sometimes the opposite occurs, coercion at one point being compensated for by looseness at another: as in the antithesis between the puritanic character of American mores in matters of sex and art and the unscrupulousness of business practise.

Social inheritance and thence civilization rest on the primary coercion of youth by age. Tradition and custom rest upon the ineradicability of experience imposed on infancy and upon consequences to the individual through membership in a group. When faith fails that the latter are good, coercion awakens resistance, counter-coercion; "civil disobedience" gets described as duty; government faces rebellion; church faces dissent. The upshot of such confrontations is either the extirpation of the opposition or the multiplication of sovereignties.

In western thought coercion became a moot question in politics with the consolidation of monarchical states; in religion with the success of the Lutheran heresy. Hobbes' *Leviathan*, Spinoza's *Tractatus politicus* and *Tractatus theologico-politicus*, Locke's essays on *Civil Government* and on *Toleration* attest the rise of the question through the confrontation of practically equal powers and the consequent need of each side to rationalize and justify its own desire. Since Locke the logical defense of coercion has become more and more difficult. Thinkers like Godwin, in his *Political Justice*, reject it altogether and the philosophy of anarchism has followed his lead. Its logic is infallible but, since coercion is inherent in the nature of things, barren. The utilitarians appear to have pursued a more fruitful line of analysis. Philosophers of the industrial revolution in England, they argued against the restrictions of society upon enterprise and innovation, maintaining that natural coercion is enough; "laissez faire," they said; the consequences determine whether a coercion evokes conformity or rebellion. So contended Bentham in his *Principles of Morals and Legislation* and Mill in *Liberty*. Their views have influenced considerably the later developments of law and business practise; in the speculative domain they have been superseded by others which draw heavily upon the biological and psychological disciplines.

HORACE M. KALLEN

See: SOCIETY; SOCIAL PROCESS; CUSTOM; TRADITION; GROUP; PUBLIC OPINION; CONVENTIONS, SOCIAL; CONFORMITY; MORALS; CRIME; LAW; GOVERNMENT; AUTHORITY; SANCTION; FORCE; OBEDIENCE, POLITICAL; APOSTASY AND HERESY; PROSELYTISM; CONTROL, SOCIAL; CENSORSHIP; LIBERTY.

COEUR, JACQUES (1395–1456), French merchant and financier. Coeur (or Cuer), the son of a small merchant of Bourges, became inspired as a result of his early travels in the Levant to try to free French commerce from the control of the Venetian and Genoese merchants. He organized and solidified the French markets and made Montpellier an important center of Levantine trade. He owned and operated a large commercial fleet, had more than three hundred factors in branch houses throughout the land, operated a silk factory at Florence, a paper mill at Bourges and mines of silver, lead and copper, ran a large passenger service for pilgrims to the East and amassed a fortune estimated at twenty-seven million francs. Coeur placed his riches at the disposal of Charles VII for the recovery of the kingdom and became first the king's master of the mint and later his steward. His position of power and eminence and his lack of scruple, however, aroused the hatred and jealousy of the petty merchants. They brought about his arrest and trial on the charge of having poisoned the king's mistress. Coeur managed to escape to Rome in 1455, was well received by Pope Calixtus III, but died the following year at Chios.

Banker and creditor of king and lords, honored by the pope and raised to the nobility by the king, in touch with the rulers of the East and the great merchants of the world, patron of the arts

and displayer of an aggressive luxury, Coeur is a typical representative of the rising bourgeoisie of the late Middle Ages which became allied with the crown against the old landed aristocracy. He gave the needed impetus to the entrance of the merchant class into public life and heralded their increasingly important participation in the disposal of all significant matters of state.

HENRI HAUSER

Consult: Clément, Pierre, *Jacques Coeur et Charles VII* (new ed. Paris 1865); Prutz, H., *Jacques Coeur von Bourges* (Berlin 1911); Kerr, A. B., *Jacques Coeur* (New York 1927); Bouvier, R., *Un financier colonial au XV^e siècle, Jacques Coeur* (Paris 1928).

COFFEE. *See* PLANTATION WARES.

COGHLAN, TIMOTHY AUGUSTINE (1856–1926), Australian statistician and civil servant. With the exception of unimportant intervals Coghlan devoted his life to public service in New South Wales. After working in the departments of Public Instruction and Public Works he was appointed in 1886 to the newly created position of government statistician and served in this capacity for nineteen years. He was a member of the Public Service Board, chairman of the Central Board of Old Age Pensions and Registrar of Friendly Societies. In 1905 he was appointed agent general for New South Wales in London, a position he filled almost continuously until his death. He served on various royal commissions and represented the Commonwealth of Australia on the Pacific Cable Board. He was a fellow and member of Council of the Royal Statistical Society, London, and a member of the Institut International de Statistique.

As government statistician, a position for which he had originally no particular training, Coghlan was responsible for the compilation of a number of valuable statistical summaries, some of which covered not only New South Wales but also the six other Australian states. He directed the censuses of 1891 and 1901 in New South Wales and he manifested a keen interest in vital statistics. He attempted an enumeration not only of the deaf, dumb and blind but also of the sick and infirm according to age and occupational groups. In the field of vital statistics his special studies include the *Decline in the Birth-Rate of New South Wales* (Sydney 1903) and *Childbirth in New South Wales* (Sydney 1899). He was responsible for the compilation in 1892 of the first official life table in any of the Australian colonies. The special reports on vital statistics for New South Wales, still being published, were inaugurated in 1899, while he was in office. One of his most important works was the four-volume *Labour and Industry in Australia* (London 1918), in which he traced the influence of such factors as immigration, land legislation, prices and political action from the first settlement in 1788 to the establishment of the commonwealth in 1901.

CHARLES H. WICKENS

COGNETTI DE MARTIIS, SALVATORE (1844–1901), Italian economist and sociologist. Cognetti endeavored to found a positivist school which would reconcile the classical and historical traditions and introduce the exact inductive method of physical science which Herbert Spencer had applied to the biological and social sciences. His theory and discussion of its application are to be found in *L'economia come scienza autonoma* (Turin 1887; first published in *Giornale degli economisti*, 2nd ser., vol. i, 1886, p. 166–203) and "Lo spirito scientifico negli studi sociali" (in *Riforma sociale*, vol. ii, 1894, p. 673–92). His two most important works are *Le forme primitive nella evoluzione economica* (Turin 1881) and *Socialismo antico* (Turin 1889). In the former Cognetti traced the evolution of major economic phenomena (division of labor, production, exchange, etc.) from the purely functional activity of self-preservation to the most developed forms of animal and human society. In *Socialismo antico* he employed the same genetic method to trace the forms of the ideal state through the centuries and to discuss the imaginary systems for the attainment of social happiness. As editor of the fourth series of the *Biblioteca dell' economista* Cognetti was guided by similar scientific standards.

P. JANNACCONE

Other important works: *L'evoluzione della vita e della coltura economica* (Turin 1896); *I due sistemi della politica commerciale*, 2 vols. (Turin 1896); "Formazione, struttura e vita del commercio" in *Biblioteca dell' economista*, 4th ser., vol. ii (1899) pt. i, p. i–cxliv; "Le più recenti indagini statistiche sugli Scioperi" in R. Accademia delle Scienze di Torino, *Memorie*, 2nd ser., vol. xliv (1894) pt. ii, 1–20; *Abrams Lincoln* (Mantua 1873); "La circolazione della ricchezza negli Stati Uniti d'America" in *Biblioteca dell' economista*, 3rd ser., vol. i, 47–151; "Il socialismo negli Stati Uniti d'America" in *Biblioteca dell' economista*, 3rd ser., vol. ix (1891) pt. iii, 1–304.

Consult: Jannaccone, P., *Biblioteca dell' economista*, 4th ser., vol. v (1901) pt. ii, p. clxxxi–ccvii.

COHEN STUART, ARNOLD JACOB (1855–1921), Dutch economist. After finishing his studies as a civil engineer at Delft in 1878 Cohen Stuart entered the civil service in the Dutch East Indies. There he distinguished himself by a courageous attack on the technical methods of the higher officials in the form of a study of the port of Tandjong Priok. He returned to the Netherlands in 1884, where he took up legal and economic studies at the University of Amsterdam. Attracted to the problems of progressive taxation by an appeal by Pierson in *De gids* (4th ser., vol. vi, pt. 1, 1888, p. 287–318) for a mathematical treatment of these problems, Cohen Stuart followed in the footsteps of a group of Dutch economists, including Pierson, Treub and Cort van der Linden, who had studied progressive taxation in the light of an application of marginal utility theory to the doctrine of equal sacrifice. His brilliant doctoral dissertation *Bijdrage tot de theorie der progressieve inkomsten belasting* (Contribution to the theory of the progressive income tax; The Hague 1889) is a classical treatment of the problems arising from the search for a scale of progression which distributes the burden of taxation according to equality of sacrifice. After an acute formulation of the distinction between the concepts of "ability to pay" and "equality of sacrifice" Cohen Stuart comes to the conclusion that just taxation involves taxing the individual "in such a way that for every one the amount of enjoyment (*genot*) of which he is deprived through the tax may be proportional to the total amount of enjoyment attainable through his economic condition, with the exception of the part which is required for the satisfaction of his absolutely necessary wants." Thus stated the problem becomes one of the mathematical relation between enjoyment and income, and Cohen Stuart first proved that the arguments used thus far (based on the assumption that greater incomes are worth relatively less than smaller ones because of the decreasing intensity of human wants) do not necessarily lead to progression, but that the possibilities of proportionality or even regression remain. He then attempted to construct his own ideal curve of progression, based on hypothetical data. His attempt has been criticized by Seligman on the ground that his conclusions depend "not only on the arbitrary assumption of a definite ratio of marginal utilities, but also on the equally arbitrary assumption of a definite minimum of subsistence." Although he was twice seriously considered for the chair of economics at Amsterdam, Cohen Stuart failed to find a place in academic life. After a distinguished career as a consulting specialist he accepted a position with the Royal Dutch Petroleum Company in 1900 and became one of the leaders in its development.

HARRY D. GIDEONSE

Consult: Edgeworth, F. Y., in *Economic Journal*, vol. xxxi (1921) 414–15; Sandick, R. A. van, in *De ingenieur*, vol. xxxvi (1921) 604–06; Seligman, E. R. A., *Progressive Taxation in Theory and Practice* (2nd ed. Princeton 1908) p. 218–23, 278–84.

COHN, GEORG LUDWIG (1845–1918), German jurist. He was at first professor at Heidelberg and later became rector of the University of Zurich. He was a pioneer in German comparative jurisprudence, his special field being comparative commercial law, particularly the law of exchange and of checks, interests which grew out of three years' practical banking experience. Although Cohn was not the first German jurist to comprehend the importance of the studies of foreign law for the development of German codification, he was undoubtedly one of the first and most important propagators of the idea of the unification of the international laws of exchange. His program was somewhat reminiscent of the suggestions of Accarias de Sérionne (1706–92) and of the recommendations of his Dutch contemporary, T. M. C. Asser (1838–1913). To further the realization of his proposals Cohn published a series of studies on the modern codifications of the different European countries as well as of the United States. His greatest contribution, however, was the founding with Professor Bernhöft in 1878 of the first German review of comparative jurisprudence, the *Zeitschrift für vergleichende Rechtswissenschaft*, in Stuttgart. Cohn represented the modern branch of the new science, while Bernhöft occupied himself chiefly with the historical branches. The review came to exercise great influence upon the development of comparative jurisprudence in Germany, especially after Josef Kohler became co-editor in 1882; the most important of Cohn's own works were published in its volumes. His labors in the field of old German law were of comparatively less importance.

LEONHARD ADAM

Consult: Kohler, Josef, in *Zeitschrift für vergleichende Rechtswissenschaft*, vol. xxxv (1918) 479–80.

COHN, GUSTAV (1840–1919), German economist. Cohn taught at the Riga Polytechnic from 1869 to 1872 and after spending a few

years in England became professor at the Zurich Polytechnic in 1875. In 1884 he was called to a chair in Göttingen, where he remained for the rest of his life.

Cohn was not primarily a theorist. In his writings on general economics, which include the first volume of his *System der Nationalökonomie* (3 vols., Stuttgart 1885–98) and some articles in the collections *Volkswirtschaftliche Aufsätze* (Stuttgart 1882) and *Nationalökonomische Studien* (Stuttgart 1886), he endeavored to synthesize the classical doctrines with the newer historical and social tendencies and laid particular stress on the social-psychological and ethical factors in economic life. These works are marked by a philosophic breadth of view and an unusual felicity of style and earned for him in Germany the reputation of the foremost economic essayist of his time.

Cohn's important contributions were made in the fields of transportation and public finance. His *Untersuchungen über die englische Eisenbahnpolitik* (2 vols., Leipsic 1874–75), based on several years of close study, laid the foundation for all subsequent treatises on railway theory and policy such as, notably, A. T. Hadley's *Railroad Transportation* (New York 1886). In this work Cohn utilized for the first time the rich mine of materials found in the proceedings of parliamentary commissions, but he did not always allow for the fact that testimony before the commissions was often in the nature of special pleading. He was a strong advocate of railway amalgamation and government ownership and an equally strong opponent of canal construction. The *Untersuchungen* were supplemented by *Die englische Eisenbahnpolitik der letzten zehn Jahre (1873–1883)* (Leipsic 1883), the chapters on transportation in the third volume of his *System* and the articles collected under the title *Zur Geschichte und Politik des Verkehrswesens* (Stuttgart 1900).

Cohn was one of the famous quartette, of which Roscher, Lorenz von Stein and A. Wagner were the other members, who may be said to have founded the modern science of public finance. Beginning with *Finanzlage der Schweiz* (Zurich 1877) he remained the typical German exponent of the liberal Swiss ideas. His *Finanzwissenschaft* (vol. ii of the *System*, 1889) is particularly striking in its discussion of equities in taxation, dealing with such angles of the problem as the minimum of subsistence and the doctrine of graduation. The English translation of this work (by T. Veblen as *The Science of Finance*, Chicago 1895) was, however, so deficient in form as to make little impression. He summed up some of his later contributions to finance in *Zur Politik des deutschen Finanz-, Verkehrs-, und Verwaltungswesens* (Stuttgart 1905).

EDWIN R. A. SELIGMAN

COINAGE. Previous to the invention of coinage practically all movable goods, sometimes even immovable property, like the carved rocks (*feis*) on the island Yap, were used as means of exchange or standards of value. Sometimes also a number of such objects were related to one another so as to represent a scale of values. Primitive peoples employed as money in intra-tribal exchange goods which served as the customary evidence of wealth in the community, and in trade with outsiders the selection of goods for monetary uses was determined by the preferences of the alien merchants. It is probable that systems of weights were first introduced in order to measure the precious metals. After such systems came into general use valuable raw materials in place of finished goods began to be used as money. This trend could be observed most clearly in the case of metals, which beginning with iron, copper and brass gradually superseded primitive media of exchange. The ancient civilizations reached this stage of development about the eighth century B.C., China even earlier, and in modern times savages were found to have approached it in many instances. In the West the first known example of coinage is recorded as occurring in Lydia, where in the seventh century B.C. stamped pieces of electrum, a mixture of silver and gold, were produced.

The choice of the metals was dictated at all times by immediate economic needs and opportunities rather than by the prescriptions of the ruling power. The development of wealth and commerce, however, soon overcame the limitation upon the choice of the metals which had been due to their geographical distribution. In this manner may be interpreted the choice of silver and later of gold in ancient Greece as well as the use in Rome immediately after Caesar's death of gold coins to supplement brass and silver coinage. In the early Middle Ages, because of the predominance of barter, only copper and silver were coined, with the exception of the temporary minting of gold under Carolingian rule. As a demand for the larger coins subsequently arose gold was reestablished, beginning with the Florentine florins and the Venetian

zecchinos. Gold has ever since been the favored money metal, especially in international trade.

The development of the technique of coinage was rather slow. Nevertheless, the Greek and Roman world, thanks especially to the initiative of Athens, was already producing a sufficient number of fine and comparatively uniform pieces to allow a currency by tale of small units at least. The Middle Ages continued the use of the ancient technique, namely, the laborious designing and cutting of the coin types and the striking or hammering of individual coins by hand. The sixteenth century witnessed the introduction of mechanical methods of minting and their application to the preparatory manipulations (rolling, cutting) of the metal as well as to the coining process itself (milling of coins), but it was not until the next century that these devices overcame the opposition of the moneyers' guilds and other bureaucratic hindrances. Even greater progress was made through the application by Boulton in 1786 of steam power to minting, through the development of chemical processes in handling the raw metals and through the numerous mechanical innovations of the nineteenth century. One of the most important of these was the lever press, which was invented by Uhlhorn in 1839 and enormously accelerated the striking of coins.

The economic significance of this technical development was far reaching. It resulted in a substantial reduction in the cost of minting; the cost of production, which as late as the eighteenth century ranged from 10 to 20 percent of the value of the coin, has been reduced for gold coins to less than one third of one percent. Moreover, it made possible the minting of coins of uniform shape and content and thus provided a currency which could be circulated by tale. The passing of money by weight, a practise current to a considerable extent in Rome, under both the republic and the empire, in the Middle Ages and even in early modern times, became unnecessary. The indirect means of securing a stable standard of value, such as the ideal money of account (e.g. *Kölnische Mark*, *livre de compte*), the use of which was enforced either by law (under Athenian and Roman rule) or by universal custom, were rendered superfluous. Similarly the mediaeval Italian and Dutch methods of effecting payments through transfer banks without the actual passing of coin became obsolete. Likewise the "coinage alliances" organized by the German cities in the Middle Ages were no longer necessary.

Technical improvements permitted also the erection of additional safeguards against the abuse of currency by outsiders, by the employees of the mint or by the holders of the minting concession. Such malpractises as existed in the *Kipper und Wipper* period in sixteenth century Germany had been a serious obstacle to capital accumulation and one of the causes of social unrest at the time of the rapid expansion of the money economy. It was important, therefore, that the milling of coins introduced at the end of the seventeenth century succeeded in putting a stop to money clipping, and that Gengembre's invention of 1808, which mechanically adjusted and controlled the metallic content of coin, reduced the opportunities for counterfeiting.

The modernization of minting technique solved also one of the most pressing of the early monetary problems, the shortage of coin. The inadequacy of the monetary supply was probably responsible for the adoption of such temporary expedients as the production of bracteates, diminutive pieces of metal so thin that one stamp sufficed for both surfaces, and the private issue of token coins. Thus a great quantity of copper farthings were issued without royal concession in England in the seventeenth century. Such devices could be dispensed with after the introduction of the modern minting machine, with its daily capacity of 100,000 perfect coins as compared with the 8400 badly stamped groschen which were considered a good day's work in seventeenth century Prussia.

Changes in the administration of coinage went hand in hand with its technical development. Beginning in the ancient world, probably with the governmental coinage of the Persian kings, minting has been regarded as a prerogative of the ruling power. In the Greek communities this prerogative was a cause of strife between the political parties, and the emergence of tyrants was likely to mean a pronounced centralization of the coinage. In Rome centralization ruled from the beginning and, naturally enough, the emperors put great emphasis upon the exclusive character of their privilege to use and abuse the mint. This imperial prerogative was perpetuated as part of the tradition inherited by the Middle Ages and was exercised either by the suzerain or by persons who had received it as a feudal grant. As a natural consequence of the lack of communication these grants multiplied to such an extent between 800 and 1200 that the coinage was completely decentralized. During the earlier Middle Ages this situation was of only limited

importance, because with the prevalence of a "self-sufficient" type of economy, exchange resembled in the majority of cases simple barter. In Germany, for example, copper and small silver pieces, pfennigs and half pfennigs were practically the only coins minted until the end of the thirteenth century. Later this decentralization of minting authority threatened to have more serious consequences. From the time of Saint Louis in France and Henry VII in England, however, these countries witnessed the gradual extinction of all but the royal minting power. In Germany, on the other hand, the decline of the emperor's political position resulted in a further dispersion of the minting prerogative among thousands of feudal barons, bishops and cities. None of the numerous decisions of the later Reichstags, which did their best after 1566 to reform by legislation the confusion of the monetary system of the empire, could achieve even a comprehensive monetary union.

Apart from lack of centralization, the coinage policy of the entire period from the twelfth until the end of the eighteenth century suffered from the fact that the minting privilege, like other royal privileges, was exploited with a view to obtaining therefrom the greatest possible revenue. The earnings of the mint per piece coined depended not only upon the margin legally permitted between the face value of the piece and its metallic content (seigniorage), but particularly upon the gradual and unauthorized reduction in the bullion content of the standard unit or in the weight and the fine content of the individual coins. But more important from the standpoint of total revenue derived was the output of the mint; to increase the turnover of the mint, changes in the coin, with the consequent renewal and reminting, were continually undertaken.

Changes in the coin were accomplished either by raising the face value of the coin or by reducing its metallic content. With the issue of new depreciated coins old coins were generally although not always "called down" for reminting in accordance with the new standards. After the coin was thus increasingly depreciated for some time, the reverse measure had commonly to be resorted to and this "raising" of the coins was again cause for a new reminting. Thus in some parts of Germany and Austria in the fourteenth century the cities would purchase from the feudal mint owner his privilege of controlling the regularly repeated deteriorations of the coin and then raise the value of their moneys by reminting. Analogous to a change in coin in its effect upon recoinage was a change in the uncoined monetary unit which was at the basis of the system of coins actually circulating; such a change involved a readjustment of money in circulation and often meant the coinage of new pieces.

Frequent remintings were also caused by circulatory difficulties arising from the imperfections of minting technique and monetary policy. Payments in terms of a stable money of account, which were practised widely for a long time because of the unsatisfactory state of coinage, would lead to the withdrawal from circulation of the heavier coins. Thus within a certain period the coinage of a locality would be automatically "eased" and reminting had to take place. In addition, with the development of commerce and the appearance of gold coins, changes in the market value of gold and the resulting discrepancies between the market and the mint ratios of gold and silver would compel remintings. In countries without a central political organization, such as Germany and Italy, the competition of coins produced by different mints under different rules was recurrently advanced as a reason for recoinage. While the foreign coin competition argument was probably valid enough for very small political units which were not sufficiently strong to enforce the exclusive use of domestic coin even for the smaller transactions, this "economic" apology still advanced by some recent writers, Schmoller for instance, has no foundation in fact. Similarly, the argument of some mediaeval rulers and certain modern writers that the shortage of monetary metals necessitated a lowering of the monetary standard and remintings cannot be proved.

The history of coinage until the end of the eighteenth century in most continental countries is the history of a long and continuous series of experiments designed to make the mint yield the highest possible amount of net revenue. Some of its worst examples were found in German states and principalities. Even in France, where centralization set in early, Philip the Fair began a series of reckless monetary experiments. In England, however, beginning with the fourteenth century, Parliament and the moneyed interest were able on the whole to prevent abuse of the mint for fiscal purposes, although during the period of absolutism under Henry VIII and Edward VI their influence was not strong enough to keep England from undertaking coinage experiments of the continental type.

While attempts were made to improve conditions by such reforms as that of Queen Elizabeth in England and the reform of 1679 in France, the mediaeval coinage policy remained in effect until the close of the eighteenth century. This policy may be said to have come to an end with the abolition of seigniorage on standard coins and of all other practises involving manipulation of the coinage for the "illegitimate" profit of the mint. Connected with this change were the definite limitation of token coinage in circulation and the elimination of recoinages caused by the circulation side by side at fixed value ratios of gold and silver coins or of coins of different standards of weight and fineness.

M. PALYI

See: MONEY; MONETARY UNIONS; GOLD; SILVER; BIMETALLISM AND MONOMETALLISM; METALS; REVENUES, PUBLIC.

Consult: Ridgeway, William, *The Origin of Metallic Currency and Weight Standards* (Cambridge, Eng. 1892); Schurtz, Heinrich, *Grundriss einer Entstehungsgeschichte des Geldes* (Weimar 1898); Babelon, Ernest, *Les origines de la monnaie* (Paris 1897); Burns, A. R., *Money and Monetary Policy in Early Times*, History of Civilization series (London 1927); Babelon, Ernest, "La théorie féodale de la monnaie" in Académie des Inscriptions et Belles-Lettres, *Mémoires de l'institut national de France*, vol. xxxviii, pt. i (1909) 279–347; Bridrey, Émile, *La théorie de la monnaie au XIVe siècle* (Paris 1906); Monroe, A. E., *Monetary Theory before Adam Smith*, Harvard Economic Studies, vol. xxv (Cambridge, Mass. 1923); Borrelli de Serres, L. L., *Recherches sur divers services publics du 13e au 17e siècle*, 3 vols. (Paris 1895–1909) vol. ii; Luschin von Ebengreuth, Arnold, *Allgemeine Münzkunde und Geldgeschichte des Mittelalters und der neueren Zeit* (2nd ed. Munich 1926); Nagl, Alfred, "Die Goldwährung und die handelsmässige Geldrechnung im Mittelalter" in *Numismatische Zeitschrift*, vol. xxvi (1894) 41–258; Landry, Adolphe, *Essai économique sur les mutations des monnaies dans l'ancienne France de Philippe le Bel à Charles VII* (Paris 1910); Breckinridge, S. P., *Legal Tender: a Study in English and American Monetary History* (Chicago 1903) chs. iii and v; Schrötter, Friedrich von, *Das preussische Münzwesen im 18. Jahrhundert*, 7 vols. (Berlin 1902–13), and *Das preussische Münzwesen 1806 bis 1873*, 3 vols. (Berlin 1925–26).

COKE, EDWARD (1552–1634), English jurist. Coke's career as law officer, judge and parliamentary leader is part of the political history of his time. To politics he made the practical contribution of drafting the Petition of Right in 1628 and the theoretical contribution of reviving for a time the mediaeval notion of the supremacy of law (*Bonham's Case*, 1610). Against these, however, must be set his unfortunate attacks upon the courts of admiralty and chancery which isolated the common law from the newer tendencies which these courts represented in commercial law and equity. Within the limits of the common law his work was marked by a cautious liberalism both in technical doctrine and in social tendency. The latter may be seen in his decisions in favor of copyholders.

His *Institutes* (pt. i published in 1628, pt. ii in 1642 and pts. iii–iv in 1644) and *Reports* (pts. i–xi published in 1600–15, pt. xii in 1656 and pt. xiii in 1659) occupy a unique place in legal literature. They were written at a time when the common law was embodied in the disorderly mass of yearbooks and statutes and when demands were being made (especially by Bacon) for codification and radical reforms in substance. Coke's work was to summarize the old apparatus for modern use, and in his works the profession found as many references to mediaeval authority as it cared to handle. As a result it was soon tacitly agreed not to go behind Coke's authorities; but this gain was accompanied by the disadvantage of permanently imposing upon the law the considerable mass of mediaeval learning which Coke delighted to display. His historical work was, however, always subordinated to immediate practical considerations, and so his pronouncements in this direction must be read with caution. This applies equally to the historical matter in many modern legal treatises whose authors, following their professional tradition, are content to accept Coke's authority in history as well as in law.

THEODORE F. T. PLUCKNETT

Consult: Woolrych, H. W., *Life of . . . Sir Edward Coke* (London 1826); Johnson, C. W., *The Life of Sir Edward Coke*, 2 vols. (London 1837); Lyon, W. H., and Block, Herman, *Edward Coke: Oracle of the Law* (Boston 1929); Campbell, John, *Lives of the Chief Justices of England*, 4 vols. (3rd ed. London 1874) vol. i, chs. vii–x; McIlwain, Charles Howard, *The High Court of Parliament and its Supremacy* (New Haven 1910); Holdsworth, W. S., *History of the English Law*, 9 vols. (3rd ed. London 1922–26) vol. v; Plucknett, Theodore F. T., "Bonham's Case and Judicial Review" in *Harvard Law Review*, vol. xl (1926–27) 30–70; Boudin, L. B., "Lord Coke and the American Doctrine of Judicial Power" in *New York University Law Review*, vol. vi (1928–29) 223–46; Mackay, R. A., "Parliamentary Sovereignty or the Supremacy of the Law" in *Michigan Law Review*, vol. xxii (1923–24) 215–47.

COLAJANNI, NAPOLEONE (1847–1921), Italian criminologist, statistician and publicist. He was born in Castrogiovanni, Sicily, and became early in life a Garibaldian patriot. He was

at first a surgeon (1871), then assistant professor of anthropology at Catania University and later (1901) professor of statistics at the University of Naples.

Colajanni's writings cover a wide variety of subjects and are mainly in a polemical vein. In his *Il socialismo* (Catania 1884, 2nd ed. Palermo 1898) Colajanni discussed socialism from an evolutionary point of view. He strenuously defended Mazzini against Marx, the clericalists and royalists (e.g. *Mazzini e socialismo*, Rome 1901; 2nd ed. 1921). In *Aspromonte* (Rome 1912) he criticized the role played by the royal house of Savoy in the history of modern Italy. He believed that the colonial expansion of Italy should wait upon the achievement of prosperity at home (*Politica coloniale*, Palermo 1891). Outstanding among his writings are his works on criminal sociology (e.g. *La sociologia criminale*, 2 vols., Catania 1889), in which he ascribed to environmental factors—especially those of the social and economic environment—the major cause of delinquency. Colajanni employed the statistical method in *Latini e Anglo-Sassoni* (Rome 1903, 2nd ed. 1906) to demonstrate that moral conditions in Italy compared favorably with those in the United States, and in *Socialismo e criminalità* (Rome 1904) to indicate the relatively low criminal rate in the socialist districts of Germany. His work on the elements of statistics, *Manuale di statistica teorica e demografia* (3 vols., Naples 1904; 4th ed. in 1 vol., Naples 1920), is full of wisdom and good sense.

As a member of Parliament and as editor for twenty-seven years (1895–1921) of the *Rivista popolare di politica, lettere e scienze sociali* (Naples) Colajanni took a pronounced liberal position and always favored the idea of an Italian republic. He was an adversary of German influence in Europe, which he believed reactionary and inimical to democracy. Though an ardent patriot he vigorously opposed legal uniformity and was attracted increasingly to the idea of federalism. In time he also modified his socialistic leanings to become an anticollectivist, largely because of his dislike of the antipatriotic tendency in international socialism. He was convinced that nationalistic forces such as language and historic tradition exerted a greater cohesive force upon a community than did the solidarity engendered by class consciousness and similar standards of life.

ROBERTO MICHELS

Consult: *Rivista popolare di politica, lettere e scienze sociali*, vol. xxvii (1921) nos. 17–18, which are devoted to a discussion of the life and work of Colajanni and which include also a list of his writings.

COLBERT, JEAN-BAPTISTE (1619–83), French statesman and administrator. As the son of a woolen merchant of Reims, Colbert no doubt received a sound training in commerce and banking. After a period of service in the war office and later in the household of Mazarin he became intendant of finances in 1661 and controller general in 1665. In this office he exercised not only the functions of minister of finance but those of minister of the interior. He also held the offices of secretary of the navy and superintendent of construction. As Marquis de Seignelay he played a role in the royal councils the more preponderant because he left apparent initiative to the king.

As minister of finance he attempted to establish order through definite estimates of future receipts and expenses and through elimination of waste. Although he was not able to change the deplorable system of taxation he managed to improve the position of the peasants by revising the lists. He found the state excessively burdened by debt and unfortunately resorted to measures which amounted to a declaration of bankruptcy, to the ruin of public credit. He hated the financiers but the war with Holland placed him in their power.

His economic theories were mostly those of Richelieu. He sought to make an economic unit of the nation by substituting uniform duties at the frontier for the multitude of provincial duties, but he was able to realize this policy only to a very limited degree. He conceived of the development of economic life as a public service and, like Richelieu, inveighed against the idleness of the nobles and the desire of the middle class for public office. He wished to see the population of France increase, and he wished all elements in the population to contribute as much as possible to the national wealth.

In some points his theories were narrow and reactionary as compared with the contemporary mercantilist theories. He believed that the population of each state and its power of consumption, the amount of money in circulation, the commercial possibilities and even the aggregate tonnage of the European merchant marine were virtually fixed quantities, and therefore that a state could enrich itself only at the expense of others, by waging a "war of money" on them. He detested Holland especially because that

country was then the reservoir of the precious metals and the market for capital and controlled three fourths of the commercial tonnage of Europe. While the principal object of the tariff of 1664 was customs unification, that of 1667 frankly represented tariff war and it was destined to lead to the calamitous war of 1672. Colbert opposed trade with the East because it involved export of gold; on this point he was in violent conflict with the people of Marseille.

The essential points in his economic policy were preventing the export of useful materials; attracting raw materials from abroad; prohibiting or at least taxing heavily imports of foreign manufactures; seeking outlets for French products; establishing in France new industries by inducements to skilled workers from France and from abroad; creating, as Henry IV and Richelieu had attempted, royal manufactures, establishments operated either by the state (for example the Gobelins) or by privileged manufacturers free from statutory regulations and the supervision of the guilds; reestablishing abroad a reputation for French products by subjecting the manufacturers as well as the traders to severe regulation under the control of inspectors of manufactures and of the Council of Commerce. Inspired by the example of Holland Colbert sought to liberate France from dependence on the foreign carrying trade. He believed that trading companies could be created by fiat prescribing the amount each capitalist should subscribe. The results of his efforts in this direction were mediocre. Colonies he regarded merely as objects of exploitation by the imperial state.

Colbert also played an important part in the unification and codification of the laws through ordinances on civil and on criminal procedure, on waterways and forests. By the *Ordonnance du commerce* of 1673 he restored confidence in the word of the French merchants by imposing upon them ruthless regulations. Toward the close of his career he worked out the *Ordonnance de la marine* and the *Code noir*, or ordinance on the Negroes of the colonies, proclaimed in 1685 after his death.

Colbert even played a part in the intellectual supremacy of France under Louis XIV. It was his dream that alongside of the administrative organs controlling the national life a government of experts and savants might be established for the king. While he protested against the ruinous waste of Versailles he pensioned learned men and artists of all countries, established academies (of inscriptions, of sciences and the French Academy at Rome) and scientific institutions (observatories, schools of languages).

He was less a great statesman than a great clerk, admirable for his industry, love of order and passion for detail. His conception of national economy, his creation of a marine and a class of sailors, his engineering works such as the Canal des Deux-Mers, contributed toward a sense of national unity and grandeur. But his narrow mercantilism with its strongly belligerent tendencies and his spirit of authoritative regulation indicated a reactionary intelligence. After his death "Colbertism" degenerated into a meddling tyranny over industries, an obstacle to progress and trade.

HENRI HAUSER

Consult: Depping, G. B., *Correspondance administrative sous le règne de Louis XIV*, Collection de Documents Inédits sur l'histoire de France, no. xxviii, 4 vols. (Paris 1850–55); Clément, P., *Lettres, instructions et mémoires de Colbert*, 7 vols. (Paris 1861–70), and *Histoire de Colbert*, 2 vols. (3rd ed. Paris 1892); Neymarck, Alfred, *Colbert et son temps*, 2 vols. (Paris 1877); Hecht, G. H., "Colbert's politische und volkswirtschaftliche Grundanschauungen," in *Volkswirtschaftliche Abhandlungen der Badischen Hochschulen*, 2 vols. (Freiburg 1898–99) vol. i, p. 201–69; Lavisse, E., *Histoire de France*, 9 vols. (Paris 1908–11) vol. vii, pt. i; Mims, S. L., *Colbert's West India Policy*, Yale Historical Studies, no. i (New Haven 1912); La Roncière, C. de, *Histoire de la marine*, 5 vols. (Paris 1899–1920) vol. v; Sée, H., "Qui faut-il penser de l'oeuvre économique de Colbert?" in *Revue historique*, vol. clii (1926) 184–94; Elzinga, S., "Le tarif de Colbert de 1664 et celui de 1667" in *Economisch-historisch jaarboek*, vol. xv (1929) 221–73.

COLD STORAGE. *See* REFRIGERATION.

COLERIDGE, SAMUEL TAYLOR (1772–1834), English poet, philosopher, literary critic and journalist; one of the leaders of the English romantic movement. At first a Godwinian, he soon took up journalism on the Tory side. Especially after 1815 his writings developed into a series of attacks on "Jacobinism," which he defined as an attempt "to build up government and the frame of society on natural rights instead of social privileges, on the universals of abstract reason instead of positive institutions, the lights of specific experience, and the modifications of existing circumstances." Similarly he criticized utilitarianism and classical economics because of the philosophical and psychological inadequacy of the former and the unduly abstract arguments of the latter. He pointed to the unemployment and poverty accompanying industrial progress and declared that these could not be remedied

on the principles of individualism and laissez faire. There seemed to him a special need for governmental interference to insure a prosperous agricultural population, to prevent the exploitation of children in industry and to establish a national system of education. In his mature political thinking Coleridge followed Burke, although laying even greater stress on the importance of psychology and history as the bases of politics. While considerably influenced in his general philosophical thinking by the German idealists, he disliked their emphasis on the state; the idea of sovereignty he described as a "mischievous hyperbole." Apart from his great influence on religious thought Coleridge's political and social ideas were carried on by various writers including Southey, Lord Shaftesbury, F. D. Maurice and the Christian Socialists, Matthew Arnold and J. S. Mill.

ALFRED COBBAN

Important works: Coleridge's most influential work in the field of social thought was his *On the Constitution of Church and State* (London 1830; 4th ed. 1852). Important also are his writings in *The Friend* (London 1809–10; second version, 3 vols., 1818), and his *Essays on Our Own Times*, 3 vols. (London 1850).

Consult: For Coleridge's life: Campbell, J. D., *Samuel Taylor Coleridge* (London 1894). For his political and social theory: Mill, J. S., *Dissertations and Discussions*, 4 vols. (3rd ed. London 1875) vol. i, p. 393–466; Brinton, Crane, *The Political Ideas of the English Romanticists* (Oxford 1926) p. 65–84; Cobban, A., *Edmund Burke and the Revolt against the Eighteenth Century: A Study of the Political and Social Thinking of Burke, Wordsworth, Coleridge and Southey* (London 1929) chs. vi–viii; Murray, R. H., *Studies in the English Social and Political Thinkers of the Nineteenth Century*, 2 vols. (London 1929) vol. i, ch. v. For his educational ideas: Snyder, A. D., *Coleridge on Logic and Learning* (New Haven 1929).

COLINS, JEAN HIPPOLYTE, BARON DE (1783–1859), Belgian collectivist thinker. Colins served with distinction as a volunteer under Napoleon and after the Restoration was exiled. In 1819 he went to Havana as a physician but following the Revolution of 1830 returned to Paris, where he set out in middle age to study and develop his system of social reform known as "rational" socialism.

Despairing alike of the theocracy of the past and of the anarchic democracy of his time Colins sought for a seat of "real authority, rationally incontestable" to persuade men to be brothers. He discovered it in the "feeling of existence," which proved the immortality and hence the moral responsibility of the soul. He deduced that ignorance and pauperism are unnecessary. Even those who "by their own folly" have become unproductive should be "maintained in plenty and well-being." All men should have free access to the soil and to the accumulations of past generations. Land and most capital goods should therefore be collectively owned but privately worked (on thirty-year leases) with rent applied to social purposes. During the transition period to the "rational" order society was to accumulate wealth by 25 percent inheritance taxes and by the reversion to the state of all intestate land lapsing out of the direct line of descent.

Colins attacked the extreme individualism of Proudhon, and in the ranks of the First International his followers, who advocated the collective ownership of the soil, formed a transition group between the "mutualists" and the Marxians. Later Colins' disciples, De Potter, Brouez and others founded the "Ligue pour la Nationalisation du Sol," which is still active.

DOROTHY W. DOUGLAS

Important works: *Socialisme rationnel*, 3 vols. (Paris 1851); *Qu'est ce que la science sociale?*, 4 vols. (Paris 1851–54, 2nd ed. Mons 1905–07); *La science sociale*, vols. i–vii, xii–xix (Brussels 1857–96); *De la justice dans la science, hors l'église et hors la révolution*, 3 vols. (Paris 1860).

Consult: Hugentobler, A., *L'extinction du paupérisme* (2nd ed. Brussels 1868); Toubeau, Maxime, "Colins et sa doctrine" in *Revue socialiste*, vol. xlii (1905) 534–51; Parent, Gabriel, *Le socialisme de Colins* (Beaune 1912), containing bibliography.

COLLECTIVE BARGAINING is a process of discussion and negotiation between two parties, one or both of whom is a group of persons acting in concert. The resulting bargain is an understanding as to the terms or conditions under which a continuing service is to be performed. There is collective bargaining between apartment dwellers and a landlord, the cooperative producers of tobacco or cotton and the buyers, the distributors of milk in a large city and the dairymen, a public utility and the users of its product. More specifically collective bargaining is the procedure by which an employer or employers and a group of employees agree upon the conditions of work. The institution is both a device used by wage workers to safeguard their interests and an instrument of industrial organization.

The use of collective bargaining and the maintenance of labor unions are now almost inseparable. Workers may organize for another purpose—a union of employees to control conditions of work may require only an informal

understanding—but in general collective bargaining is the activity about which trade unions are built up. The necessity of collective bargaining leads to a definition of the aims of the working group and to the development of working rules involving the regulation of the number of apprentices, the maintenance of a shop closed to non-union members and the subordination of individual interests to a common discipline. The concert of action makes the suspension of work, popularly called the strike, an effective weapon in use or as a threat. Accordingly, the extent of effective employment of collective bargaining is the extent of successful unionism; the history of collective bargaining is inseparable from the history of organized labor.

A process of collective bargaining may take any one of a number of forms. A single employer may bargain with a group of employees, as the proprietor of a restaurant with his waiters; a local group of employers with a number of groups of employees, as the building contractors of a city with the several unions in the building trades; a number of sectional groups of employers in an industry with the employees of a single craft, as the railroad companies with the locomotive engineers; a group of employers with all their employees, as the bituminous operators and mine workers in the Central Competitive Field. There may even be a hierarchy of a local, a district and a national process of bargaining, as in the ship building industry in Great Britain. A great diversity in the processes of industry, the character of trades, the structure of unions and the patterns of business organization promotes variety in the methods of bargaining, demands of those engaged different kinds of strategy, gives character to union programs and stimulates association among employers.

The actual conduct of collective bargaining only approximates the norm of free agreement between equally interested and equally powerful parties. The interests of the two groups are unlike, the concern of one being with an expense of production, the other with the means of livelihood. The organizations are unlike, the laborers being associated for the specific purpose of bargaining, the employers being organized for production and profit making. The employers act directly or through their appointed officials; the employees may use their business officials or employ other representatives of their own choosing. A group of workmen may find discretion elsewhere than with their own employers and include in a local agreement provisions formulated by an association of employers. The party which employs may find discretion elsewhere than with its own employees, as when standards and working rules formulated by an international are incorporated into agreements made with local unions. The discretion may belong so exclusively to one of the parties that the bargain is in name only, as when a hold-up union dictates to employers or a business corporation uses a company union to give a rhetorical sanction to arrangements made in the business office. A system of governmental arbitration, as in Australia or Canada, or upon the railroads in the United States, may result in one or both parties giving a grudging assent to provisions they are reluctant to accept. There can hardly be a "true" collective bargaining; in its practical application it becomes entangled with and inseparable from other arrangements which control employment relations.

The process of collective bargaining results, not in a labor contract, but in a trade agreement. This imposes no obligation upon the employer to offer or upon the laborers to accept work; it guarantees neither to the employers workmen nor to the laborers jobs. It is nothing more than a statement of the conditions upon which such work as is offered and accepted is to be done. The contract of employment is still between the individual employer and the individual employee, though the provision of the order in which men are to be taken on and laid off may give to or withhold from laborers a chance to dispose of their services.

It is through the trade agreement, which is subsumed in the labor contract, that collective bargaining becomes an agency of industrial order. The trade agreement, which specifies how jobs and workmen are to be brought together in production, like a creed or a code, is of slow and tangled growth; the repetitious process of bargaining is the procedure by which the scheme of employment relations is built up and maintained. The general understanding is primarily concerned with wage rates; it is easily extended to the times and methods of wage payment, hours of labor, compensation for overtime, fines for infractions of rules, allowances for dead work, the protection of life and limb and hiring and firing. It may lay down the conditions of work in great detail, incorporate a code of working rules or specify technical practises, ways of handling materials, methods of checking results and standards of performance to test the competence of workmen. It gives nom-

inal acceptance or even official sanction to customs, practises and procedures which have gradually grown up in a trade or industry. The constructive use of collective bargaining and the enforcement of trade agreements demand strong and continuing organizations and the faithful performance of obligations on both sides. As an instrument of order the bargain may be applied to the affairs of others than the bargainers, as when a court of arbitration extends a trade agreement to outside firms, or when the non-union part of an industry follows the lead of union shops. Thus a sliding scale of wages, negotiated by less than one half the employers and one third of the laborers, has been applied to the whole of the coal industry in South Wales.

The case for or against collective bargaining turns upon the issues of competition and personal freedom. Its opponents argue that the individual competition of employer with employer for workmen, and of laborer with laborer for jobs, through the law of supply and demand, makes alike for rightful labor costs and for fair wages; it is retorted that workers are at a disadvantage and that collective bargaining is a means of establishing that equality of bargaining power in which freedom of contract begins. Its opponents argue that it deprives the laborer of his individual liberty to dispose of his services upon such terms as he pleases; it is retorted that his individual freedom is an impotent abstraction and that he must endure the authority of a union, in whose control he has a voice, or else submit to the dictation of a business corporation. The issue involves alike the antithetical interests of economic groups and the conflicting philosophies of individualism and collectivism.

The legal status of collective bargaining cannot be set down in definite terms. The common law doctrine of restraint of trade carries at least a presumption of illegality in a monopoly of labor. Before their revision in 1824–25 the conspiracy laws in England expressly forbade associations of workmen for bargaining purposes. Today a bargain between employers and employees which amounts to a monopoly control of production would doubtless be held illegal. Monopoly aside, the process of voluntary collective bargaining is clearly within the law. In Germany and elsewhere on the continent the terms of the collective agreement are made legally binding, and members of employing or employee groups may not enter into individual contracts in violation of its minimum requirements. In the United States and Great Britain the resulting bargain is as a rule without, rather than against, the law; its enforcement rests rather upon the good faith of its makers than upon the right of a resort to the courts to secure damages or specific performance. In fact the effective use of collective bargaining has been seriously limited by a legal ban upon many of its instrumentalities. The lawful limits of the use of the strike have been only crudely indicated. The intervention of the state to make effective the bargaining power of employees has been found to be an unwarranted interference with individual liberty which "no government can willingly tolerate in a free land" [Adair *v.* United States, 208 U. S. 161 (1908); Coppage *v.* Kansas, 236 U. S. 1 (1915)]. An attempt to relax the antitrust act to allow trade unions a wider latitude in manoeuvring for position (Clayton Act, Sections 6, 20), whether because of clumsy working or judicial disapproval, has been of little avail. The free use of the secondary boycott of non-union firms [Duplex *v.* Dearing, 254 U. S. 443 (1921)] and of non-union materials [Bedford Art Store *v.* Journeymen Stone Cutters, 274 U. S. 37 (1927)] has not been permitted to labor organizations. However, in arbitration provided by federal statute, a railroad company has been compelled to dissolve a company union and to negotiate with employees through representation of their own choosing [Texas and New Orleans Railway *v.* Brotherhood of Railway Clerks, 281 U. S. 548 (1930)]. In general the activities associated with collective bargaining have not yet been reconciled with a legal system saturated with an individualistic common sense.

In the theoretical literature the possibilities of collective bargaining are clearly recognized. The American Federation of Labor in its wage declaration of 1925 favors a control through collective bargaining of the sources of increased production and higher wages. It has often been suggested that labor unions incorporate themselves and contract with employers to furnish a definite number of workmen for a definite term. It has been proposed that an industry be put under the control of a business corporation, that consumers and workers each elect one half of the directors and that its conduct be made a continuous process of collective bargaining between the two interested parties. Current changes and speculative thought alike indicate that collective bargaining will continue to take on new forms and new activities, that in the immediate future

the institution is not likely to be reduced to a rigid pattern.

WALTON H. HAMILTON

See: LABOR MOVEMENT; TRADE UNIONS; TRADE AGREEMENT; BARGAINING POWER; CLOSED SHOP AND OPEN SHOP; FREEDOM OF CONTRACT; LABOR DISPUTES; LABOR CONTRACT; COMPANY UNIONS; EMPLOYERS' ASSOCIATIONS; ARBITRATION, INDUSTRIAL; LABOR-CAPITAL COOPERATION.

Consult: Webb, S. and B., *Industrial Democracy* (new ed. London 1920) pt. ii, ch. ii; Hoxie, R. F., *Trade Unionism in the United States* (2nd ed. New York 1923) ch. x; Commons, J. R., and Andrews, J. B., *Principles of Labor Legislation* (rev. ed. New York 1927) ch. iii; Fuchs, Ralph F., "Collective Labor Agreements in German Law" in *St. Louis Law Review*, vol. xv (1929–30) 1–46; Guillebaud, C. W., *The Works Council* (Cambridge, Eng. 1928) ch. iii; *Trade Unionism and Labor Problems, Second Series*, ed. by J. R. Commons (Boston 1921) chs. xxx–xxxv containing excerpts of articles discussing the procedure of collective bargaining in various industries in the United States; Powell, T. R., "Collective Bargaining before the Supreme Court" in *Political Science Quarterly*, vol. xxxiii (1918) 396–429; Hamilton, W. H., and Wright, H. R., *A Way of Order for Bituminous Coal* (New York 1928) chs. viii–xi; Sayre, F. B., *A Selection of Cases and other Authorities on Labor Law* (Cambridge, Mass. 1923) ch. xiii.

COLLECTIVE BEHAVIOR. Society in its most obvious aspects presents itself as a mere agglomeration of individuals, a population aggregate. The very proximity and dispersion of individuals limit and condition to a greater or less extent all other human relations. But more significant is the fact that under certain conditions such temporal and spatial aggregates have a capacity for collective and concerted action.

Whenever individuals come together even in the most informal way, no matter how strange they may be to one another nor how great the social distances that separate them, the mere fact that they are aware of one another's presence immediately sets up a lively exchange of influences, the first effect of which is to produce in each a mood, a *Stimmung*, under the influence of which the individual's behavior—his thought and sentiments if not his actions—are controlled and directed. A funeral, a wedding or merely a picnic tends to evoke the sentiments proper to it and to create in the assemblage the atmosphere congenial to the occasion. In so far as every individual in such an assemblage is moved to think and act under the influence of a mood or state of mind, in which each shares and to which each contributes, the resulting behavior may be described as collective.

This phenomenon of collective behavior has in recent years led to the development of a special branch of social psychology, collective psychology, the chief aim of which is the analysis of the conditions under which concerted action ordinarily takes place and the forms in which collective behavior commonly manifests itself. Collective psychology is not concerned, at least in the first instance, with the mores and folkways nor does it assume the existence of a social organism. It starts with the obvious fact that individuals, visibly isolated in space and capable of independent action, do act in a manner that exhibits concert and control, even where that control is not imposed by conscious understanding, by convention, tradition or even habit. It recognizes, indeed, that in many instances collective action takes place in contravention of existing tradition and convention.

The range of collective behavior is far wider and its gradations more subtle than can be indicated in any scheme of classification. At innumerable points individual behavior fades into behavior under the domination of group attitudes. Collective behavior, ordinarily conceived of as emotional, may exhibit a high degree of rationality, as in the directed interaction of a group of technicians or workers. It may involve all degrees of fusing of the individual awareness with that of the group from the separateness of discussion groups to the single spirit of the mob.

The most elementary form of integration by which mere aggregates of individuals assume the character of social groups is the simple dominance of a mood. The ordinary street crowd, although it has not achieved that degree of integration which makes it capable of collective action, has at least this degree of integrity. It is the heightened influence of such a mood which creates the true crowd. Since the publication in 1895 of Le Bon's *La foule* collective psychology has been mainly concerned with the psychology of the crowd (*q.v.*). The general characteristics of crowds have been well explored and may be rapidly summarized. In the crowd social and personal distinction disappears; special talents and special knowledge, the fruits of education and experience, are lost; only those attitudes, passions and sentiments which are the common heritage of mankind remain. With the evolution of what Le Bon calls "the crowd consciousness" there is a corresponding loss of personality by the individual; he tends to act impersonally and to feel something less than

the ordinary responsibility for his actions. The crowd itself is anonymous, has no generally accepted function, is not recognized and does not recognize itself in any corporate capacity. The crowd that acts, in more extreme cases the crowd that dissolves in panic, becomes the mob (*q.v.*). There is another type of crowd that dances but does not act: the expressive and in its wilder manifestations the orgiastic crowd. Of this nature are the inspired and ecstatic participants in religious revivals.

It is probable that in any group, small or large, where rapport is established and maintained there is a certain diminution of that self-consciousness and self-control which the individual ordinarily maintains. "The result of intimate association," says Cooley, "is a certain fusion of individualities in a common whole, so that one's self, for many purposes at least, is the common life and purpose of the group." The control in the crowd is therefore not different in kind, even though it be so in degree, from that which is manifested in other intimate and congenial groups.

The crowd, however, is typically anonymous and casual; it presents decided contrasts to the collective behavior which is manifested in groups with definite traditions. The process by which sporadic collective behavior assumes institutional form can be clearly seen in the case of religious sects. Although they arise ordinarily out of the ferment of religious revivals and seek to maintain and renew from time to time the sentiments and attitudes in which they were originally conceived, sects characteristically develop traditions, attitudes and an organization which give unity and direction. A sect adopts ceremonial forms and acquires a creed, a mission and a program.

In secular life a group which has come together through chance may become sufficiently integrated to form a gang (*q.v.*), one of the groups most studied in recent years. A gang is a crowd which possesses a rendezvous and a habitat or locus that it regards as in some sense its own; more specifically, it is characteristically a conflict group. A gang is in reality an elementary form of political organization, acting frequently as an instrument of extralegal social control.

Most amorphous is that form of collective behavior which manifests itself through the expressions of "public opinion." The public is an entity which has never been clearly defined. One of the first attempts to distinguish between the crowd and the public was made by Gabriel Tarde, in a paper entitled "Le public et la foule" (in *Revue de Paris*, 5th year, vol. iv, 1898, p. 287–306, 615–35). The public, according to Tarde, is a product of the printing press. The crowd is limited by the length to which a voice will carry or the distance that the eye can survey; and the relations which exist between its members are based on face to face contacts. The public, on the other hand, is composed of individuals who are not in immediate contact and whose reactions therefore are likely to be more deliberate. In the case of the public, where suggestions are transmitted in the form of ideas, there is "contagion without contact." Crowds attract and draw us into the circle of their influence; the influence the public exercises on the other hand is felt as "pressure." To this influence the individual never surrenders so completely as he does to the crowd attraction. He may be powerfully swayed by the current of public sentiment, but he will be able to maintain a certain amount of reserve and inner freedom. Frequently he finds additional resistance through membership in a party, supported by its dogmas, defending his position with the aid of its slogans.

The party is only one of the institutional forms through which public opinion eventuates in collective behavior. The whole governmental system may be regarded, from one point of view, as a formal medium for collective behavior. Such a concept acquires significance only when modified by a realistic analysis of the variety of groups and forms of group action to be found within any institutional system.

The entire range of types of collective action can be found in any community and in every field of activity; but certain types are most often associated with certain situations. The most complete fusing of the individual with the group occurs under the influence of religious excitement; closely akin to this is the fervor aroused by race or class prejudice; any threat to its existence or power, a real or supposed menace of war or revolution, will quickly draw together into one common hatred a group previously split in factions. The techniques for evoking and utilizing such forms of collective behavior have been known to all leaders. They are practised by trade unionist and club leader as well as by politician and priest. The process of social stabilization consists in the substitution for such forms of collective action more rational forms in an increasing number of

situations. Social force and social rules take the place of group conflict; mob frenzy gives way to discussion. But the growth of social habit can never prevent the operation of the dominant "mood" of a group; and as the methods for control of opinion become more effective and far reaching analysis of the roots of collective behavior is of increasing importance.

ROBERT E. PARK

See: SOCIETY; SOCIAL PROCESS; CUSTOM; TRADITION; CULTURE; CIVILIZATION; CONSERVATISM; RADICALISM; CHANGE, SOCIAL; CONFORMITY; CONVENTIONS, SOCIAL; CONDUCT; CONSENSUS; PUBLIC OPINION; COMMUNITY; ASSOCIATION; INSTITUTION; GROUP; CROWD; MOB; GANGS; REVIVALS, RELIGIOUS; LEADERSHIP; IMITATION; SUGGESTION; AGITATION; PROPAGANDA; DISCUSSION; EDUCATION; PRESS.

Consult: References in bibliographies of articles dealing with specific forms of collective behavior.

COLLECTIVE REPRESENTATION. *See* SOCIAL PSYCHOLOGY; GROUP.

COLLECTIVISM is the imposing word to be set over against individualism. It is, broadly, a term for a trend in social development, a program of economic reform, a theory of general welfare and a utopian order for mankind; technically, a general label for comprehensive schemes of authoritative control such as socialism, communism, syndicalism and Bolshevism; and specifically, a name for the trend away from the extreme laissez faire of the nineteenth century.

In a sense every social estate is a collectivism. The savage tribe hedges the doings of its members about with inviolate imperatives and tabus. The feudal regime assigns to each person a mode of life in conformity with the station to which he has been appointed. The tyranny enlists its subjects in His Majesty's service and exacts from them dues of grain, wine and labor. The dynastic state fashions people, resources and trades into an instrument of national greatness. The Christian society, for the glory of God and the salvation of the soul, extends a spiritual dominion over the actions, the words and the thoughts of men. In all such cases authority is from above and the individual is of less account than the impinging establishment.

The thing called individualism is a departure from—and a type of—collectivism. It is the product of the impact of novel event upon ancient authority. As Renaissance, Reformation and industrial revolution followed each other in startling succession, thought and activity could no longer be pent up in accepted formulae. The scholar wanted to surprise truth in his own way; the God fearing man, to worship according to the dictates of his own conscience; the citizen, to be undisturbed in the exercise of his rights; and the merchant, to escape fostering restraints and to do as he pleased with his own. Practical men, such as these, asked only for a removal of particular restrictions. The times demanded no more than a release of spirit, mind and activity from outworn rule and form. But it was, for all its doubts, an age of faith in first principles, and the thinkers after their manner translated specific demand into abstract statement. The individual was the thing; self-interest was to public good as means to end; the actions of rational beings established and maintained society. Thus matters of common concern were transferred from the domain of man to the order of nature; thus too individual freedom became an instrument of organization. It was rested not upon right or privilege but upon social worth. Individualism was the way of an unplanned and undirected collectivism.

The new doctrine, "an atomic individualism" or "a natural collectivism," offered its challenge. It was easy to fasten a comfortable explanation upon actuality and to discover in the prevailing arrangements "the simple and obvious system of natural liberty." But as apologists came to defend as "free enterprise" or "capitalism" a homogeneous order such as never was, critics began to offer in "socialism" or "communism" a ready made hand-me-down substitute. When the state lost its omnipotence and the idea of democracy permeated reform thought, syndicalism and guild socialism became roads to salvation. The social utopia was a denial of the existing system, a replacement of the individual by the state, of freedom by authority, of the motive of gain by the spirit of service—and the trick was done.

The battle of ultimates was inevitable. Individualism was an expression of the philosophy of rationalism; collectivism went back to the authoritarian ideal. Alike they set down general welfare as the human goal, but in its definition a condition of well-being in society at large was opposed to an aggregate of the happiness of individuals. The one made man the hero and society the villain in the piece, the other crowded the state and the individual into the roles of father and child. In an evangelical clash, with absolutes as weapons, opposing argument was refuted more easily than defensive statement was

made secure. Man was not an enlightened being always capable of fending for himself, nor was he an ignorant person forever to be helped along the way. Human nature was not "a mechanism skilfully contrived to impel individual action to a divine purpose," but neither was it "a bundle of antisocial impulses." Nature, not God, or Providence, had so "contrived the frame of humanity" that one could not help himself "without promoting the common good"; but it was common knowledge that nature had done nothing of the kind. Authority hedged personal action about with arrangements which directed self-seeking to general ends, but evidence of such purposive compulsions was wanting. Thus it was, back and forth, endlessly, shrewdly, inconclusively. A last "it isn't that way" was met by a final "it can't be done." The popular victory of individualism was due not to good reasons or a worthy cause, but to the will to believe.

The argument, which could not be settled, gave rise to fertile inquiry. Admissions were made, "other factors" were recognized, exceptions obscured principles, the antithesis began to fade and a reexamination of social theory became necessary. The individual lives in society; each is inseparable from the other. Man is free to be, to choose, to do, within the limits of organized group life; he seeks worthy things—good name, wealth, achievement, personality, life—but always through social means; he depends for rich and varied opportunity upon a heritage of culture, the association of the likeminded and an organization of resources. The activities of the government instead of belonging in a province all their own permeate all human affairs. Business is not independent of government; property and contract, essential to its operation, are changing usages enforced by law. Authority is not limited to political control for man belongs as well to a moral, a religious and an economic order; upon him a host of formal and informal compulsions—customs, laws, traditions, associations, values, institutions, tabus—must of necessity impinge. The clash between individualism in general and collectivism in general is replaced by a myriad of distinct problems.

But understanding comes slowly, and circumstance rather than theory led the way toward an empirical collectivism. The state, which was supposed to keep in its place, thrust its will into private affairs. Self-interest is "the great regulator," but legislation has to be invoked against the farmer who keeps infected milk cows, the chemist whose dyes escape into a running stream and the smelter who allows copper fumes to lay waste a countryside. The lure of profits puts shops in the right places, but cotton gins, merry-go-rounds and blast furnaces in the wrong spots are nuisances to be abated. Man is man and each for himself, but nature has wrought confusion with age and sex. Child labor must be prohibited. Women are unlike men; the long day causes fatigue and is a hazard to motherhood, and here a limitation of hours is a necessary exception. But men too are subject to fatigue; they are like women and are to be included in the exception. There must be no formal neglect of matters of general concern: state supervision is to insure sound banking; the trade in lottery tickets, white slaves and alcohol is prohibited; all are to be educated at public expense. The great prophets had said that "each shall count for one, and no one for more than one" and that "the greatest good of the greatest number" is the end of it all. It was the ironic fate of individualism to create in utilitarianism a standard by which its shortcomings were revealed. Instance after instance the obvious way to right a manifest wrong was an appeal to the government. Thus control from above took its opportunistic way through an individualistic system.

As from without so from within came a trend toward collectivism. In the whirl of change the individual lost his clear cut integrity and well defined province. The ingenious device of the corporation kept alive the fiction of "the private business" yet permitted the association of many kinds of property and many forms of personal service in a single enterprise. The use of trusteeship, the holding company and the interlocking directorate pyramided ownership, concentrated control, distributed discretion within a hierarchy of offices and confused the identity of the business unit with like and unlike ventures. In the domain of industry each functionary and factotum was free to do as he pleased—according to his position, within the established arrangements and in the face of circumstances not of his making. Even corporate personality, through which the individual lingers on, is a gift of the state.

In the realm of industry the resort to collective action is becoming common. The trade union exists "lawfully to further the legitimate objects of its members." Rules of apprenticeship, intolerance of the "scab" and methods of acting in concert make of the union card a pecuniary asset not inaptly described as property.

The firms within an industry, as a precaution against cut-throat competition, establish gentlemen's agreements, research bureaus, societies of manufacturing chemists, iron and steel institutes and cement protective associations. A plethora of rotary clubs, chambers of trade and commercial fraternities furthers the cause of bigger and better business. Farmers, through cooperatives, attempt to impose direction upon a chaotic industry and restraint upon their disorderly ranks. Individuals, firms and corporations may affiliate with "societies for mutual benefit" or stay outside at their peril. An increasing number of voluntary associations imposes an imperfect discipline upon persons still legally free to do as they please.

Association has brought with it a growing use of collective devices. Merchants set up credit bureaus; banks establish clearing houses; advertising, auditing, promotion and what not are entrusted by many firms to a single specialist. The device of insurance enables a common provision to be made against the risks of death and of fire. The reform of work accident indemnity once sought only to give the workman the right of recovery possessed by the stranger; now compensation is "a necessary cost of production" assessed against the industry. Employment is no longer an arrangement between individuals; in organized trades its terms emerge from collective bargaining between the parties; and in unorganized trades the employer, a collective personality, lays down the conditions and the individual workman may take or leave the job. Without such collectivistic devices business could not be carried on.

Within industry a system of use and wont is emerging. A code of rules is beginning to govern hiring and firing; a job is a gift of a closed union or of a personnel test; discharge demands its own due process. Each industry, formally open to all who will take its chances, has its admission requirements which run in terms of capital, endurance, knowledge, policy and occasion. Business possesses in usages which center in the office and the market its own procedure for getting questions settled. It is, unlike the state, quite tolerant of the radical; he may depart from convention in making goods, handling employees or selling wares so long as he keeps expenses below receipts and obeys the general law of solvency. The minority by reducing costs and lowering prices may even force its advanced methods upon the conservative majority. The price system, from whose tyranny there is no escape, has its ceremonial; bankruptcy has its effective way of sentencing the unfit. It is because they are of their own kind, quite unlike the familiar compulsions of government, that the conventions of business are little noticed.

Opinion is making a lagging adjustment to the collective character of business. The belief that the system works automatically is giving way to the demand that it be kept at work. An army of potential buyers must be stimulated by salesmanship; automobiles, typewriters and sewing machines must be pounded into junk; fashion and fad must rob goods of their worth before they wear out—or the flow of new goods will be blocked and plants cannot run at capacity. High wages promote spending and keep industry going; unemployment means workers without purchasing power. The reduction of wages and the laying off of men is a dubious remedy for hard times. The dawning responsibility of "the system" for the welfare of individuals rests upon business necessity. The gears must be made to engage; the making and the using up of goods must march along together; a great instrument of production which is "a concatenation of interlocking processes" must not be allowed to slacken or to stop.

In fact, almost unobserved there has appeared the great collectivism of business. Its technical activities have already been socialized. Funds, laborers, equipment, materials and brains are drawn together into establishments; productive units are gathered into none too orderly industries; industries are agglomerated into a crude and wasteful system. The business structure which envelops industrial activity is as yet inarticulate. The business unit has a clear cut identity; the industry has only such integrity as "the natural process of competition," kindly assisted by voluntary association, can give; the economic order, such as it is, is almost a by-product of innumerable individual and group activities. The scheme of authority over the industrial system is still inchoate. In the business unit lines of discretion are clearly marked out; in an industry individuals, firms, organizations and interests have their uncertain places in a scheme of direction; in the economic order, which knows nothing of potentate or council of wise men, a complex of controls holds sway. The state, charged with numerous duties, here and there exercises a negligent oversight. The market, over and behind all, works as well as it works in giving form and purpose to the everyday work of a people. In the cooperative enter-

prise each person has his place: to it he brings his mite of service or of property and from it he takes the wealth and the waste which make up his living. Apart from the great industry the individual cannot live his life; from its semi-responsible dominion there is no escape.

The domestication of business to social ends involves a protracted struggle along a scattering front. The narrow choice between overneat organizations has been succeeded by a complicated problem in detailed adjustment. The prevailing disorder invites an attack industry by industry. Each form of activity needs to be assigned to the appropriate agency: the rearing of children to the family, the defense of the nation to the government, the manufacture of shoes to business. But such words as family, government and business point directions rather than describe patterns of control. In business the ways in which the steel, the lumber, the newspaper and the amusement industries are put together make very different pictures; in government the postmaster general, the University of Michigan, the board of public works, the Port of London Authority and the Emergency Fleet Corporation are distinct types of control. The quest runs back of simple words like free enterprise, regulation and public ownership to the devices and procedures which make up an organization. Each separate activity—building, coal mining, street cleaning, preaching the gospel, banking—demands a scheme of arrangements in keeping with its technical processes and serving the purposes for which it exists. The way of order for an industry is one of endless choice.

There is need as well for a general attack upon specific failures in performance. The regulations set up to insure quality to the ware, service to the consumer, security to the investor, protection to the worker and opportunity to the management may well apply to many trades. The great hazards of life—sickness, accident, unemployment, old age—demand a collective provision which cuts across industrial lines. As technique develops, common sense changes, wants are revised and instruments of direction are remade, the scheme of control must respond. In time a more responsible business system may relieve the state of its current industrial functions. The arrangements for keeping business in order demand a continuing attention.

In the immediate future there is little hope for an articulate and responsible control of business. A barrier lies in a lingering application of individual terms to group activities. In law we speak of the principal, the employer and the corporation as if they were persons; in economics an entrepreneur, once an owner manager, now a tangle of relationships, survives to obscure reality. We continue to talk of private property, free enterprise and individual initiative, when these institutions are to be found only in the backwaters of great industry. We persist in speaking of an alternative between "leaving" an activity "to the individuals concerned" and "the government's taking it over," when the real choice is between one set of human arrangements and another. Nor is outworn language, which confuses analysis, the only obstacle. At present direction over a myriad of separate and interrelated activities is scattered far and wide; each person whether of high or low estate is far more concerned with his own affairs than with everybody's business; the immediate, the specific and the personal are foreover present to divert attention from larger and more lasting values. The culture we know, rich in particular activities and speeding toward an unknown future, cannot be made to obey a fixed purpose. In a world of human behavior and man made arrangements there is no escape from taking a chance alike upon personnel and upon institutions. We seek an order in which a collectivism that was never intended is subdued to the useful and the good; we must be satisfied with an approximation.

The commitment to collectivism is beyond recall, but its form remains to be determined. Its coming brings to social organization not an answer but a host of questions. The neat and tidy systems, in spite of a simple evangelical appeal, provide no escape from the road of detailed and painful adjustment. Experience quickly reveals behind the mask of comprehensive schemes like socialism, communism and Bolshevism the specific problems of functions, industries and interests, each one of which demands its particular attack. The collectivism that is, whether of business or the commune, will continue to receive such purposive revision as the concern of all sorts and conditions of men with their own petty affairs will allow. In a culture that lives and grows an empirical collectivism can never be reduced to the clear cut lines of a blueprint.

WALTON H. HAMILTON

See: INDIVIDUALISM; LAISSEZ FAIRE; RATIONALISM; UTILITARIANISM; AUTHORITY; STATE; SOCIETY; SOCIAL PROCESS; ECONOMIC ORGANIZATION; CONTROL, SOCIAL; BUSINESS; CAPITALISM; ASSOCIATION; VOLUN-

TARY ASSOCIATIONS; INSTITUTION; GOVERNMENT REGULATION OF INDUSTRY; PUBLIC WELFARE; SOCIALISM; COMMUNISM; SYNDICALISM; PLURALISM.

Consult: Dicey, A. V., *Lectures on the Relation between Law and Public Opinion in England* (2nd ed. London 1914); Cooley, C. H., *Social Organization* (New York 1909); Hobhouse, L. T., *Social Evolution and Political Theory* (New York 1911); Green, T. H., "A Lecture on Liberal Legislation and Freedom of Contract" in *Works*, ed. by R. L. Nettleship, 3 vols. (London 1885–88) vol. iii, p. 361–86; Hamilton, Walton H., "Freedom and Economic Necessity" in *Freedom and the Modern World*, ed. by Horace M. Kallen (New York 1928) p. 25–49; Slichter, Sumner H., "The Organization and Control of Economic Activity" in *The Trend of Economics*, ed. by R. G. Tugwell (New York 1924) p. 303–55; Hoover, Herbert Clark, *American Individualism* (New York 1922).

COLLEGE SETTLEMENTS. *See* SETTLEMENTS, SOCIAL.

COLLEGES. *See* UNIVERSITIES AND COLLEGES.

COLLETT, CAMILLA (1813–95), Norwegian writer and feminist. Her most popular work, *Amtmandens dötre* (The governor's daughters, 2 vols., Christiania 1855, 5th ed. 1897), was the first Norwegian novel to deal with social problems. It pictured the sad fates of young women in the cultured but impecunious upper class who had no means of support except marriage and who were doomed by rigid decorum to perfect passivity in this most important question of their lives. She pleaded for the right of women to marry for love and to avow their feeling as openly as men without loss of social caste, but she never advocated "free" relations outside of marriage. Her revelations of feminine suffering profoundly influenced contemporary men authors, notably Henrik Ibsen and Jonas Lie. In several volumes of polemical essays and *causeries* (1862–85) she further laid bare the contempt for women exhibited not only in law and custom but even in literature, impugning such masters as Goethe, Byron, Dumas and Strindberg for their attitude toward women.

By breaking down inhibitions and opening horizons Camilla Collett prepared the way for the emancipation of women, which, after the movement had been started, was accomplished with great rapidity in all the Scandinavian countries. Gradually she came to realize that her ideal, liberation of women's hearts and souls, could not come to pass without first changing their whole status in the community. She lent her support to the efforts of younger women looking toward specific reforms, such as admitting women to the university and the professions, allowing sisters to inherit equally with brothers, raising the level of women's wages and permitting married women to attain their majority and to dispose of their own earnings. All these reforms were achieved during her lifetime.

HANNA ASTRUP LARSEN

Consult: Wergeland, A. M., *Leaders in Norway and Other Essays*, ed. by Katharine Merrill (Menasha, Wis. 1916) p. 64–101; Wiehr, Josef, "Camilla Collett" in *Journal of English and Germanic Philology*, vol. xxiv (1925) 335–53; Larsen, H. A., "Four Scandinavian Feminists" in *Yale Review*, n.s., vol. v (1916) 347–62.

COLLINGS, JESSE (1831–1920), English land reformer. One of a group of zealous enthusiasts including Canon Girdlestone, Joseph Chamberlain, Joseph Arch, J. S. Mill and Russell Wallace, Collings was in the forefront of every movement which aimed at improving the life of the countryman. He was one of the founders of the National Agricultural Labourers' Union (1872), and did much in the early struggles of that organization to extend its activities in the field of social work and to dissociate it from the cruder aims of some of its leaders. After his election to the House of Commons he introduced legislation dealing with education, housing, allotments, credit and emigration, all of which figured in his program. As founder of the Rural Labourers' League (1888) he carried on a campaign for "three acres and a cow." Much that was attempted in the last quarter of the nineteenth century failed, but the passage of one generation saw most of his ideals achieved in a modified form. Collings was, indeed, ahead of his time and was regarded as a fanatical and dangerous radical. Although his views regarding land tenure were apt to be distorted by his misreading of history he showed restraint in eschewing the confiscatory policy aimed at by certain of his colleagues. This is borne out by his writings, e.g. *The Colonisation of Rural Britain* (2 vols., London 1914), and in his evidence before various royal commissions.

J. A. VENN

Consult: Collings, Jesse, *Life of the Right Hon. Jesse Collings* (London 1920).

COLLINS, MICHAEL (1890–1922), Irish political leader. Collins' active participation in the Irish revolution was preceded by a period in London where his circle was Irish, his interests Irish nationalism and athletics. At this stage

he was the young enthusiast and radical and was soon sworn into the Irish Republican Brotherhood. In 1915 Collins and fifteen others left London, where conscription awaited them, to take part in the volunteer movement at home. Six of them were killed next year in the Easter Week rising, Michael Collins being afterwards picked up and deported to Frongoch. Among the several thousand prisoners in the Welsh internment camp he came to be felt as a magnetic and buoyant personality, and during the "German Plot" scare of 1917, when forty leaders were rearrested, he promptly shouldered national responsibility in volunteer and political field organization. The enthusiast was passing into the man of action. In the sweeping electoral victory of 1918 he was elected for County Cork. Sinn Fein declared the Irish Republic and the clash with British authority came everywhere, with wholesale suppression of nationalist societies. In 1919 Collins was minister of finance and head of the Intelligence Department of the army; as conflict became violent he dominated policy. He raised £400,000 as a national loan; by methods incisive and ruthless he made it undesirable for any Irishman to act as spy for the British. He identified and won over certain British secret service men. He created his own secret service, raided government mails, tapped telegraph and telephone, terrorized police, organized drastic reprisals, rescued De Valera and other prisoners and proved himself agile and unflinching in every detail of the struggle. By 1921 the British were offering £10,000 for him dead or alive, but his audacity and driving force were united with "clean and swift intellect." This did not fail him when he was brought into the open, against his will, as one of the chief negotiators of the treaty. From the signing of the treaty in December, 1921, to the Dail elections of June, 1922, he bent all his energies to convincing the people that the treaty gave "the substance of freedom" (see his book, *The Path to Freedom*, Dublin 1922). The elections confirmed the Free State legally but did not quell opposition, and Collins faced the issue of civil war. Several attempts to ambush him failed. The sudden death of his admired associate, Arthur Griffith, August 10, 1922, made him head of the council as well as the army, but on August 22 he himself was shot dead in an ambush near Bandon in Cork. His valiant career thus ended when he was thirty-two years old. He was a born politician, strongly democratic and advanced, vigorously critical of Irish backwardness, a believer in Gaelic Ireland and not a little emancipated by eight years' residence in London. He did more, probably, than any other single man to bring the Irish Free State into actual being.

FRANCIS HACKETT

Consult: Collins, Michael, *Michael Collins' Own Story, Told by Hayden Talbot* (London 1923); Beasley, Pierce, *Michael Collins and the Making of a New Ireland*, 2 vols. (London 1926); Dalton, Charles, *With the Dublin Brigade (1917–1921)* (London 1929); O'Connor, Batt, *With Michael Collins in the Fight for Irish Independence* (London 1929); Breen, Daniel, *My Fight for Irish Freedom* (Dublin 1924).

COLMEIRO, MANUEL (1818–94), Spanish jurist and economist. In 1847 he was appointed to the chair of economics and administrative law at the University of Madrid, where he taught until his retirement in 1881. In that year he was made a life member of the senate, in which he had already served several terms. He was an active member of various learned societies, including the Real Academia de Ciencias Morales y Políticas, and was a frequent contributor to periodicals.

Although Colmeiro is of limited importance as a theorist his historical writings are extremely significant. His principal theoretical works are *Elementos del derecho político y administrativo de España* (Madrid 1858, 7th ed. 1887) and *Principios de economía política* (Madrid 1859, 4th ed. 1873), in the latter of which he abandoned the doctrine of protection in favor of free trade. Among his historical works the *Cortes de los antiguos reinos de León y de Castilla* (2 vols., Madrid 1883–84) is particularly noteworthy by reason of its valuable data of an economic and financial character assembled with a view to explaining the structural changes which the state was undergoing. His *Derecho administrativo español* (2 vols., Madrid 1850; 4th ed. 1876) is likewise important for its historical studies of Spanish institutions. In the *Historia de la economía política en España* (2 vols., Madrid 1863) he traces in a somewhat superficial manner the economic evolution of Spain to the beginning of the nineteenth century, bringing out the relations between theories, actual conditions and institutions. Although the book marked an advance over previous works and although it is still the only complete work on the subject its documentation is antiquated and the author's lack of scientific method is obvious. His *Biblioteca de los economistas españoles de los siglos XVI, XVII y XVIII* (Madrid 1880, a revised edition of the article in

R. Academia de Ciencias Morales y Políticas, *Memorias*, vol. i, 1861, p. 33–212) is an excellent reference work.

FERNANDO DE LOS RÍOS

COLONATE. The colonate as a form of servile land tenure was prevalent throughout the later Roman Empire. Agricultural land in Italy and the provinces was to a very large extent divided into estates of tremendous size (latifundia) owned by either great proprietors or the crown. Some of the land was worked by slaves but most of it by small tenant farmers called coloni. The latter constituted a close, hereditary caste and are of interest, among other reasons, as one source of the mediaeval institution of serfdom.

Legally the coloni were freemen. They could own either personal property or land, contract legal marriages, appear in court and, provided that substitutes could be obtained for their tenancies, be drafted into the army or become priests. They marketed their produce themselves and paid a fixed rent, usually in kind, which the landlord might not under any circumstances increase. They were subject to the imperial poll tax, which was collected by the landlord, and also owed the state certain annual services, such as the maintenance of roads and bridges and the construction and repair of public buildings, as well as carrying services with wagons and oxen or packhorses. Since services to the landlord are mentioned in the codes (*Cod. Just.* xi, 53, 1, 1) only once and vaguely, it is not known how onerous they were. Certainly it is not likely that the coloni were subject to as heavy burdens in "week work" and "boon days" as the mediaeval serfs.

The outstanding characteristic of the coloni was the fact that they were permanently attached to the estates on which they were born. The landlord could not free them from their condition as he could manumit slaves, nor sell his estate without the coloni which belonged to it. They were "slaves of the land itself on which they were born" (*Cod. Just.* xi, 52, 1, 1).

There is absolutely no evidence that the coloni were bound to the soil in Italy or the provinces before the fourth century, and as late as 244 A.D. proprietors were forbidden to retain tenants on their estates against their will (*Cod. Just.* iv, 65, 11). The first law referring to coloni attached to the soil was a rescript of Constantine in 332 A.D. (*Cod. Theod.* v, 17, 1), a regulation governing the punishment of coloni who attempted to leave their holdings. Sometime, therefore, between 244 and 332 the colonate was established. As neither the laws of the codes nor the writings of contemporaries, in so far as they have been preserved, give any explanation of the origin of the colonate it has remained one of the most baffling problems in economic history. Although every source of information has been examined with the most meticulous care by numerous able scholars and many ingenious theories have been presented, the material is so scanty that no theory of the origin of the colonate has been generally accepted.

It is possible to classify the theories of the colonate into six main groups. The colonate has been derived from: a voluntary enlistment of freemen oppressed by taxes and debts; a limited manumission of slaves which bound the freedmen to the soil; enforced settlements of barbarian tribes within the empire as serfs; a gradual evolution from earlier servile tenures or dependent relationships; the attempt of the administration to prevent the desertion of agricultural land in order to maintain the food crops and the land tax; and the declining fertility of the soil, which is held to be the underlying cause necessitating the strenuous efforts of the administration to keep the land under cultivation by force.

Modern scholars do not regard the first three theories as very convincing. That small proprietors occasionally entered the colonate after it had been established is well known. But there is no evidence that the colonate was originally organized as a voluntary institution; and such an explanation runs counter to the whole general tenor of the colonate legislation of the codes. The second theory, likewise, suffers from the lack of a single supporting text. The theory of barbarian settlements was advocated by a number of writers during the first half of the nineteenth century. It is true that barbarian tribes were settled on agricultural land within the empire from the time of Augustus. But no classical reference indicates that the transplanted barbarians cultivated the soil in a tenure anything like the colonate before the fifth century. And it seems extremely unlikely that the barbarian settlements, which were for the most part near the northern frontier, could have had a determining influence on the agrarian development of the whole empire.

Many scholars have attempted to explain the colonate as a slow and natural evolution from early servile and dependent tenures which had been in existence in Mediterranean countries in

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many cases long before the Roman conquest. The colonate has been related to Greek serfs, to Italian and Gallic clients, to Italian debtor tenants, to tenants on the imperial domains and to state peasants in Sicily, Africa and the eastern provinces. The attempt to trace a relationship between the colonate and the early Greek serfs or the Italian or Gallic clients was too far fetched to receive much consideration. But the theory that the colonate emerged gradually from natural developments on the imperial domains and private latifundia, particularly in the great grain provinces of Sicily, Africa and Egypt, has attracted considerable support. Here there had existed for centuries dependent cultivators who seldom thought of moving from their native villages; in Egypt and other eastern provinces they were not allowed to leave their native tax districts. It is thought that the colonate legislation was simply the final step in an attempt to make universal throughout the empire conditions which had created a settled peasant class in the great grain provinces.

The theory of administrative pressure lays more emphasis on the chaotic conditions in the late empire than upon the dependent status of the agricultural population in earlier centuries. The half century of anarchy which preceded the reign of Diocletian led to a general demoralization of agriculture throughout the empire. Land was being deserted everywhere and the land tax fell off alarmingly. Diocletian reorganized the system of the collection of taxes, making the municipal magistrates (*decuriones*) responsible. Writers upholding this theory argue that, in order to make it possible for the magistrates to collect the taxes and to assure a regular flow of food to the cities, it became necessary to attach the coloni to their holdings by force.

The newest theory of the colonate ascribes the colonate legislation to the declining fertility of land throughout the empire. Land in Italy commenced to be deserted during the republic and numerous contemporary writers lamented its diminishing yield. And while the productive areas were diminishing, the demand for foodstuffs increased steadily with the development of the empire and the imperial city. No empire ever supported so many economically unproductive classes as Rome—legions, a vast army of official functionaries, luxurious urban bourgeoisie, turbulent city mobs. The requirements of these classes had to be supplied through tribute levied upon the provinces. But eventually even the fertile provincial lands commenced to show the effects of the constant cropping of the land with wheat. As early as the second century desertion of the fields became a serious problem in Africa, and in the next century *agri deserti* were to be found in all parts of the empire, except in the ever flooded Nile valley. To keep up and restore land cultivation in the grain provinces the administration offered peasants tax rebates and hereditary rights in reclaimed land, while large contractors (*conductores*) enjoyed the favorable terms of the emphyteutic lease. In the northern provinces barbarians were settled on the land "on account of the scarcity of grain" (*Cod. Theod.* v, 6, 3). In the third century came the ἐπιβολή legislation forcing the proprietors and large contractors to keep unproductive lands in cultivation and pay taxes on them. And finally, according to the claims of writers of this school, in order to check the constant desertion of the tenant farmers they were attached to the soil in the permanent and hereditary bonds of the colonate.

Whatever the origin of the colonate may have been all writers agree that it proved well adapted to the times. Century after century it persisted with very little change. When the barbarians overran the Roman Empire in the West they had no thought of abolishing a system upon which the maintenance of food supplies depended and which did not differ greatly in essentials from the primitive servile land tenures to which they had long been accustomed. The laws in the barbarian codes referring to coloni are closely analogous to the earlier Roman laws in the Theodosian and Justinian codes. With the development of feudalism, however, the coloni found themselves more and more at the mercy of their lords. Although distinguished from the serfs and regarded as *ingenui* in the eyes of the law as late as the ninth century, the coloni eventually were absorbed in the servile population of the mediaeval manors.

ROTH CLAUSING

See: AGRARIAN MOVEMENTS, Section II, CLASSICAL ANTIQUITY; SERFDOM; LATIFUNDIA; SLAVERY; LANDED ESTATES; LAND TENURE.

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Journal of Land and Public Utility Economics, vol. ii (1926) 198–207; Savigny, F. K. von, "Ueber den römischen Colonat" in his *Vermischte Schriften*, 5 vols. (Berlin 1850) vol. ii, ch. xv; Simkhovitch, V. G., "Rome's Fall Reconsidered" in *Political Science Quarterly*, vol. xxxi (1916) 201–43, reprinted in *Toward the Understanding of Jesus* (New York 1921).

COLONIAL ADMINISTRATION. The art and practise of colonial government have been known to all the great states of the past; but the last two centuries have brought about the development of colonial administration as a major branch of governmental technique and a major phase of national policy.

The essence of earlier methods of colonial administration is to be sought in particular motives for colonization and particular colonial commercial policies. In colonies resulting from migration and expansion there has usually been a rapid transition from military government to assimilation to the governmental regime of the expanding empire (*see* EMPIRE). A similar transition may occur in the case of territory conquered for military or fiscal purposes. Trading colonies, on the other hand, have usually remained small autonomous units, distinct groups in the midst of an alien civilization, such as the mediaeval settlements in the Levant or outpost cities in rural lands, like many of the Greek colonies; and either they have been administered by agents of the commercial groups who sent them out or they have been self-governing according to the model of the home state.

The great modern period of colonization began as an intensification of commercial exploration and developed under the inspiration of the mercantilist philosophy. This philosophy was reflected in the administration of the lands conquered, administration first by military leaders and in the case of the Catholic countries by missionaries; later by civil representatives of the crown with plenipotentiary powers. In any case, the administration was designed to bring the greatest possible wealth to the home government. The colonial administration of Spain and Portugal remained essentially of this military-autocratic character. Increasingly elaborate councils and boards for the control of fiscal and commercial monopolies were set up within the countries themselves (*see* AUDIENCIA; ASIENTO), and a degree of consistency was given to colonial policy by the important Council of the Indies (*q.v.*); but in the New World governors and royal agents were in effect free to decide for themselves on methods of handling the natives or of protecting their territory, provided they sent back the expected amounts of revenue. The antagonisms aroused by the resultant maladministration played no small part in the dissolution of Spain's colonial empire.

While the breaking of the Spanish power was accomplished by rival governments and while governmental encouragement undoubtedly played a large part in the subsequent expansion, the important agencies of colonization in the seventeenth and eighteenth centuries were the great private trading companies, especially the chartered companies (*q.v.*). Setting out from Holland, France or England to establish trading depots in distant places these companies had, guaranteed by their charters, virtual freedom of action in the administration of colonies which they might establish. Relations with the natives, legislation and defense were all in the hands of the agents of the company.

It was the intensification of national colonial rivalries at the end of the eighteenth century which led to the taking over of responsibility for colonial affairs by the European governments themselves and thus brought colonial administration into the realm of national policy. The Napoleonic wars left England with a vast colonial empire, which she had learned to value the more for the loss of the American colonies; and the industrial revolution, by making Indian cotton more important than Indian spices and by preparing the way for a new commercial philosophy, gave impetus to the trend toward governmental assumption of full responsibility for colonial administration. It was not until 1858 that the East India Company was finally liquidated and its functions taken over by the British government; but all the newly acquired territories immediately became crown colonies administered by royal agents, the governor or governor general.

The early government system of administration differed little from that of the commercial companies which it succeeded; for the agent general of the company was substituted the governor, representative of the crown, with practically plenipotentiary powers. In other cases military government gave way to civil. But as the relations between colony and home government became more settled and acquired more apparent permanence an elaboration of administrative machinery occurred. Whether or not the example of the American Revolution influenced the direction of this development, it is true that in the English colonies this

elaboration took the form of the gradual setting up within the colonies of organs of representative government. Certainly the whole mid-nineteenth century pressure toward democratic ideals manifested its force in this realm.

The first step in this direction was the passage in 1791 of the Constitutional Act of Canada setting up a bicameral legislature, the upper chamber of which, the Legislative Council, was appointed by the crown, while the lower, the Assembly, was elected by the people. It was not until 1847 that Canada obtained an effective degree of self-government; but this early constitution became a model for the other colonies, particularly those settlement colonies in which the majority of the population were of European, if not English, origin. In other types of colonies the introduction of a degree of self-government has been much more gradual. Different as has been the history of individual colonies, the general pattern of development is clear: first the nomination by the governor of an advisory council composed of natives of the colony; then the selection of certain members of this council by representative groups of natives; the creation of an elective lower chamber with little or no real power and its gradual endowment with responsibility in designated spheres. It is a pattern which leads logically, if not always in actuality, to full dominion status (*q.v.*).

It was not, however, until the development of modern methods of transportation and communication toward the end of the nineteenth century that colonial administration became of vital national concern. Up to that time governments had half unconsciously continued to look upon colonies as trading outposts or pawns in a strategic game; their internal affairs were of moment only to the extent that they forced attention. But this attitude was quickly changed when the investment of capital on a large scale in the colonies made necessary the maintenance of order and the guaranty of economic stability. French expansion under the Third Republic, the partition of Africa, the acquisition of the Philippines, were all the result of state activity and all involved an eventual extension of the scope of administrative control. The tradition of the granting of at least a minimum of local self-government has been strong enough to result in the establishment of some form of representation in most of these colonies. The form of colonial government reflects quite clearly the mold of the home government. English colonies have the bicameral parliamentary system; French colonial administration follows the traditions of centralization. The aim of French colonial policy since the revolution has been complete assimilation, and self-government for a French colony takes the form of admission to the status of a local governmental unit.

Concurrently with this elaboration of governmental machinery within the colonies there has been a vast extension of colonial administrative machinery in the home government. Most of the important colonial powers now have departments of colonial affairs, many of which have evolved over a long period of years. In England the first attempt at centralized administration of colonial affairs was made in 1660 when a Committee of the Privy Council "for the Plantaçons" was appointed; this body afterwards became merged with the Council for Trade. It was not until 1854 and as a result of the Crimean War that a secretary of state for the colonies was appointed. In France the appointment of a special minister for the colonies resulted from the great expansion under the Third Republic. In both countries the office has since been enlarged and its functions expanded. In England new developments in dominion status and policy led to a further reorganization of the department in 1925. Among important colonial powers the United States alone has no department of colonial affairs, the administration of its outlying possessions being distributed among the bureaus of three separate departments. The Philippines, Panama Canal Zone and Porto Rico are administered mainly through the Bureau of Insular Affairs of the Department of War; Guam, Tutuila and the Virgin Islands through the Department of the Navy; while Alaska and Hawaii, sole survivals of the old fashioned "territory," are under the aegis of the Department of the Interior.

It is the colonial bureau which coordinates the entire colonial policy of a country, supervises the administrative officials, watches over colonial finances and in general exercises the authority theoretically residing in crown and parliament or assembly. These officials, together with the larger number of administrative officers in the colonies, constitute one of the most important of modern governmental groups. Premonitory recognition of this fact and the pressure of the necessity to build up an adequate and trained group of colonial officials have led most countries to the adoption of some form of the merit system for the selection of their colonial personnel. The British officials in

India have been chosen by that system since about the middle of the nineteenth century; it has been used by France in Cochin China since 1863 and in the Dutch colonies since 1864. A civil service act for the Philippines was one of the earliest legislative products of the United States commission functioning there.

But civil service boards, however carefully administered, can examine only those who present themselves; and such candidates, although able to pass examinations in the prescribed subjects, frequently lack the background and outlook essential to success in colonial administration. Recognition of this fact has led in several countries to the establishment of colonial schools. As early as 1800, under the direction of the East India Company, such a school was founded at Fort William, Calcutta; six years later another, the East India College, was established at Haileybury near London, but was closed in 1858. In 1864 the Dutch government founded a similar school at Leyden and afterward another at Batavia, Java. Before the end of the nineteenth century a colonial school at Paris came under the control of the French government. All of these schools have provided specialized instruction along lines most serviceable to the colonial administrator, such as the study of local languages. The result has been the gradual creation in those countries of a class of colonial servants who approach their tasks with a systematic preparation comparable to that of any other professional group. The colonial services of most European states now consist largely of those who make their careers in that field. This is in striking contrast to the situation in the United States, where few are found who even aspire to such a career—a situation due not alone to lack of colonial schools but also to uncertainty of tenure of colonial office. For the lack of a settled colonial policy immune from the exigencies of partisan politics makes it impossible for the United States government to offer its colonial servants permanent careers.

Some of the most pressing problems of colonial administration center around the utilization of native personnel in executive positions within the colonies. In most cases the growth of an established machinery of administration has been followed by the use of natives in an increasing number of governmental positions. Where there is a large territory to be guarded they must be counted upon to make up the bulk of the army and of the police force. This is notably true in India. In many cases they are indispensable in local governmental positions or the lower administrative posts, where direct and understanding contact with the mass of the population is essential. Wherever eventual self-government or assimilation has become a fixed policy the training of native teachers, judges and administrators is a natural step. Such a development will generally proceed more rapidly, the greater the degree of immediate legislative control of internal matters the colony may have achieved; it is likely to reflect somewhat too the extent of extragovernmental induction into such fields as education and law which native groups have achieved. The United States has proceeded somewhat more rapidly than most countries in "nativizing" its colonial civil service; the Philippine civil service at the present time consists almost entirely of natives. Such a policy presents, from the point of view of ardent supporters of the home government, dangers of a too rapid loosening of control over the colony. With a less extensive use of natives there are dangers of racial friction within the service. Probably no governed group has been satisfied with the methods of utilization of native personnel. The home government is charged either with building up a class loyal to itself rather than training for complete independence or with favoritism and discrimination.

Many countries have made most conspicuous use of colonials in the army and police force. Thus in India the native troops are about twice as numerous as the British and in the Dutch colonies the ratio is about three to two. France has endeavored to utilize her colonial population for this purpose, forming groups of colonies under a single commandant, concentrating forces at strategic points and reducing garrisons elsewhere. The American government at an early period in its administration of the Philippines organized the Philippine Scouts as a part of its army. Such native troops are always officered by nationals of the home government. Their use is necessary, but the question of their loyalty in time of crisis sometimes presents to colonial powers a problem of great potential difficulty.

The introduction of a degree of local self-government in most colonies has limited but slightly the scope of colonial administration. Except in the British dominions questions of peace and war and relations with other countries are settled by the home government; in some cases colonies may contract treaties, but

only by consent of the governing country. Problems of defense are strictly controlled by the home government. One of the first claims of the English colonies was for greater freedom in matters of taxation. Such freedom the dominions have achieved, but for most countries fiscal control remains one of the most important phases of colonial administration. Ancient colonies were generally valued for the tribute they paid, but modern ones are not usually expected to be more than self-supporting. Indeed, France and Germany long contributed to the expenses of their colonies. One favored exception is the Netherlands, which for at least a century has drawn extensive revenues from its East Indian possessions. British crown colonies and India are generally required to pay the expenses of the imperial forces garrisoned in their midst. No such charge is made by the American government in the Philippines or Porto Rico, but with this exception both are practically self-supporting.

It has frequently happened that an existing tax system has been taken over intact by the colonizing country, old land taxes or head taxes continuing to be collected in the accustomed manner by tax farmers. Monopolies, on such goods as opium, salt or camphor, have long afforded a favorite form of colonial taxation. With the general development of methods of taxation within the last century many of the new forms have been applied in the colonies. Export and consumption taxes and, more recently, income taxes are common. A new importance has been given to colonial fiscal administration, as to all other phases of colonial policy, by the growing importance of tropical colonies. To make such territory habitable and usable the construction of roads and railroads or the clearing of swamps and forests is usually necessary. Such engineering activity has commonly been undertaken by the home government partly through the use of forced labor, partly through loans to the colony, which are then made charges on its budget. Most colonies are now fairly heavily in debt to their home governments.

As a result, even where colonial legislatures exist and have power to vote fiscal measures the home government ordinarily retains the power of vetoing and of supervising the budget. The budgets of British crown colonies, for instance, are first submitted to the fiscal branch of the Colonial Office and finally undergo the scrutiny of the Treasury. Similarly in France all fiscal matters are submitted to a central bureau.

The increasing commercial importance of colonies has led to an almost equally close control of colonial commercial policy. Customs duties not only form an important source of income but affect the tariff policy of the entire empire. Most countries control the fixing of such duties. Concessions are usually granted by the home government, while in some cases attempts have been made to monopolize the supplies of raw materials.

Almost equally wide is the scope of the activities of the colonial administrator within the colony itself. In one sphere most governments have left their colonies considerable local autonomy—in the determination of the legal system to be followed. A primary step in the establishment of any settled civil government is the setting up of a judicial system. This branch of government was ordinarily the first to be separated from the prerogatives of the governor, and it has in most cases remained subject to control, if at all, by the judicial and legislative branch of the home government, not by administrative officials.

The first question for the dominant state to determine in connection with the administration of justice is, what law shall be applied? The Romans generally let the inhabitants of conquered lands retain their native laws, gradually building up and applying a *jus gentium* for cases of more than local scope. The barbarian conquerors followed the same practise, which from general custom became the recognized doctrine of international law. The British policy in acquiring territory occupied by an alien race has been to leave private law undisturbed. Thus the custom of Normandy was left in the Channel Islands and the custom of Paris in Quebec under the act of 1774; Roman Dutch law still remains to a large extent throughout the Union of South Africa, British Guiana and Ceylon; Italian (Sicilian) law in Malta; and as personal systems Moslem law in the Hanafite form in India and Burma and in the Malikite form in Nigeria and other colonies; Buddhist law in Burma and Hindu law in India. From the beginning native law has applied only to the native population, nationals of the home government being judged in their own courts by their own law (*see* CAPITULATIONS; EXTERRITORIALITY). Moreover, while native civil law has been respected, the criminal law of the dominant state has almost always been introduced immediately. Many of the sys-

tems of native law have not contained rules governing important phases of modern life, nor has their interpretation by a group trained in alien traditions facilitated their adaptation to novel situations. There has therefore been a tendency for their gradual displacement by legislation based on the concepts of European law. In India such important subjects as family law and succession are still governed by the various personal systems, but in most colonies the applicability of native law is gradually being restricted to religious or family arrangements intimately bound up with native customs, while economic relationships and the regulation of crime or of the public welfare are gradually being drawn under the legal system of the home government.

But not all nations have even pretended to follow the Roman practise. Spain's viceroys and the Council of the Indies gradually enacted legislation which by 1530 had virtually displaced native and had substituted Spanish law, not only in the vast colonial empire of the three Americas but also in the Philippines. In Algeria, Tunis, Indo-China and other colonies French law was first introduced for Europeans, while the natives continued to be governed by their own; but the former has been encroaching upon the sphere of native law with increasing rapidity; in Algeria native law has practically disappeared. The American policy in this regard has resembled the French rather than the British. The Spanish-Mexican law was rapidly displaced by the American in Texas, California and New Mexico. Even Louisiana retains little Spanish or French law except in the civil code, while Russian law in Alaska seems to have been ignored from the beginning of American sovereignty. In the Philippines and Porto Rico a different policy was announced but only partially followed. All the remedial and most of the public law has been supplanted by American-inspired legislation. In Porto Rico the Spanish penal code, a highly scientific instrument, was repealed to make room for one modeled on the criminal code of an American state, whose framers made no pretensions of knowing comparative law or the special requirements of Porto Rico. In neither jurisdiction was the Spanish civil code expressly repealed; but in the Philippines the new Code of Civil Procedure contains so many provisions relating to subjects covered by the civil code that the latter, as construed by the Supreme Court, was by implication repealed *pro tanto* in features of great importance and was therefore left in a mutilated and incomplete condition.

If the choice and framing of colonial law raise perplexing problems, much more so are those raised by its administration. The personnel of the judiciary, its character and selection, the proportion of the native element, the extent of appellate jurisdiction and the interpretation of native law by alien judges and distant tribunals must all be considered. In every colony it is the primary courts, under whatever name, which more often than any other touch the bulk of the population. Here the government is confronted with the complicated problem of personnel in an acute form. Shall it select native magistrates, familiar with local dialects and customs and willing to accept relatively small remuneration but subject to prejudices, factionalism and, too often, questionable practises? Or shall it appoint its own nationals, lacking familiarity with local customs, with a different group of prejudices but with the viewpoint of the governing country, to perform an ostensibly petty but really fundamental task?

The question of personnel becomes acute also in the intermediate and appellate courts of the colony, where again thorough knowledge of the local law is indispensable. In 1891 Sir George Cornewall Lewis complained that the judges of India were obliged to consult the native pundits regarding Hindu and Moslem law. Only too common are situations like that in the Philippines, where out of nearly twenty Americans appointed from time to time to the Supreme Court barely a half dozen had previously given serious attention to the Spanish or any other form of civil law which they were to administer. Naturally they fell back on the use of American law and handed down decisions which deranged and upset the established system. Such evils are aggravated when the highest local tribunal is subject to review by another in the dominant country, whose judges make no pretense of familiarity with the local law or conditions. Since its organization in 1833 the Judicial Committee of the Privy Council of Great Britain has been hearing appeals from the colonies; complaints are still heard of the lack of understanding of native conditions evidenced by some of its decisions. It has long been felt that if more members of the United States Supreme Court knew Spanish law and local conditions it might not have arrived at certain decisions which have seriously crippled the administration of justice in the Philippines. In decided

contrast is the policy of the French Cour de Cassation, which does not undertake to hear appeals involving Moslem law.

Such contacts of legal systems are but one of the most striking forms of the meeting of cultures which leads to most of the modern problems of internal colonial administration. It is in the colonies of the tropics that those problems have been accentuated and have found most conspicuous expression. For here the very environment must be reshaped to make the country habitable for white men. One of the most important phases of colonial administration consists in public health work and sanitary control, made possible through the rapid development of tropical medicine (*q.v.*). But efforts to check smallpox or cholera or leprosy, involving compulsory vaccination or segregation, often arouse native hostility, and their continuance is for a long period dependent on the control exercised by the home government.

The education of the native population has been another rather general goal of twentieth century colonial administration. Schools and colleges established by missionaries have been encouraged and supported, and often government schools have been established on a large scale. Too often the conception of education is completely literary and shows little awareness of the values of the native culture. The American attempt not only to make the Filipinos literate but to give them the rudiments of an industrial training is an exception. Whatever may be said for the policy of education of a native population, it is certainly one of the most effective instruments of westernization.

The supplanting of native cultures is proceeding also through the forcible elimination of native practises. The attempt of the British Government to abolish suttee—widow burning—and infanticide in India is well known. Perhaps of even greater cultural importance has been the introduction of opium and alcohol by European governments into their colonies. The introduction of wage systems or the use of forced labor, by destroying the economic foundation of native society, is not only transforming native culture but producing new administrative problems. One of the major tasks confronting the colonial administrator today is the creation of a sane native policy (*q.v.*). As world economic relationships become closer the social systems and methods of exploitation of the great tropical colonies will affect more intimately the economic and political development of other countries. Whether or not nationalism or communism takes root in such colonies, their administration seems likely to present increasing difficulties. Colonial administration will probably continue to be a major branch of government for some years, but the conditions under which it operates and the assumptions on which it is based can no longer be taken for granted but must meet the challenges of new groups and new social philosophies.

CHARLES SUMNER LOBINGIER

See: COLONIES; COLONIAL ECONOMIC POLICY; CHARTERED COMPANIES; EMPIRE; NATIVE POLICY; BACKWARD COUNTRIES; TROPICAL MEDICINE; CONCESSIONS; FOREIGN INVESTMENT; IMPERIALISM; DOMINION STATUS; MANDATE; PROTECTORATE; EUROPEANIZATION; INDIAN QUESTION.

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COLONIAL COMMERCIAL POLICY. *See* COLONIAL ECONOMIC POLICY.

COLONIAL ECONOMIC POLICY. Approximately half of the world's land area consists of territories owned or controlled by a limited number of world powers, most of whose metropolitan areas are comparatively small. The controlled territories, with a few major exceptions, have economies almost totally different from those of the home areas of the colonial powers. Trade with colonies thus becomes important by virtue not only of its proportion to total world trade but also because of its essential nature as a necessary complement to the economies of the industrially advanced nations. By the same token the policies which govern the economic development of these colonies and their relationship to the mother country and other states assume great significance in the modern world economic order.

In Mediterranean and western world history the Phoenicians were the first great merchants

and navigators. They founded important colonies and utilized them as centers of activity for their merchants. Later the Greek colonies, although they were essentially agricultural, also served as trading centers for Greek merchants. In the main no special treatment was accorded them. There were occasions, however, when legislation affected them. Thus during the Peloponnesian War the 2 percent Athenian import tariff was raised to 5 percent on goods from the tributary Athenian colonies. In this way it was hoped to recoup the revenue lost through the refusal of the colonies to continue the payment of tribute. Rome stressed commerce less, but its colonies were forced to pay tribute in the form of shipments of grain to feed the Roman population. With the commercial and industrial revolutions the era of modern colonization began. The industrial revolution brought a greater territorial division of labor and a concentration of manufacture in England and western Europe with a corresponding dependence upon outlying areas as sources of materials and markets for finished products. The systems of colonial control set up were primarily, though not exclusively, motivated by economic factors. At first trade may have "followed the flag," but even then the economic objective was often present; latterly, contrary to popular notion, the flag has often followed trade.

The development of modern colonial policy may be traced through three main periods. From the latter half of the fifteenth century to the end of the Napoleonic wars the Portuguese and Spanish, the Dutch and the French and English were successively the most effective nations in exploration, discovery and colonization. Their methods varied, but the entire period is characterized by the predominance of exploitation as the policy of the mother country toward the colony. This at first took the form of an attempt to obtain from the colonies their reputed fabulous stores of the precious metals. The general disappointment in this hope brought with it a policy of exploiting the natural productive advantages of the colony for the benefit of the mother country. It was the varying ability of these countries to adopt the policy of developing basic productive opportunities which largely accounted for the waning of Portuguese and Spanish influence, the Dutch successes, the rise of France as a colonial power and the final supremacy of Great Britain in building the greatest colonial empire of modern times. This process of exploitation, known as the colonial system, formed a part of the mercantilistic system of economic legislation. It was based upon the principle that the function of the colonies was to provide a source of raw materials and a market for finished products for the mother country. Accordingly, the development of industry in the colonies was discouraged; trade was monopolized by the government, a chartered company or the nationals of the mother country and the colony; and the use of ships owned by nationals of other countries was either forbidden or discouraged. Severe penalties were assessed for violations of the restrictive acts. Discontent with this system led to the breaking away of important colonies, as in the American Revolution, and a consequent doubt as to the ultimate wisdom of the policy.

Gradually the system was relaxed, and at the close of the Congress of Vienna a policy of moderation toward colonies prevailed. The growth of commercial treaties was the instrument through which the change was accomplished, but the basic reason back of the change was a realization that exploiting measures did not pay. This attitude was supported by a general liberal anti-absolutist movement in western civilization which affected not only economic affairs but also religion, literature and politics. It found expression in the American and French revolutions and notably in the capitulation of mercantilism to the economic philosophy of laissez faire. The movement in England culminated in almost complete free trade by 1850.

After the middle of the nineteenth century there was a remarkable revival of colonial expansion. New explorations in Africa created colonies and spheres of influence there. British holdings in Asia, Africa and Oceania became approximately four times as great as before and French holdings sixteen times as great. Germany, Belgium, Italy, Japan and the United States took their places among the colonial powers. This expansion was largely a result of the further growth of industrialism and of a consequently keener competition for markets. Trade with colonies became increasingly important. While recent official composite estimates are not available, just before the World War the colonies had nearly one fifth of all world trade, the total trade of colonial powers was three fifths and the total trade of empires over three fourths of total world trade. The importance of colonial trade for the mother countries varies considerably, but according to the same estimates it ranged from approximately 35 per-

cent of the total trade in the case of Great Britain to less than 1 percent for Germany and Italy. The United States, with a colonial trade that amounts to only a small percentage of its total trade, depends upon the colonies of other powers to a great extent for the supply of strategic commodities and to some extent for market outlets.

Colonial import tariff systems are of three general types: assimilation, or the extension of a single tariff wall around colonies and mother country; preference, or lower rates for goods traveling within the empire; and the open door, or equal treatment for all nations, the relation of colonies and mother country in this case being that of separate nations. With the rise of the new colonial systems came a revival of restrictions on colonial trade, associated with the decline of laissez faire and the advent of modern protectionism in a number of leading countries. A policy of neomercantilism, more refined and indirect than the old colonial system and revolving principally about discriminatory differentials in tariffs and shipping, has characterized colonial economic policy since 1875.

Treaties between colonial powers have checked to some extent the spread of the discriminatory system. Open door treaties have often covered tariff and other relations with colonies. Rate limiting treaties have fixed maximum, minimum or uniform tariff rates for two or more colonies. General commercial treaties, which before the war usually contained the most-favored-nation clause, have sometimes given preference to colonies, although they have usually provided opportunities for future preference by excepting the colonies. The newer British commercial treaties, however, including most-favored-nation agreements, for the most part specifically include the crown colonies; the dominions may ratify them if they wish. Certain French colonies are now governed in part by conventional rates applying equally to products from France and other nations party to the conventions. This is rather inconsistent with the French general policy of colonial tariff assimilation. The new post-war commercial treaty structure shows little tendency to change these arrangements. With reference to the mandates, classes A and B provide open doors for League members only, class C for none; the result of Irak independence remains to be seen. In general, intercolonial trade is the same as trade with the mother country, especially among the French colonies. In the British Empire, however, and particularly among the dominions and the British West Indies, preference does not automatically apply to all colonies, although special agreements have provided extensions or interchange of preference.

Nations vary considerably in the extent to which they use the system of tariff discrimination. The Netherlands, Belgium and Germany have generally followed the open door policy, with moderate tariffs. Italy uses the preferential system to a large extent, and Spain and Portugal have, in the main, continued their preferential systems. France in 1892 adopted assimilation as its general policy, although it still has preferential and open door areas. Japan adopted assimilation in 1909 for Formosa and Karafuto and in 1920 for Korea, but Kwangtung leased territory is nominally an open door area. The United States employs the open door system in Samoa and the Canal Zone, assimilation in Porto Rico and preference in the Philippines, Virgin Islands and Guam.

While the British Empire also exhibits all three of the types, preference is widely found. From 1860 to 1919 Great Britain maintained the open door in India and in most crown colonies, with either free trade or low revenue tariffs. Hongkong and Singapore are often listed as open door ports, but they are more accurately indicated as free trade ports, since as great entrepôts and trans-shipment centers the erection of any considerable tariff wall would defeat its own purpose. After 1919, as a reaction to post-war nationalism, empire preference increased, although the open door is still maintained in places. The position of the four great self-governing dominions, Canada, Australia, New Zealand and South Africa, presents a peculiar problem. These dominions, having received fiscal autonomy, long since began to build their own tariff walls, sometimes extending high rates even to mother country products. The Union of South Africa and the Irish Free State have a double schedule, with the minimum applying to imports from the United Kingdom. New Zealand also has a maximum and minimum schedule, with a few special treaty rates. But Canada and Australia have a special form of multiple tariff schedule giving the mother country some preference. Their three-level schedule, maximum, intermediate and minimum, allows entry of mother country products at minimum, really a sort of subminimum. Most-favored-nations send goods in at the intermediate level and the maximum applies to all others. Even with this special device Great Britain has often

felt she was not receiving generous treatment there. Conversely, when Great Britain after the World War partly abandoned its traditional free trade policy and adopted a certain amount of protection, some preference for the dominions was allowed. The Imperial Economic Conference of 1923 brought a renewed demand for mother country preference to dominion products, and the tariff act of 1926 extended the existing preference, in the tariff on key industries, for ten years. Meanwhile the imperial conference of 1926 gave to the dominions politically almost the status of independent nations. There is now a renewal of the older Chamberlain idea of empire free trade, a scheme which would create a tariff wall around the entire empire, including the United Kingdom, with free trade simply among the parts. It is hoped that this may revive some of the waning imperial economic unity. The 1930 Canadian Tariff Act, however, is an indication that there are forces working in the opposite direction.

The proportion of preference granted by the several tariff policies varies widely. It is often a reduction of two fifths or less on the regular rate. In the dominions it ranges from one fifth to one third or one half, although there are non-preferential exceptions in the preferential system. On the basis of percentage of reductions granted, the United States and Japan rank first, followed by Portugal, France, Italy, Spain, the British dominions and the British crown colonies. Assimilation does not always equal 100 percent preference, since exceptions and minor charges may reduce the differential to 80 or even 50 percent. Various minor and indirect types of preference may be effectively used. These include open discrimination in minor duties and fees, discriminatory classifications, concealed discriminations through administrative discretion in valuation, enforcement of merchandise marks acts and similar devices. The total general effect of preference, furthermore, must be judged with reference to the total volume and value of trade and, especially, the commodity significance of the trade. British preferentials consequently attract more attention than their percentage of reduction would seem to justify.

Prior to the World War export duties had nearly disappeared from the European tariff structure but they continued to be of importance in colonial policy. Their rates were lower than import duties, since their purpose was primarily fiscal, rarely protective and preferential. Such duties permit the colonies to share in the profits of the exploitation of their resources. The sliding scale export duty on rubber under the British-Malayan-Stevenson plan was not preferential but was arranged for price valorization. The United States, as the world's chief buyer of rubber and seller of tires, was placed at a temporary disadvantage as a result of it. Preferential export duties have been used increasingly, as in the British Empire during the period of post-war nationalism. Some incidents of export preference have been noteworthy. The preferential duties on tin from British Malay affected chiefly the United States. The former preferential duty on hides and skins from India was one third of the 15 percent duty, although both rates and preference have usually been lower. Here the avowed purpose was to protect Indian tanning industries, but some American shoe manufacturers felt that an attempt was being made to force them to move their plants to Canada, within the preferential circle. On the whole, export duties, though more important than in mother countries, have not been widely used in colonial tariffs.

Under modern neomercantilism, assimilation and preference work almost exclusively to the benefit of the mother country. Metropolitan tariffs are designed primarily to protect the home market; assimilation under such tariffs protects the colonial market for home products. The products of the colonies, however, generally different from those of the home country, gain practically nothing from assimilation. Similarly, preference ordinarily helps the colonies little, for the colonial products, chiefly otherwise unobtainable raw materials and staples and sometimes distinctive foodstuffs, are usually admitted to the mother country free or with a low duty. Differentials may exist, however, in competitive cases, as in tobacco and sugar (for example, Philippine sugar entering the United States), or where duties are levied on the commodities for revenue purposes, as in the case of tea and coffee. The Imperial Marketing Board, established after the imperial conference of 1926, aims to secure for the British dominions and colonies some of the advantages sought through preference by stimulating a "consciousness of empire" which it is hoped will result in a greater purchase of empire products by empire inhabitants.

Colonial shipping policies are of various types. Metropolitan colonial and intercolonial trade may be open to all vessels, with no discrimination, as in some British, Dutch, Belgian

and German colonies. Or the trade may be free in this way, but with preferential rates given to dutiable merchandise when transported directly from the country of export, as in certain cases of British dominions and British and French colonies. Preferential tariff rates or additional preferences may apply only if goods are carried in national vessels, as in the case of Portugal. Moreover, irrespective of tariffs, carriage may be restricted wholly or partly to national bottoms; Spain, Portugal, Japan and the United States have used this device at various times. Such policies help the national merchant marine but do not benefit trade, and the trend is away from their further use. In fairly rare cases preferential port and tonnage dues and fees are used. Bunkering discrimination occurs also occasionally. Of greater importance are larger phases of the merchant marine policies of leading nations. Often, if not usually, when direct subsidies, subventions, special mail contracts, loans to builders or operators and other aids are given to shipping, a government attaches conditions requiring maintenance of lines and routes between home and other ports; these others are frequently colonial. The merchant marine policy thus includes maintenance of economic connections with colonies.

The importance of trade finance in colonial economic relations is indicated by the large network of branch banks and other financial agencies which Great Britain spread throughout her overseas possessions prior to the World War —the most widespread and successful system of its kind. The British colonial commercial system is almost inconceivable without the colonial banking system facilitated by British legislation. The export of British capital to the colonies has been mainly in connection with trade or for investments in colonial enterprise or government bonds. Although complete authentic figures are not available the United Kingdom is estimated by some to have as much as $15,000,000,000 to $20,000,000,000 abroad, of which $3,500,000,000 are in India and over $2,225,000,000 in Canada; these estimates, however, seem high. A goodly proportion of the total is certainly in various parts of the empire. The flow of capital from other colonial powers —Germany, France, Belgium, Japan and, especially in recent times, the United States—has been only in a small degree toward their colonial possessions.

The basic phase of colonial economic relations and policies is that which may be generically termed industrial, including extractive operations and construction as well as manufacturing. These relations and policies are not only important in themselves but in turn affect trade and trade policy. With regard to them, treaties guaranteeing the open door are rare and often the policy is one of restriction through legislation or administrative action. This entire category is sometimes covered by the phrase "the concession system," but this is not entirely accurate since outright ownership is just as important as leasing and the term generally implies only the latter. Acquisition by leading British, British-Dutch and American oil companies of petroleum resources in outlying areas, including important colonies, although it may not be entirely typical because it is marked at times by spectacular rivalry, serves for emphasis. In such cases the open door prevails in many colonies, especially where the oil resources are less important, and American and French interests have recently obtained participation with the British in Irak. In the British Empire the policy varies widely from colony to colony. But some of the most important petroleum deposits in the British and Dutch empires, for example Dutch East Indies, have been closed legislatively or administratively at various times. In the case of non-ferrous minerals there are many instances of exploitation advantage through colonial policy, though here again there are instances of the open door. The leading plantations are usually owned and managed by mother country enterprise. For a comprehensive program of industrial and transportation utilization perhaps no more striking case is found than Japanese operations in Kwangtung leased territory and in controlled portions of South Manchuria.

An important phase of colonial economic policy, especially in the case of tropical colonization, is the question of the economic treatment of the natives. Frequently land owned by natives has been expropriated to make possible exploitation of the soil and its resources. White labor is generally out of the question, and it has often been necessary to adopt policies of actual or approximate compulsion in order to get the natives to work for the whites. Forced labor has sometimes been a matter of definite legislation, sometimes of policies of private companies. Occasionally the same end has been achieved by levying a head tax upon the natives, so large that they must remain constantly at work in order to pay it. Wage policy has been the subject of a conflict between producing and com-

mercial groups in the colonies. The former, seeking low costs, have tried to keep wages low, while the latter, interested in increasing consumption through a higher standard of living, have urged the payment of higher wages.

A survey of the restrictive features of colonial economic policy emphasizes the negative and exploitative aspects of the question. The following phases should not be forgotten: the frequent lack of restrictions and exploitations; the still more frequent absence of discriminations; the considerable economic benefits to the world at large and even to the controlled areas; the natural character of many of the policies, on the basis of differentiation of area economies, and the likelihood of their continuation in one or another form.

JOHN DONALDSON

See: COLONIES; COLONIAL ADMINISTRATION; ECONOMIC POLICY; COLONIAL SYSTEM; MERCANTILISM; ACTS OF TRADE, BRITISH; ASIENTO; CHARTERED COMPANIES; COMMERCIAL TREATIES; CUSTOMS DUTIES; PROTECTION; BOUNTIES; SUBSIDIES; FREE TRADE; OPEN DOOR; SHIPPING; RAW MATERIALS; FOOD SUPPLY; PLANTATION WARES; FORCED LABOR; FOREIGN INVESTMENT; CONCESSIONS; NEOMERCANTILISM; IMPERIALISM.

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COLONIAL SYSTEM is a term used to designate an arrangement by which a mother country attempts to bind her colonies to herself by commercial ties, with the primary object of promoting her own economic advantage. The precise form of such a system depends on a number of factors, chiefly on the opportunities offered by the natural resources of the colonies and the uses for them suggested by the dominant economic notions of any given period.

The most famous and most fully developed colonial systems were those which resulted from the policies of the countries of western Europe from the beginning of the period of great geographical discoveries in the fifteenth century to the end of the eighteenth century. Under the influence of growing national self-consciousness and the conviction that in trade one nation gained at the expense of another each of these countries pursued a policy of strict monopoly of colonial trade. Spain was the pioneer. Her conquests in Mexico and Peru gave her access to supplies of the precious metals, while the stress laid by contemporary economic thought on the importance of the accumulation of stores of gold and silver as the means of building up national power suggested the course she ought to adopt. Hence the Spanish system involved a complete state monopoly in which all other considerations were subordinated to that of getting and transferring to the mother country the maximum amount of the precious metals. Naturally Spain's European rivals attempted to intercept the Spanish fleets, and Spain was consequently obliged to provide convoys and limit sailings. The Spanish colonists felt the scarcity of shipping so severely that visits from foreign vessels were welcomed and illicit trade developed.

The countries which took advantage of the necessities of the Spanish colonists were no less

convinced than Spain that to allow foreigners free access to their colonies was prejudicial to the national interest. That they avoided some of the crudities of the Spanish system was largely due to the fact that they did not have the same temptations, since direct importation of the precious metals from their colonies was not possible. The contemporary faith in trade regulation furnished a clue to the policy to be followed. The mercantilist doctrine that for any country exports must exceed imports in value in order that the difference should be paid in treasure involved a close scrutiny of trade to discover whether the balance was favorable or unfavorable. To correct unfavorable balances it was possible for a country to restrict or prohibit the importation of luxuries or commodities which could be supplied at home, but there were always necessaries which had to be obtained from abroad. Colonization seemed to offer a solution of this problem. The activities of the colonists could be so directed by the mother country that its dependence on foreign countries for certain commodities might be eliminated and new markets for its manufactured goods developed.

These were the basic ideas which governed the early colonial policy of France and England. The French colonial system was one of strict political and economic control. Her colonists were to purchase manufactured goods from France; the produce of the settlements was to be exported to France. Colbert (*q.v.*) was not an innovator in this field but tried to extend and enforce principles which were generally regarded as sound. Although England allowed her colonists considerable freedom in developing their political institutions she also elaborated a code of commercial regulation. The colonists were not to establish industries, such as wool and iron, which would restrict their demand for English goods. Specified products, such as sugar and tobacco, were to be sent to England for reshipment. The carrying trade between the mother country and the colonies was limited to English (including colonial) shipping. These arrangements seemed justified to contemporaries on a number of grounds. It was argued, for instance by Josiah Child (*q.v.*), that emigration was an economic loss to the mother country unless colonial trade was strictly regulated by law. England had permanent unfavorable balances in trade with the Baltic and the Mediterranean areas. The Baltic trade was largely in naval stores, such as tar, pitch, masts and the like, which were indispensable. Bounties were therefore paid on the production of these commodities in the American colonies, while the hope was entertained that the climate of the Carolinas would enable them to supply Mediterranean products. Some mercantilist writers, for instance Joshua Gee, strongly advocated a wide extension of the bounty system. Great stress was also laid on the importance of the colonial trade as a means of promoting employment at home. The manufacture of goods for a reserved market, the building and manning of ships for a monopolized trade and the handling of such products as sugar and tobacco, large quantities of which were reexported, seemed calculated to achieve this end.

The colonial system, particularly that of England and France, was gradually fashioned by these ideas and may be said to have taken definite form in the later years of the seventeenth century. But it was then already becoming clear that colonial systems could not remain mutually exclusive. In a treaty of neutrality of 1686 England and France had agreed not to trade with one another's dependencies, but it was impossible to maintain the balance within a single system so that it should be self-supporting. On the one hand, the French West Indian islands developed sugar production to such an extent that the planters and their slaves could not get adequate supplies of necessaries from France and the French settlements scattered from Canada to Louisiana. On the other hand, the New England colonies had a surplus which could not be profitably disposed of in the English West Indian islands. Consequently, the illicit trade grew. An attempt was made in the so-called Molasses Act of 1733 to suppress the trade between the New England colonies and the French plantations, but from its passage it was practically a dead letter. This was the most striking breach in the colonial system and it proved to be one which could not be healed, for when in 1764 England tried to enforce control in a modified way immediate resistance was aroused. Nevertheless, the idea that colonies could be fitted into a preconceived scheme in defiance of basic economic facts died hard. It survived the revolt of the American colonies and the arguments of Adam Smith, but the nineteenth century witnessed its supersession. The Spanish settlements in South America became independent republics and the principle of self-government, with the necessary corollary of fiscal autonomy, was recognized within the British Empire; while the principle of freedom

of commercial intercourse was extended in large measure to all modern colonies. Only in attempts to create favored customs areas can one trace the persistence in modified form of the assumptions underlying the developed colonial systems.

J. F. REES

See: ECONOMIC POLICY; MERCANTILISM; COLONIAL ECONOMIC POLICY; COLONIES; COLONIAL ADMINISTRATION; CHARTERED COMPANIES; ASIENTO; ACTS OF TRADE, BRITISH; SHIPPING; BOUNTIES; PROTECTION; COMMERCIAL TREATIES.

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COLONIES. The term "colony" (Latin *colonia*, Greek ἀποικία) originally meant a transplanted fragment of a human society. This settlement might be in full possession of its new home or merely an organized group in the midst of a foreign and even a hostile population. It is thus still correct to speak of the Italian "colony" in French Tunisia or the European "colony" in Tokyo, although both are subject to foreign jurisdiction. In the political sense a colony is either (a) a settlement of the subjects of a state beyond its frontiers or (b) a territorial unit geographically separated from a state but owing allegiance to it in some specific and tangible way. In the contemporary world the second meaning has overshadowed the first. For example, Australia and Algeria are not technically "colonies," although outstanding examples of the transplantation of British and French citizens respectively. Australia is a dominion; Algeria is considered an integral part of France. Morocco is a protectorate, not a colony, although many Frenchmen live there and the administration is largely controlled from Paris. On the other hand, Indo-China is technically a colony, although Frenchmen form less than one percent of the population.

The significance of colonies has changed so much with the passage of centuries that there is no hope of grasping it in the large except by a resort to history. Colonization of the various types has been one of the most powerful instruments making for the diffusion of culture and for the economic and political integration of the world. Under various names two main types are generally distinguished: the settlement colony and the exploitation colony.

In general, the settlement colony is one in which the geographical environment is not very different from that of the mother country. It is all the more characteristic if the area settled is sparsely populated and the natives are decidedly inferior to the colonists in economic organization. The early English colonies on the North American mainland are good examples—Australia perhaps better still. The exploitation colony, on the contrary, consists typically of a small group of business men, administrators, soldiers or all three, thrust into conditions quite different from those of their home country. The region may be densely populated by natives and possessed of a mature civilization. Many such colonies are in the tropics and subtropics. If the mother country is in the temperate zone the two sets of natural resources differ greatly. There is a tendency, therefore, for colonial plantations to develop, specializing in crops not suited to home conditions. Slavery and forced labor are likely to appear where climatic conditions are such that the colonists cannot endure sustained physical effort.

Other classifications cut more or less across the usual one, as stated above. Colonization is sometimes official, or fostered by a government in its own interest. Sometimes, on the contrary, the motivation is predominantly private. Individuals, guild groups, or chartered or regulated companies migrate—also in pursuit of their interests as they see them. Government permission is generally involved, but not always. People may leave a tolerable situation at home in order to better themselves; but if conditions at home are deemed intolerable a migration may take place without any adequate knowledge of what awaits the colonists. Here the definite motivation is rather away from than toward something. Finally, these permanent migrations are great or small in point of distance, by sea or land and to contiguous or non-contiguous areas. All these classifications are likely to be interwoven in actual cases, as the following historical sketch will suggest.

Chinese colonization has expressed most of the simpler types—down to the time when great national states formulated intricate com-

mercial policies and sought distant raw materials for home industries producing for a real world market. Conquests beyond the frontiers in Manchuria, Mongolia, Tibet and Tonkin, mainly to curb disorder and make these frontiers safer, were followed by Chinese colonization. Native leaders were assigned ranks corresponding to those of Chinese society. Other Chinese then emigrated, including tradesmen, farmers, criminals and political refugees. Most of these colonists were males, who intermarried with native women, acquired property and set up what was in many ways an extension of the home civilization. Later, individual enterprise led vast numbers of Chinese to migrate southward into Indo-China, the various Malay countries and eventually almost around the world. Although China followed up these migrations to some extent with the assertion of authority, her political organization did not prove adapted to a well knit colonial empire.

The territories of the Phoenician city-states were too small for a teeming population, exposed to invasions from the great land empires. In fact, the prosperity of this strip of coast in the eastern Mediterranean was founded on easy access to and from Asia by land routes and its frontage on the "middle sea" of the ancient world. Civilization was advancing westward. Phoenician traders carried luxuries and manufactured wares to the ruder peoples of the West and collected raw materials such as copper, iron, lead and gold. From the African coast they took wool, hides, ivory, ostrich feathers, perhaps livestock and almost certainly slaves. Although Phoenician trading posts and some actual colonies were scattered around the Aegean and Mediterranean seas by 1100 B.C.—the period of Sidon's early leadership—it was later under Tyre that the Phoenicians were the great civilizing agents. Carthage (Karth-Hadeth, or New City), founded about 800 B.C. when Utica near by was already centuries old, became the outstanding commercial center of the West after the decline of Tyre. Generally the Phoenicians contented themselves with defensible and well situated trading posts. Some of these, like Carthage, grew so populous that they were obliged to incorporate agricultural areas to insure their food supply.

Outside of western Sicily and the northern part of what is now Tunisia, which were developed intensively, Carthaginian colonization was of the loose commercial type. Carthaginian power rested mainly on a system of alliances with native chieftains, on fleets and on the ability to hire mercenaries with the profits of trade; ports, mines and inland trading centers were widely scattered. Commercially ancient Carthage occupied somewhat the situation of London in the contemporary world. In the main it aimed at political dominion only when forced to do so by Greek and Roman competition. There can be no doubt of the tremendous role played by Phoenician and Carthaginian colonization in transmitting westward the highly developed material culture of the ancient Near East. Moreover, the Near Eastern social structure and religious bias were never overcome under the Romans. Successive eastern religions, including Mithraism, Christianity and Judaism, developed great theologians and militant leaders in the territory of old Carthage, were torn by passionate schismatic movements and disappeared under the waves of the new, less occidentalized faith of Mohammed.

Greek colonization gradually supplanted Phoenician in the Aegean and eastern Mediterranean after about 750 B.C. The Greeks, especially those on the European side of the Aegean Sea, proved better insulated from the imperial adventures of Egypt and the great land powers of western Asia. The home lands of the Greeks, like those of the Phoenicians, were valuable rather because of their situation along potential trade routes than for their natural produce. The Greeks scattered trading, mining and agricultural settlements from the Black Sea to the western Mediterranean. Unlike the Phoenicians who remained behind, the Carthaginians were beyond the reach of the Egyptians, Assyrians and Persians and were thus able to check the Greek expansion westward.

The typical Greek colony was modeled closely after its home city but was largely independent, although the cleruchs, or transplanted citizens, of certain Athenian settlements retained their citizenship. No tribute was exacted by the mother city-state. Émigré citizens enjoyed very general exemptions from civic, legal and religious duties in Athens, and local autonomy included even the right to coin copper. Yet the Athenian courts assumed superior jurisdiction in some cases.

The evolution of the extent of control from the home city was curious. Generally planted, like those of Phoenicia, as trading stations, the colonies were often closely supervised at the outset. But they showed a much stronger tendency than the Phoenician colonies to spread

out and become largely agricultural. When they had reached this stage they were practically autonomous and sometimes they achieved full independence. The home community often protected them and it was considered a crime for a daughter city to attack its parent. A close similarity of social life and common trading interests preserved connections which were actually much more tangible than they seem to us. In the end, colonies like the Athenian cleruchies showed a return to a more formal system of control and an approach to the later Roman type.

Alexander the Great attempted to combine the advantages of the trading communities founded on the basis of free or largely autonomous cities with the disciplined unity of the great land empires which he conquered. His triple purpose in founding his colonies was to provide homes for veterans, garrison conquered territory and Hellenize his empire. Similar policies were continued by the Seleucids and Ptolemies who succeeded him. Alexandria in Egypt soon had around 400,000 inhabitants; Antioch was slightly smaller; Seleucia, on the Tigris, was the third city of really imposing size. The importance of all these was due in large part to the already considerable Levant trade which reached the Mediterranean by ships and caravans. Hellenization largely failed, even the colonized veterans being in the main non-Greek mercenaries. Many of the Greek officials merely enriched themselves, and the attempt to associate them with orientals in a workable administration proved futile. Trade and trading colonies languished in the too rigid framework of centralized authority. Exploitation, discontent and bankruptcy were gradually dissolving the Hellenistic empires into their constituent trading and agricultural elements when Rome inherited the idea of uniting a huge territory under a god ruler and a legal framework which would serve if not satisfy interests of every type.

Under the force of Greek and native competition Carthage might have achieved a genuine, well knit colonial empire but for the rise of Rome in the larger, richer environment north of the Mediterranean. Before Rome became an empire in the dual sense of far flung dominion and deified authority at the center, the state had expanded in Italy and even beyond. This early colonial expansion had been almost entirely by official conquest and settlement. Overpopulation had never been a real problem and the original Romans were not a trading people like the Phoenicians and Greeks. They colonized veterans more or less systematically and occupied one piece of adjacent territory after another to suppress frontier nuisances and gratify the impulse toward dominion. Likewise in the imperial period the Roman state suppressed one rival after another, settlement through emigration coming later if at all. Often the interval between conquest and emigration was fairly long, as in the case of Africa after the destruction of Carthage. There was little interference with local customs which did not obviously clash with the Roman law. The Latin language became the official, although not always the popular, one. Taxes and military service were generally less burdensome than before. Roads were built to unify colonial areas commercially and facilitate the keeping of public order. Religions were Romanized to the extent of suppressing elements contrary to Roman law and inserting the religious-patriotic attitude deemed by the government necessary to its safety.

Full Roman citizenship was finally conferred upon colonists, but most of those who enjoyed its privileges were of native origin, more or less Romanized. These undestroyed roots of native culture retained enough vitality under the grafted Romanism to be a source of weakness to the empire when the crisis of disruption came. Colonization, both as a process of actual transplantation and as a reshaping of ethnic elements already on the scene, lagged behind the official measures too uniformly to produce real vitality. Too much political direction from Rome was unhealthy; extensive industrial concessions led to an artificial social system which, as population increased and the submerged classes grew conscious of their position, made trouble in places like north Africa; and the economic effects of too much political interference in business enterprise were equally bad. Roman policy encouraged dependence upon Egyptian and north African grains and oils, allowing Italian production of these staples to decline. When the fairly regular Egyptian supply was diverted to the new capital at Constantinople and the more erratic north African supply jeopardized by social unrest and civil wars, Italy's position became worse than it had been before the expansion beyond the peninsula.

Mediaeval Italian city-states like Venice and Genoa planted colonies along the trade routes. After the beginning of the crusades various Italian colonies in Near Eastern trading centers were able to bargain for an autonomy amounting

almost to independence within the feudal states and fiefs set up there by force of north European arms. These colonies often had important rural holdings adjoining their quarters in the towns. They had their own laws and administrative machinery, modeled upon those of the home cities, which exerted over them a close supervision. Tax immunities to religious bodies crippled state finances, and the feuds of rival trading towns helped to further the reaction to Mohammedanism. In the end, many of the Italian colonies survived the wreck of the feudal governments and continued to enjoy their privileges under the Moslems. But it should be remembered that European colonization across the Mediterranean in the Middle Ages was always artificial. In spite of the colonization the Mohammedans remained in control of vital links in the trade routes from Orient to Occident, across the Indian Ocean and through the vast arid crescent stretching from Morocco to the Red Sea and on around to the heart of Asia. Europeans were tolerated in terminal positions where their presence was an advantage to the Moslem middlemen in the eastern trade.

The mediaeval European colonization of lasting interest was the product of the great expansion northward and eastward during this period, which settled and organized the two thirds of the continent never held by the ancient empires. Monks led in the reclamation of central and eastern Germany, although the work was taken up also by political units and lay groups of emigrants from overpopulated regions like the Low Countries. The Eastern church played a similar role in the opening up of Russia. This great "expansion of Europe" within the continent itself is one of the most important and most neglected colonizing movements in history. It was the preliminary to the more familiar expansion of Europe overseas at the opening of modern times.

Portuguese colonization down the African coast was a continuation of the crusading struggle with the Moors. Defeated on land in Morocco, the Portuguese extended their line of ports and crept southward by sea until by the middle of the fifteenth century they had reached the east-to-west Guinea coast. Here they found wealth in the form of gold and slaves. These resources, the revived ancient belief that the treasures of the Indies could be reached by sea and the continued zeal of the struggle with Islam led them on, until they reached their goal in another half century. Their establishment in Brazil must be set down to accident. An Italian adventurer, Columbus, had vainly tried to sell the Portuguese government the rival scheme of a westward voyage to the Orient. During a lull in the Spanish crusading wars with the Moors the crown of Spain took up this plan as a sort of gambling chance. While the identity of the lands thus far reached was still in doubt, the pope tried to avoid trouble between the two rival colonial powers by setting up an arbitrary north-to-south line as a boundary. Unaware of the eastward projection of northern South America, the treaty makers of 1494 so placed this line as to give Portugal eastern Brazil.

The dominance of Portuguese colonization came at the beginning of a period of commercial change. Regular commercial trips across the open sea had been made in the Indian Ocean since the first century of the Christian era, but mediaeval improvements in navigation instruments, maps and shipping gave such voyages an entirely new degree of safety, cheapness and flexibility. Especially was it now more feasible to vary the itinerary as to time and points of call, independently of seasonal winds and currents. European states were able to get around the western end of the long Mohammedan barrier to oriental goods and to break the Moslem monopoly of trade across the Indian Ocean. Both these direct sea voyages into far eastern waters and the similar ones to America were expensive, but national states had been forming in Atlantic Europe capable of raising the funds and controlling the markets demanded by enterprises of the new scope.

Except for the scale of operations, Portuguese trade and colonization departed little from the time honored mediaeval precedents of strict governmental control and emphasis on commerce rather than settlement. Italian and German financial backing and established Low Countries markets were used. During a century of practical monopoly of the new eastern routes the transport economies were such that the little country was greatly enriched. The old Levant forwarding trade languished and with it the commercial primacy of the Italian towns. Brazil became a tropical plantation colony before its gold mines were important. Even before the sixteenth century was over, Dutch and English interlopers had broken in upon the African slave trade which grew up with European plantation and mining activities in the tropics and subtropics. Both Portuguese and Spanish operations were so tremendously profitable as to

conceal the fact that they might have been much more so with less sacrifice of flexibility and private initiative. The emphasis upon missionary enterprise was to be expected from the nature of the populous tropical plantations and mining settlements, as well as from the relationship of church and state in passionately Catholic countries at the time. Nevertheless, the division of authority between clerical and lay administrators was to prove a great handicap to efficiency in the later competition with other nations.

Spanish and Portuguese policies were similar, except that Spain drew her great wealth from accumulated treasures and, later, mines of precious metal rather than exotic plantation products and handicraft wares. Labor and native relations raised much the same problems for both countries, as did also missionary activities and the schisms of authority between state and church officials. The revolt of the Low Countries and the conquest of Portugal by Spain ruined the Portuguese monopoly of north European markets. Both the Dutch and the English saw that Spain's colonial and trading supremacy depended upon sea power to protect the lanes she used. The disaster to Spain's great fleet in 1588 gave them courage to embrace a systematic policy of wearing down this weakest link in the Spanish system. Another fatal weakness in Spanish and Portuguese colonization was the lack of an industrial development adequate to supply the needs of the colonists. Dutch, English and French goods were so much cheaper and more varied that the colonists bought them in spite of prohibitions. Buyers and sellers shared with state officials the enormous profits of clandestine trade. In 1701 the asiento, or contract right to carry African slaves to the Spanish colonies, was given to the French, and in 1713 by force of arms it fell to the English, together with trading privileges which formed an entering wedge into the Spanish commercial monopoly.

Spain scattered the money power her colonial mines gave her in fruitless European wars. The soldiers she hired were economically a pure loss, and the supplies she bought encouraged the economic development of her competitors rather than her own. Moreover, Spanish prices rose inordinately with the rapid introduction of silver and attempts to prevent its escape abroad. The high prices stimulated imports, and even when imports were made illegal the price differentials were often so great as to invite the corruption of officials. A Casa de Contratación, or Bureau of Commerce, under the royal Council of the Indies regulated colonial trade in such detail that there was little room for the private companies and individual enterprises which played so great a role in the countries north of Spain and Portugal. The Portuguese Casa da India was very similar.

Both of the Iberian countries transplanted their languages, and to a considerable extent their social institutions, to vast areas overseas. They failed to make any adjustment in their policies commensurate with the extent of their opportunities, so that neither of the countries profited materially in the end. This was largely due to the mercantilist notion that colonies should be economically exotic, complementing the trade and industry of the home country at all points and never competing with her products. All the nations shared this prejudice in favor of exploitation colonies in early modern times; England had it almost, if not quite, down to the American Revolution. It was the misfortune of Portugal and Spain that they were first in the field and that their entire colonial history was dominated by this ideal. Settlement colonies were to prove superior as aids to solid national growth, in spite of the low esteem in which they were long held and in spite of attempts to make them economically exotic in defiance of their basic geography.

France was the first great western nation to collide squarely with the military power Spain derived so largely from her colonial treasures. This struggle was mainly European during the sixteenth century, however, and in spite of the famous demand of Francis I to be shown the paragraph in Adam's will which left Spain and Portugal the sole places in the sun, it was not during that period extended to the colonial possessions. Although the Dutch and English actually led the serious direct assault upon that monopoly, France's first colonial empire represented a deviation from the type established by the Iberian countries. It was an intermediate type between these colonies and those of the northern countries. In her position as a continental land power France developed a centralized government capable of mobilizing her resources in crises. As a sea power with strong Mediterranean interests and a Turkish alliance she faced two ways, somewhat like Spain. Such a political organization, so situated, was sensitive about the diversion of important resources by groups of private business men for distant

ventures. Richelieu wished to imitate the great Dutch private companies, but most of his charters were abused, abandoned or associated with state aims in almost Spanish fashion. Nevertheless, French colonization took firm hold in Canada, the West Indies and Senegal. Colbert (controller of finances 1661–83) founded more imposing companies, but most of them were short lived. The European imperial schemes of "Grand Monarchy" made enormous demands upon French resources which everywhere hampered the execution of the most far sighted colonial policy of the old regime. Representative government had disappeared and French business interests had no adequate way of expressing themselves. Colbert's nice phrases about commerce being free as a product of "the pure will of men" did not prevent him from leaving colonial trade in the straitjacket of government regulation known as the *pacte colonial* or "old colonial system." Colonial laws were framed in Paris and intendants sent out to supervise their administration.

Missionary activities played in the French colonies a lesser role than in the Spanish and Portuguese but a much greater one than in Dutch or English possessions. France stressed the mercantilist notion of non-competitive colonial production almost as much as did Spain. Neither Canada nor Louisiana ever attained as factors in French commerce the importance of the East and West Indies and the African coast. The settling of families was never particularly stressed, and religious dissidents, when not forbidden to emigrate, were discouraged from doing so. The West India plantations, then the world's sugar bowl, were commercially cropped by the aid of slave labor. East India was almost entirely lost in the end because the French government was too much preoccupied in Europe to furnish a moderate amount of support. The populous English colonies on the North American mainland overcame the thinly peopled French ones. Finally, the transplanted Africans ejected the French planters from the richest West India colony, Saint-Domingue, and only fragments of a colonial empire remained. Like other nations at the time, France had emphasized the exploitation colony, whose climate and conditions did not favor the multiplication of Europeans. Unlike England, she had not been inadvertently saved by private enterprises, which made the most of the colonial leavings and prepared a future which nobody clearly foresaw.

Dutch companies were in many ways the pioneers of a new era of colonial expansion. After the Spaniards had ruined the southern Netherlands in the sixteenth century, Amsterdam became the leading financial center of Europe. In their advanced banking and exchange methods and their truly revolutionary standardized production in such industries as shipbuilding, the Dutch possessed elements of undoubted superiority over their competitors. But the Netherlands is a small country, with natural resources limited even for its area. Moreover, the Dutch placed too much emphasis on purely commercial advantages, too little on actual settlement. New Amsterdam, their one most promising colony in the temperate zone, was lost largely because of bureaucratic administration which crippled free enterprise and failed to enlist the loyalty of the colonists. The result was that the English forged ahead. Allied with England through a common royal family, a common Protestantism and a common enmity against France at a critical period, the Dutch somehow wriggled through modern history without losing their East Indian empire. But they had not the luck of the English to prepare themselves unconsciously for an industrial revolution which was to stress coal and iron as well as sea power, rational economic organization and broad markets.

A set of fortunate coincidences launched England in the colonial race at just the right times and places. Among these coincidences were her isolation from continental disturbances, a juncture in an agricultural transformation and a religious revolt which gave her emigrants to spare, the development of her fisheries and the weakening of Hanseatic trade competition. During the sixteenth century, moreover, Englishmen accumulated blocks of mobile capital through trading ventures in the Baltic and elsewhere and by looting Spanish treasure ships. The joint stock principle of organization had reached northern Europe from Italy. Portuguese trade in the East was developed but vulnerable after the conquest of 1580 by Spain, and Spain was herself weakened by her military efforts and the loss of her ill advised Armada of 1588. Tobacco culture had been Europeanized by the Spaniards and a market built up. The eastern margin of North America was open to colonization, semicivilized natives having even cleared a good deal of land and established food crops. Nor can we discount the effect of an imaginative literature about

America, tending to make the initial task of colonization seem easier and more remunerative than it actually proved to be.

The complex material interests of Englishmen were given better representation in their government than was the case in Portugal, Spain or France. Accompanying ideas and habits of self-government were especially important at what was then a tremendous distance from the home country. The North American mainland was relatively unpopulated and unexploited, yet suited by conditions of climate and soil to the settlement by north Europeans. All attempts failed therefore to make this temperate zone region fit into the mercantilist scheme of exotic, non-competing plantation colonies. Monopoly privileges granted by charters and patents to private groups and individuals could not be closely regulated at such a distance, in environments to be conquered by settlement rather than by the methods of exploitation which had grown up in trading ventures and plantations in hot countries. Much of the business mechanism of colonization was transplanted, became semi-autonomous in the process of meeting new problems and gradually acquired characteristics of its own.

By the eighteenth century this block of settlement colonies had developed into an enormous paradox in a national and world system founded on the plantation colony idea. England herself had vast interests in the East and West Indies and was inclined to favor these regions as fields for business enterprise and conquest rather than settlement. Her colonial administration was thus a house divided against itself. In the end her government failed to adjust itself in time to the peculiar economic needs of the settlement colonies. The idea of dominion status, based on equality and community of interests between practically free nations in perpetual alliance, matured only after an American war of independence and an industrial revolution had undermined the old policies and pointed the way to the new.

In India repeated reforms and increased regulation of the great East India Company failed to solve a problem which grew more complex with the passage of time. Amid the world communications and markets of the nineteenth century, the political responsibility of governments could no longer be delegated to private trading corporations. After the Sepoy Revolt of 1857 the British government superseded the company, and two decades later India was made technically a separate state under a common British queen empress. Since then this vast and largely tropical territory has made long strides in the general direction of dominion status, but the problem of India in the British colonial system is still far from solved.

Colonial handicraft products such as textiles were widely copied in Europe. This market, purloined from the civilized tropics and greatly enlarged by the addition of newer colonies, laid the basis for mass production or the duplication of articles and processes on a large scale. Thus it became possible to isolate operations and simplify them to the point where they could be repeated by machinery. Economies achieved through such mechanization so enlarged the markets for standardized industrial products that for a time the old mercantile struggle for colonial monopolies seemed unnecessary. During the whole middle part of the nineteenth century, governments—in which business interests were now more fully represented—generally adopted a negative attitude toward colonies. For example, Frenchmen violently objected to Algerian competition with their agricultural produce but were on the whole lukewarm to projects for introducing non-competitive economic activities.

Then gradually appeared the shift "from Manchester to Birmingham"—that is, from emphasis upon markets for consumption goods to those for productive machinery. It soon became apparent that by building railways, exporting machines and generally Europeanizing economic life in new or backward countries the markets for finished products could be created. But this meant also that there were limits set upon the creation of fresh markets. Producers' profit margins narrowed, and some industries were always in danger of migrating to cheaper labor or raw materials and nearer markets. Where the falling cost of transport enabled old centers to hold their industries in spite of distances, there was often the problem of insuring the supply of some indispensable raw material. Reversing the whole current of world history so far, the new mechanized industry found it necessary to dominate commerce.

In the economic regime of closely figured differentials between costs and sale prices European investors more and more calculated the relative advantages of plants located thousands of miles apart. The ensuing "export of capital" across frontiers and into regions offering the best combinations of profit and safety initiated

a new colonial struggle. Protection and public order take on an entirely new importance where expensive equipment has been placed, requiring years or decades to return its cost to investors. Representative governments which largely balance and express the force of complex material interests cannot avoid taking part in the struggle for basic raw materials, opportunities for placing capital and markets for such consumers' goods as cannot be made in competition with other producers unless sold in large volume.

In this new colonial era England had certain appreciable advantages. She had the great textile markets and the lead in the change to power machinery. As a largely monopolized investment field India is no less important than it once was as a different type of market. The Suez Canal, acquired at the beginning of the contemporary colonial movement, is a vital key not only to Australasia and the Indian empire but to the trade with other parts of the Orient as well. England's imperial route through the Mediterranean is safe only to the extent that the contacts of other colonial powers like France and Italy with their possessions across that lane are unsafe. Perfect security from war would make these terms meaningless, but such security must first of all satisfy the economic interests which play upon the governments through their representative machinery.

Germany after her consolidation into a national unity found herself hampered in colonial and trade competition by the entrenched special privileges of her older competitors in a large fraction of the world. She shared in the general scramble for what remained undivided in Africa in the railway age. Failing to get really valuable settlement colonies of her own, she associated herself with the Turks to modernize a vast Near Eastern territory which had stagnated economically after the great early modern trade routes took their course around it. German penetration by land was felt to be a menace to the British water route through Suez. It also cut squarely across the outlet to warm water at Constantinople which the Russians had long planned to own one day. By vitalizing the Turkish Empire the German scheme also threatened Russian colonial expansion over the Caucasus and into Persia. Nor did France, the traditional ally of the Turks for centuries, view this new alliance with friendly eyes. The transformation of the whole Near East promised by the Bagdad Railway and by the system of alliances and other arrangements accompanying it affected the treasured privileges of so many powers, large and small, that it must be put down as a major cause of the World War. Germany's position in northeastern China excited the jealousy of Japan and to some extent of other powers as well. The various Moroccan crises were mainly the result of Germany's refusal to allow the traditional "interested powers" to increase their privileges without international sanction or the granting of compensation.

Russian colonial expansion eastward across Siberia is one of the historical phenomena of modern times. It has been aptly compared with the westward expansion of the United States. Both were made fully realizable in vast, largely open and largely empty regions by the development of the railway. The Russo-Japanese War halted the Russian advance upon China; and the clash with British colonial interests near the borders of India was quelled only in the presence of the German menace to both parties. Post-war Russia, organized as a federation of heterogeneous groups, has resumed the colonial race on terms which her rivals denounce as a betrayal of the traditions of occidental civilization.

France, in her new colonial empire as in her older one, has perhaps held closer to the historic precedents than any other great power. She has emphasized commercial advantage and exotic, non-competitive products rather than settlement. This has been due in part to the type of lands available to her in the nineteenth century. Algeria was geographically suitable for French settlement, but it had a population of its own with an ancient and proud civilization. This colony, since absorbed into the home administrative framework, furnished the model for later efforts. Besides being mainly tropical Indo-China was also peopled and civilized when the French arrived. This great region is a mixture of protectorates and colonies, the former arrangement working better than the latter. France had no considerable surplus population to put into Tunisia, which could not be annexed outright in any case because of international complications. The protectorate there is a greatly modified expression of earlier experience in Algeria, and still further changes were made in taking over the direction of Moroccan affairs. The acquisition of man power has been a frank and important aim of French policies in north Africa. With the penetration of the Sahara by modern transport media the northern strip of Africa has also become the key to French

possessions near the equator. It has been linked together by railways and roads for both military and economic reasons. The proposed trans-Saharan railway would make French northern and central Africa an emergency military and economic unit in case of assault by a strong sea power.

Probably the fiercest European colonial rivalry at the present time is that between France and Italy. In the colonial struggle of the late nineteenth century Italy obtained decidedly second rate possessions. Sicilians left their overpopulated island in numbers and formed the largest European group, numerically, in French Tunisia. Old treaty rights prevented their absorption by France, and the problem became acute with the rise of Fascist nationalism. France's routes to her African and oriental colonies cut squarely across the imperial lanes of Italy, so that the security of the one runs in terms of the insecurity of the other. Since the war both powers have emphasized submarines, airplanes and other light naval equipment. The presence of strong forces of this type in the Mediterranean, where their destructive power is tremendous, makes Great Britain's mastery of her own imperial lane through that sea impossible. In this peculiar situation any general agreement as to the size and detailed character of navies is practically hopeless, since the craft effective in a rather narrow sea are not those demanded for the protection of world empires such as the British, the Japanese or the American.

American colonization has been peculiar. As long as it moved westward across the continent it met almost no tasks of absorbing civilized societies and compromising with their institutions. The territory has always been underpopulated relative to its resources and to the current habits of exploitation and consumption in the Occident. Toward the end of slavery days there was a political urge toward imperial expansion, founded on internal social and economic differences. This disappeared with the Civil War. During the next quarter century the vacant continental area was practically all taken up, although the country's resources were still far from intensively exploited as compared with western Europe. Thus, acquisitions such as Alaska and Hawaii were due to political circumstances or the fear of possible trouble later on rather than to any vital need.

The export of capital to Cuba played a certain minor part in germinating the war with Spain, which threw Porto Rico and the Philippines into the path of American acquisition. Cuba was set up as a separate republic, however, and the Philippine occupation has always had elements of the uncertain and temporary in it. The digging of the Panama Canal and the further spread of American enterprise in the Caribbean have made the United States more sensitive about this region. Temporary interventions to prevent the entire collapse of public order or possible European interference have taken place, as in Santo Domingo, Haiti, Nicaragua and even Cuba. None of these has led to protectorates in the European sense. The United States has no vital need of these regions, whether for economic resources or man power. Even where the term protectorate has been used, as in Haiti, the occupation has been formally limited in time and shaped with the idea of evacuation. This fundamental distinction reflects itself in a cleavage between American and European policy so wide that to use the same terminology is to invite misunderstanding.

Many colonies have evolved into distinct entities, such as free nations, dominions and protectorates, which in any appraisal of the effects of modern colonization must be lumped together with less changed areas. On the negative side, the whole process has often robbed native culture and products of a distinctiveness which constituted an important claim to beauty or general interest. In plantation colonies the poorer native frequently loses his land and the richer loses his business identity in a mixed corporation. The standards of living are changed entirely owing to the presence of high salaried managers and technicians from outside, and in the shift imported forms of entertainment sometimes replace native ones immeasurably preferable as art.

The point commonly made about debt bondage, public and private, is in some cases supported by facts and in others not. Areas within great colonial systems often pay lower rates of interest, and very rarely higher ones, than similar independent areas. Furthermore, an examination of cases just before and after absorption into such systems often shows a tremendous drop in the financial burden of debt, due to the reduction of risk and inefficiency. This may be the case even where the principal sums owed are somewhat increased. Certainly western European bankers and financiers, operating under regulations imposed by their own governments, are easier to deal with than the professional money lenders who establish them-

selves in small and unstable countries. Almost any kind of debt bondage pointed out in colonies can be practically duplicated within independent countries or between them. On the other hand, there are cases like India where the form of political and economic control is such that the pressure of material interests upon the government is exerted largely by absentee creditors concerned mainly with the incomes they collect outside the country.

On the positive side, a stable colonial government often encourages new crops, industries and equipment which undoubtedly save labor and increase the revenue from exports. Sanitation is a boon in itself, even though in some cases its swift development leads to overpopulation, intensifying the emphasis upon plantation crops at the expense of subsistence produce raised by small proprietors. The importance of public order is often underestimated by those who take it for granted. In some cases it can be achieved only by a heavy investment in lines of communication which would not pay or be made independently of the economic exploitation they render possible.

There is some ground for the familiar assertion that the export of capital to colonies where it employs cheaper labor and reaps higher returns is an impediment to constructive social legislation at home. The weakness of this charge is that it applies, although perhaps in a lesser degree, to the export of capital elsewhere as well as into colonies. Immigration into the home country has a similar effect in that it renders the stabilization of employment and living conditions more difficult. The trouble seems to be general, inherent in our capitalistic form of enterprise in a world economy with various standards of living, and not a specifically colonial economic disease. From the colonial side this problem is even more specific in its manifestations. Especially in more backward areas the formation of a large class of wage earners upsets the older social organization. A salaried European bureaucracy replaces the native leaders or superimposes itself upon them. The balance of the old community, largely self-supporting and self-governing, is often destroyed, and the new laboring class needs new forms of protection which may be slow in appearing.

Especially since the World War the fact that with respect to colonial development we are in a period of transition has become conspicuous. Tariff rivalries have been intensified. The French colonial system is only an extreme example of the general tendency to consolidate and monopolize national privileges in outlying territories. Mandates created by the victorious allies from ex-enemy areas have set new precedents. Machinery is now provided whereby such territories may make their grievances known through the League of Nations. Protectorates and colonies are not formally included, but certain general enunciations of principles concerning labor, minorities, arms, opiates and the like furnish entering wedges for bringing the complaints even of national "possessions" into the purview of international opinion. To some extent this is made inevitable by the mere existence of a formally organized body like the League of Nations. Concessions which may affect independence are better controlled than formerly, their terms are more generally known, and arbitrary acts on the basis of non-fulfilment are, in addition to being difficult to prepare in secret, subject to effective protest.

Dominion status, or the association of theoretically equal partners in a "commonwealth of nations," may be the end product of the colonial process where the races are closely related or congenial and the environment admits of population exchange. Under other conditions the growth of native nationalism promises to be a perennial ferment, with independence as the only radical cure. The export of capital and the practical necessities of administration exert relentless pressure for the Europeanization of economic life. In spite of attempts merely to train natives within their own intellectual framework, more and more of them, with the growth of technology and of business organization on the basis of closely calculated costs and prices, are exposed to the elements and the "feel" of European culture. Inside and outside the administrative bureaucracy this Europeanized élite fits its aspirations to the actual system of rewards and resists exclusion from the highest careers.

With the decapitation of native society by taking over its traditional leaders, the struggle for the European types of rights and privileges develops progressively as these become the visible ones most obviously of practical value. Even the Tunisian *destour* movement looks romantically backward to a constitution copied from European models and never really in force. All the new national governments of the Near East have surrendered to basically western forms as well as ideas. The growing national

movement in Indo-China is so disconcertingly western in form and method that the French officials cannot logically combat it without repudiating the basic principles of their own society. Even in India the practical aim is to get rid of British control. If this should be realized it is hardly conceivable that the new state would survive in the contemporary world without the technology and organization irresistibly propagated by the industrial revolution. The Philippines—so obvious is the case—need be no more than mentioned in this connection.

In brief, modern colonization has been mainly an expansion of European ideas and methods. Since the inception of the age of power machinery no alternative has appeared able to impose more than temporary checks to the movement. At the present advanced stage the main problem seems to be that of salvaging those intrinsically valuable elements in older systems of society which might be destroyed in a too sudden transition.

MELVIN M. KNIGHT

See: COLONIAL ECONOMIC POLICY; COLONIAL ADMINISTRATION; CONQUEST; MIGRATION; LAND SETTLEMENT; EMPIRE; COMMERCE; CHARTERED COMPANIES; COUNCIL OF THE INDIES; COLONIAL SYSTEM; MERCANTILISM; SLAVERY; PLANTATION; RAW MATERIALS; NATIVE POLICY; CONCESSIONS; FOREIGN INVESTMENT; INTERNATIONAL TRADE; IMPERIALISM; EUROPEANIZATION; PROTECTORATE; MANDATE; DOMINION STATUS; INDIAN QUESTION; INTERNATIONAL ORGANIZATION.

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COLONIZATION OF VOTERS. *See* ELECTIONS; PLEBISCITE.

COLONNA, AEGIDIUS. *See* AEGIDIUS COLONNA.

COLQUHOUN, PATRICK (1745–1820), British economist. Colquhoun was a native of Scotland and after 1766 was prominent in the municipal life of Glasgow, where he served as lord provost (1782–83), founded the chamber of commerce and promoted many projects aimed at the development of industry. He settled in London in 1789 and was appointed to office in the city magistracy. In 1795 he published his *Treatise on the Police of the Metropolis* (7th ed. London 1806), which attracted wide attention through its disclosure of the complete incapacity of the antiquated police system to deal with crime. In *A New and Appropriate System of Education for the Labouring People* (London 1806) and a *Treatise on Indigence* (London 1806) he proposed the establishment of various institutions for the assistance of the lower classes: boards of education, savings banks and a national poor rate which would be uniformly assessed.

He is probably best known for his estimate of the national income and of its distribution among the various classes of the nation, which is contained in his *Treatise on the Population, Wealth, Power and Resources of the British Empire* (London 1814). While he himself admitted that his statistics were only approximately correct, they were based on conscientious consultation of authoritative records: income tax returns, foreign trade figures and other official documents. Colquhoun showed that in 1812 the United Kingdom, with a total population of about seventeen million, produced new wealth amounting to £430,520,000 and that of this the working people, numbering about eight million, received in wages £81,500,000. Assuming, as Colquhoun did, that all wealth was produced by labor he thus showed that it received but one fifth of its produce. From about 1820 on critics of the capitalistic regime and later the socialists found in Colquhoun's treatise the facts and figures they required to demonstrate that the system of private property is based on the

plunder of the laboring poor. His statistics were quoted in Gray's *The Happiness of States* (London 1815), in the Birmingham newspaper the *Midland Representative* (June 25, 1831), in Bray's *Labour's Wrong* (Leeds 1839) and in Robert Owen's autobiography.

MAX BEER

Consult: "Ἰατρός" (Dr. Yeats), "Memoir of Patrick Colquhoun" in *European Magazine*, vol. lxxiii (1818) 187–92, 305–10, 409–13, 497–503; Beer, Max, *History of British Socialism*, 2 vols. (London 1919–21) vol. i, especially p. 143–47; Giffen, Robert, *Growth of Capital* (London 1889) p. 101–05.

COLWELL, STEPHEN (1800–71), American economist. He was a native of West Virginia but during most of his career was identified with the history of Philadelphia, where he attained a commanding position in civic endeavor. Colwell was a protectionist; in 1856 he introduced to American readers Matile's translation of List's *Das nationale System der politischen Oekonomie* (Stuttgart 1841), contributing an extended preliminary essay in which he developed the case for a rounded domestic economy. He served with David A. Wells on the commission appointed in 1865 to revise the revenue system of the United States. As commissioner he prepared studies on the tariff, excise and tax duplication, notably the "Relations of Foreign Trade to Domestic Industry and Internal Revenue" (in United States, Revenue Commission, *Reports* . . . Washington 1866, p. 275–94). His most valuable contribution to economics is embodied in the treatise on the *Ways and Means of Payment, a Full Analysis of the Credit System* (Philadelphia 1859, 2nd ed. 1860), which evidences careful research into the history of European banking. Colwell rejected the quantity theory of money as an explanation of price movements; he criticized the subtreasury system for its emphasis on metal currency and took advanced ground in behalf of a credit currency adjustable to the volume of business. He also called attention to the inadequacy of the commercial country bank for the purpose of meeting the long term credit requirements of agriculture.

A. D. H. KAPLAN

Consult: Carey, H. C., in American Philosophical Society of Philadelphia, *Proceedings*, vol. xii (1871–72) 195–209, containing bibliography.

COMBINATION ACTS. *See* LABOR MOVEMENT; FREEDOM OF ASSOCIATION.

COMBINATIONS, INDUSTRIAL. An industrial combination, or a combination of several hitherto competing business enterprises, may vary in character from a complete merger at the one extreme to a loose cartel agreement at the other. Although this range comprises a great number of intermediate forms, combinations may be roughly divided into three classes: mergers, "concerns" or combines, and cartels. In the merger, combination is carried to the farthest limit; the manufacturing plants, the financial structures and the commercial organizations of the combining units are merged, resulting in a single, new, fully developed business enterprise. In the concern, combination extends only to the financial and commercial activities; it does not directly affect the other functions of the combining units, and their manufacturing operations, for example, remain free from direct control by the concern. The cartel involves a combination of business enterprises merely as commercial organizations. The combining units submit to a number of mutual restrictions relating to their sales policies but retain complete independence in their financial and manufacturing operations.

Mergers may represent vertical or horizontal combinations; that is, combinations of plants at several successive stages of the production process or combinations of plants on the same production stage. Common examples of vertical combinations are the merger of a coal mine, a coking plant and a plant for the utilization of by-products; or the merger of a lignite mine and a briquette factory; or again the merger of a spinning mill, weaving mill, dyeing plant and finishing mill. The most advanced development of combinations of this type is found in metallurgy, where coal mines, iron ore mines, iron foundries and steel mills are often operated under a single management. Vertical combinations do not necessarily comprise all stages of production; frequently enough the lowest stage reached is that of a semifinished product and the highest stage included is no closer to the consumer than conditions of mass production allow. While a horizontal combination comprises plants on the same stage of the production process, these plants are not always technologically comparable. Thus a lignite-briquetting factory may be combined with an electric plant fueled with lignite; a steel mill using the Thomas process may be merged with a steel mill using the Siemens-Martin process or with an electric plant fueled with by-product gas from the blast furnace. In

addition to vertical and horizontal combinations there are also a few combinations of combinations, enterprises which operate a number of plants for each of the several stages of the production process. Thus we find under a single management several coal mines and several iron ore mines feeding a number of blast furnaces and steel mills which in their turn furnish raw material to a number of metal working plants.

Whether the combination is vertical or horizontal or of the mixed type, it is always true that in a merger the scope and character of manufacture in the several plants is determined down to intimate technical minutiae by the single operating plan worked out for the enterprise as a whole. In vertical combinations the manufacture of raw materials is conditioned both as to quality and quantity by the needs of the plants operating on the next stage of production, and these plants are in their turn forced to rely mainly upon results achieved at the raw material stage. In the horizontal combinations the different plants supplement one another quantitatively and qualitatively.

Generally, but not always, the unification characteristic of a merger finds its legal expression in the fact that the combining units appear in their contacts with the outside world as departments of a single firm. The legal aspects of the merging of hitherto independent enterprises into a newly organized business entity are designated by the term "fusion."

Based as it is on the principle of unitary organization and management the merger is from the socio-economic point of view merely a step in the development of large scale enterprise. It is not surprising, therefore, that mergers appear at a relatively early stage of development. More recently the formation of mergers was stimulated by the increasing stress laid upon the utilization of waste and by-products and upon the development of subordinate lines of production within the parent enterprise. Although mergers are not limited to England they must be recognized as the peculiarly English type of combination. Even where they include plants organized on a mass production basis, combinations in the older English industries, such as textiles and iron and steel, as distinct from combinations in the electric and chemical industries, follow in a majority of cases the merger type rather than the concern type.

Concerns may be organized on the principle of horizontal or of vertical combination, but unlike mergers they do not emphasize primarily the technological unification of the individual plants. Quite frequently, therefore, concerns represent a mixed horizontal-vertical type of combination. Moreover, concerns often combine under one financial management manufacturing processes which do not dovetail technologically; the fact that the products are used in the satisfaction of identical consumption needs offers in such cases the basis for the combination. A technological basis for the combination is sometimes found in the similarity of industrial research problems. The German Interessengemeinschaft Farbenindustrie, for example, combines the manufacture of coal tar into aniline dyes and drugs with other production processes not involving coal tar, such as the manufacture of explosives, nitrogen, rayon and camera films. The unification, in the concern, of the financial and commercial phases of operation of the individual plants in the hands of a superior management may lead indirectly to an interference with the autonomy of the component units on the technological side. Thus the general production program enforced by the central management may call for an apportionment of the aggregate output among the different plants in accordance with certain criteria, such as location or the adaptability of the equipment, or for a regulation of the current output of the various units in accordance with changing market conditions. In their expansion and reconstruction plans the production managers of the separate plants are always dependent upon the grant of capital by the superior management of the concern. It is significant that in the United States Steel Corporation, one of the largest concerns in the world, the most important decisions are vested in the financial committee.

As a legal entity the concern appears in a great many different forms. The device of a single firm with the individual plants as subordinate departments is not generally used. The only notable case of this type is the gigantic German chemical concern, the I. G. Farbenindustrie. The holding company arrangement is more frequently used, particularly in the United States. A holding company does not legally own any plants, but it holds the shares of capital stock of the formally independent manufacturing enterprises, which continue to operate under their old firm names. Sometimes, as in the cases of the German steel combine and of the Siemens-Schuckert concern, the situation is reversed. Shares of capital stock of the concern which represents the individual plants in dea[1]-

ings with the outside world are owned by the managements of these plants so that they are transformed from manufacturing organizations into holding companies. Not infrequently the concern has no separate legal embodiment, the commercial unification of the individual plants being achieved through a mutual exchange of shares of capital stock. The Standard Oil concern at the present time is a good example of this form. A concern is also sometimes formed by a single person, as in the case of the old Hugo Stinnes concern in Germany; or by a small group of people, like the Rockefeller group in the older Standard Oil concern, who own the requisite number of shares of the individual plants and are bound by a gentleman's agreement to pursue a common policy in the general meetings of stockholders or in the sessions of the boards of directors and of similar controlling bodies. There exist also a number of intermediate legal forms. For example, a manufacturing company which has secured financial control of a number of other manufacturing plants, and has thereby become the headquarters of a concern, may in its turn come under the control of a single capitalist who purchased a sufficiently large number of shares of the parent organization. This is the structure of the Hugo Stinnes metallurgical concern, which still survives as a component part of the German steel combine.

The development of the concern is facilitated by the use of the corporate form of organization, particularly in those countries where it is legal to issue no-par value stock based on good will only and to limit the voting privileges to stock of this class. Experience in all countries has shown that in order to control the general meeting of stockholders and through it the management of the corporation it is not necessary to own even a majority of the stock and certainly not all the shares outstanding. Therefore a comparatively small amount of capital will generally suffice to secure control of the individual plants and thus to organize a concern. Even the control of the parent company of a concern does not require a large capital investment, when outside funds can be obtained in exchange for non-voting preferred stock or bonds. Through the organization of a concern the promoters may even increase the fluid funds at their disposal, if they succeed in selling to the public at however low a price that portion of the voting stock which is not necessary for the retention of control. When the concern is organized in such a way that the individual plants are controlled not directly by the parent holding company, but by a number of intermediate companies, the risk of capital investment for the promoters is minimized and attractive opportunities are created for the earning of large profits on the flotation of the various classes of stocks.

The multiplicity of concerns in the United States is due in no small part to the fact that legal devices make it possible to secure and to retain a controlling interest in a large number of enterprises with a comparatively small capital outlay. The concern, while it is not the typical form of industrial organization in America, is the typically American form of combination. Combinations in that country do not long remain at the merger stage with its inherent limitations of scope, and cartels are known in only a few branches of industry. The concern seems best adapted to the law of the land and the psychology of the business man; for the underlying scheme of financial controls does not readily appear on the surface, and a holding company comes in many cases close to the ideal of the biggest company in its particular field.

In other countries concerns are far less numerous. The poor receptivity of the English investment market to domestic industrials acts as a brake upon the organization in England of corporations in general and of concerns in particular. Still the English prefer the holding company to the cartel, because the latter conflicts with the common law and judicial precedent. In Germany the law and the organization of financial markets are favorable to an unimpeded establishment of corporations, but the issue of stock without par value is illegal. In respect to number of concerns Germany therefore occupies an intermediate position between England and the United States.

In the cartel entirely independent enterprises are bound by mutual contractual agreements merely to follow certain procedures in clearly defined fields and with reference to clearly specified products. The detailed specification of even these procedures is left to later negotiations in which the members participate as equals and which can come to a successful conclusion only by unanimous agreement rather than by a majority vote. Since the members preserve their independence, cartel agreements are concluded only for a specified term and in the majority of cases for a comparatively short time. Each member, therefore, attempts by increasing the capacity of his plants to strengthen his position in the future negotiations for the renewal of the

agreement. A situation is thus created which is entirely inconceivable in a concern, where the expansion of the individual plants is subject to the control of the central management. While the manager of an individual plant in a concern is merely an employee subject to discharge for disobeying orders, the member of a cartel is a full-fledged partner who even in the most rigidly organized cartels is liable only to penal damages and who may therefore freely violate the agreement if he finds it to his advantage to do so. Conflicts of interests which can never be definitively settled by a compromise may therefore persist for a long time in a cartel while in a concern unified management makes such conflicts impossible even though it leaves room for strong personal antagonisms.

Cartels which create a special body to supervise the execution of the agreement by the members must be distinguished from the looser type of cartel organization, in which such supervision is left to the watchfulness of the members themselves. In cartels of the first type the controlling organ may be independently incorporated and assume the functions of a sales agency, or syndicate, for the products subject to the cartel restrictions. Since they possess separate organizations which embody the "cartel idea" and which in some cases enter into direct relations with the market, such cartels may go to far greater lengths in imposing restrictions upon the members and are not easily broken up. Such cartels make possible an indirect interference with the production policies of the individual members, as a member's output may be limited to a definitely set maximum or to a definite proportion of the aggregate output of the membership. The regulation of production, however, applies only to the products subject to the agreement, does not in the majority of cases limit production for the member's own use and under no circumstances extends to such matters as plant organization and the type of manufacturing processes employed. It is possible, therefore, even in the most closely organized cartels for a member to evade regulation by expanding the output for his own use and by reorganizing the production machinery in such a way as to emphasize products not subject to the cartel agreement.

This situation is met by general cartels (*Mantelkartell*), which attempt to regulate the output of entire groups of products. Such cartels set for their members quotas of raw material to be used and leave to a number of special cartels or to the discretion of the individual members the distribution of the raw material among the various possible uses; that is, the determination of the quantity of different semifinished and finished products to be manufactured. This does away with the opportunity for members to juggle with the output for their own use. When the special cartels function as syndicates dealing in all important semifinished and finished products, the degree of organization achieved by the industry is such that so far as the market is concerned competition among the producers is entirely eliminated.

There are few general cartels of this type even in Germany. For example, there exists no cartel comprising all the German coal fields, and the question of production for a member's own use has never been settled even in the Rhenish-Westphalian Coal Syndicate, a cartel which has been held up as a model to the entire world. Even simple syndicates dealing with one product or a closely knit group of products are comparatively rare in Germany. They are found only in a few branches of industry, which are organized on the basis of highly developed mass production and in which the fundamental conditions favored the creation of cartels. Neither in the coal and lignite industry nor in the heavy chemical and iron and steel industries are there syndicates for all the essential products and by-products. Thus the Rhenish-Westphalian syndicate is limited to the Ruhr coal basin and does not regulate the disposal of by-products of coking. The syndicates in other industries deal only with single products and not with the entire range of products manufactured by their members. Nor have any of the quality production lines been touched by the more rigid forms of cartellization. It is therefore inaccurate to speak of syndicates as characteristic of German industry.

While quota cartels which maintain a separate organization but not a sales agency are found in many different industries, by far the largest number of marketing combinations in Germany are loose associations, in which members agree merely to maintain certain minimum prices or to limit their sales to certain territories or to observe certain terms of sale, e.g. terms of payment, discounts. Such cartels are apt to fail at the crucial moment, when market conditions get out of hand. Even these loose cartels by no means dominate industrial organization in the classic land of cartels. The number of German cartels—2000 to 3000 according to various

estimates—appears comparatively small when account is taken of the immense variety of products manufactured by modern German industry.

It is true, however, that the characteristically German form of combination is the cartel rather than the concern or the trust. The cartel movement began early in German mass production industries and is to this day typical of these branches of manufacture. In some of them the organization of concerns, which began even earlier, was accelerated in the beginning of the twentieth century so that on the eve of the World War leading men of affairs held that industry had left the cartel stage behind. Later experience showed, however, that this was a hasty generalization. While in some industries concerns attained a very strong position and intensified group conflicts within the syndicates, the concern cannot be said to have superseded the cartel in Germany.

In the United States cartels and cartel-like associations are often found side by side with concerns. Owing to antimonopoly legislation and to the peculiarities of business psychology these cartels are in the majority of cases very loose associations indeed. There are no syndicates in the domestic market, nor have syndicates taken root among exporters since the passage of permissive legislation. The more numerous open price associations exercise no compulsion over their members and can bring about a uniform price policy only by indirect means. In bringing the producers together they may facilitate the adoption of informal agreements; essentially, however, they resemble not so much regular cartels as associations supplying information on current technological and market developments.

In England the law attempts to enforce competition and the producer is more concerned with the technology of manufacture than with its commercial aspects. Conditions favor, therefore, neither the concern nor the cartel. In the coal industry, for example, the peculiarities of English mining law and the shallow depths at which coal can be mined work against the formation of cartels. The fact that in many places coal can be mined by a small gang of workers without an appreciable capital outlay makes it difficult even for large operations to maintain a steady production and sales policy. Still, loose price agreements are sometimes employed in many English industries to dull the edge of the competitive struggle.

In France the prevalent type of combination is a loose form of price agreement, the so-called *comptoirs*. There is in French industry a marked emphasis on quality production, which attempts to take account of individual differences in consumers' tastes and which does not allow for regulation of production from the outside. Nor is the outlook of the average French producer conducive to closer cooperation. He is generally satisfied with slow progress within the traditional framework and does not easily rise to an understanding of the common problems of his particular branch of industry. Mass production industries in which concerns, like Schneider-Creusot, existed even before the war were until recently of limited importance. The coal mines of the north and the iron foundries of French Lorraine were operated by too large a number of producers to permit of effective action even by the *comptoirs*. After the war, with the reconstruction in the north and the acquisition from Germany of smelting and steel works in Lorraine, of Alsatian potash mines and of the patents of German chemical industry, an impetus was given to the formation of large concerns, which turned eventually, owing in part to government pressure, into closely organized cartels.

In the international field cartels based on division of territory become effective even when they comprise the producers of only several countries, particularly if they are aided by the tariffs of these countries. Price agreements are distinctly less common, and the closer forms of combination occur merely as isolated exceptions. Similarly, it is very unusual for an international cartel to include even the more important producers in all countries. It is significant that the international crude steel cartel (Internationale Rohstahl Gemeinschaft) did not succeed in inducing such important steel producing countries as England and the United States to join, and that despite strong efforts made to bring about closer cooperation it remains merely a division-of-territory cartel. The disorganization of the world economy, which is reflected in enormous unemployment in all industrial countries, has not been corrected by international cartels or concerns. They have not succeeded in reestablishing even the territorial industrial specialization, so unplanned and yet so systematic, which was an important factor in the smooth development of international economic relations before the war.

Combinations do not dominate the organiza-

tion of industry nor that of agriculture, commerce and transport. Neither is it possible at present to discern a general tendency in this direction. Is this due merely to the fact that modern industry is still in its teens or is the true situation such that the forces stimulating and retarding the development of combinations are in the long run evenly balanced? Is the relationship of the three factors which determine the form of business organization—technology, position in the market and the outlook of the entrepreneur—such that a tendency to combination must eventually reassert itself?

In the early period of mechanization the purchase of raw materials and the sale of manufactured goods still followed the methods of the handicraft period, and international trade had not yet adapted itself to the mass output of machine industry. Under these conditions the introduction of the mechanical loom, dependent for its economic operation upon a steady supply of yarn, forced cotton weaving mills to combine with spinning mills. This was necessary in order to avoid the constant adaptation of looms to new qualities of yarn, with the ensuing losses in time, wasted material and lowered quality of product. The technical efficiency of the new machines could be maximized only if the unevenness of the yarn were eliminated; that is, if the early stages of the production process were adapted to the later stages. Since commerce was still dominated by the spirit of the handicraft era and the merchant figured in industry merely as the organizer of enterprises on the putting out system, no change was likely to occur in the relations between the industrial enterprises and the market. The producers using machine methods were forced to devote themselves primarily to technological problems, even in those cases where vertical combinations had already been formed.

For this reason the older mergers did not survive the early stages of modern industrial development. With the progressive adaptation of international commerce to its new task and the parallel improvement of technical methods in all stages of manufacture this type of combination lost its raison d'être. Henceforth the factory owners and managers could concentrate their capital and attention upon technical improvements or upon the enlargement of individual plants instead of attempting to bring under single control several stages of manufacture.

The exigencies of technology are of similar significance at present in the quality production industries, which work for a clearly defined market demanding goods of uniformly high quality irrespective of cost. In many of these industries the materials used must be so uniform in quality that however great care is taken in purchasing the result is apt to prove unsatisfactory. In such cases the manufacturer of the final product must undertake the organization of the preceding stages of production, sometimes going as far back as the cultivation or extraction of the primary raw material. When the demand for the high quality semifinished product depends upon the demand for the final product, technical deficiencies in production at the last stages may have a detrimental effect upon the manufacturers of semifinished products; in this case the situation is reversed and vertical integration follows the line from semifinished to finished goods. In either case the horizontal combination may be added to the vertical: several semifinished products may be equally important in the manufacture of the final products or one semifinished product may yield several varieties of finished goods.

Another factor leading to combinations in quality production industries is the desire to preserve the secrecy of manufacturing processes. The less effective the patent legislation in protecting the interests of the inventor, particularly in foreign countries, the stronger is the influence of this factor. In such cases combination often abandons the route from raw material to finished product, and the manufacture of complex specialized machines is combined with the lines of production using these machines. In such combinations the experience of the user is utilized in the machine construction plant and the improvements resulting therefrom are not shared with competitors. The secret process may also consist of a particular way of handling the material in several successive stages. An important illustration of this type of combination is found in the aniline dye industry, which manufactures also drugs and perfumes; its technical innovations are patented only in part.

Where the achievement of high quality is connected with considerable outlay for experimentation and the maintenance of expensive laboratories, a strong stimulus is given to combination. The benefit derived from combination in such cases is not merely the reduction in unit costs owing to the increase in commercial output; the laboratories are more useful when they can base their work upon the experience of several plants, and the results yielded by chem-

ical and physical research can often be utilized in manufacturing processes of several different types. Although a monopoly can always command sufficiently high prices to pay the cost of research, it is to the advantage even of the monopolist to keep costs and prices low and thus create a wider market for his product.

Combination in quality product industries also creates opportunities for the reduction of costs through the resulting changes in the sales department. Unlike semifinished products and raw materials the demand for high quality consumers' goods must be cultivated and in part even created; they compete not only with similar products of other manufacturers but with the entire range of convenience and luxury goods. Products of this type must therefore be distributed by an apparatus extensive in scope and carefully planned in detail, such as is found in specialized and localized trade. In some cases, however, the proper commercial handling of the product requires so specialized a knowledge of its technical properties that the producer is led to build up an apparatus of his own for its distribution. This is subsequently reflected in the field of production because selling costs per unit are reduced as a greater variety of articles is handled. All the important marketing costs, especially the tremendous expenditure for elaborate high class advertising, exercise under these conditions a pressure toward further combination in the field of production.

Combination in quality production is, however, more narrowly limited by the personal factor than is combination in mass production industries. Even the most careful organization of an enterprise does not sufficiently assure the precise compliance of every lot of goods and of each single article with the specifications. Where such compliance is a really important consideration, the work of each shop must be under the continuous personal supervision of the central management, so that the scope of possible combinations is rather limited. For instance, even in chemical manufactures not organized on a mass production basis, where in view of the exact nature of the processes employed the human element seems to be reduced to a minimum, matters like the adjustment and maintenance of required temperatures and the preparation of chemical solutions require a high degree of care on the part of everyone, which is attainable only if personal contacts are established between the plant management and the employees and also between the managements of the individual plants and the central management of the combination. Continuous personal contacts between the management and the employees are also essential in the fashion industries and in machine shops in which instruments are made to individual order.

In industries working for a rapidly shifting demand combination is retarded also by the fact that the management must keep in constant touch with the market and make proper adjustments in the plant in anticipation of changes. There is thus no sufficiently stable base for expansion. Nor is vertical combination particularly expedient. The financial risks borne by such enterprises are so high that they must pass on a part of them to the manufacturers in the lower stages of production by keeping a free hand in the purchase of materials.

The peculiarities of the market for the finished product are largely responsible for the persistence of single proprietorships and partnerships in quality production industries. Corporations are not numerous; and concerns, which are in fact pools for the distribution of risks, are of slight importance, many of them dissolving after a few years of unsuccessful experimentation. Similarly there are but few closely organized cartels. They are not needed because the competitive struggle proceeds in the main on the level of quality competition rather than of price competition. Moreover, cartels are not particularly useful to the producer because they limit competition in one product only and do not affect the entire range of other goods competing for the purchasing power of the consumer. There exist, however, loose associations limiting themselves to the regulation of marketing conditions; yet even these regulations can be easily evaded during a crisis because there is so great a variety of grades and qualities. It is significant in this connection that recently the German Federal Economic Council (Reichswirtschaftsrat) raised the question whether cartel agreements which are not observed in fact should be made legally unenforceable.

Thus conditions in quality production industries do not favor the development of extensive and enduring combinations. In order to appreciate the full significance of this conclusion it must be borne in mind that the trend of the times points toward an increasing emphasis on quality goods, that differentiation and specialization of demand are coming to be characteristic not only of European countries but also of America and that quality production industries

are therefore bound to gain in importance in the economic structure of the civilized peoples.

The situation is quite different in mass production industries. Deep seam mining, the heavy iron and steel industry, large scale machine shops, the electric equipment industry, the manufactures of aniline dyes, explosives and artificial silk, the cotton and jute industries, the newsprint and wrapping paper industry and similar mass production manufactures are peculiarly appropriate for the formation of combinations and the development of the combination movement.

Combination in these industries offers particularly wide opportunities for changes in the technical organization of production. As the quality of product confers no immediate competitive advantage, reduction of cost becomes the watchword in plant organization. The productive capacity of the technical apparatus, which represents large fixed investments in machinery, must therefore be made as great as market demand will allow. If market conditions are unfavorable to an increase of output, some advantage at least can be derived by utilizing the power plant to the utmost to extend manufacturing operations to lower or higher stages of the production process in some cases and to production of other articles based on the same raw material in others. The utilization of waste has recently become especially significant; it leads often to an incorporation of new manufacturing processes in the framework of the old plant, particularly where the new operations are linked directly to the old. The larger the mass production enterprise, the more frequent is the establishment of laboratories and research organizations to check and improve the performance of the individual plants. The high cost of such scientific aids leads to a grouping under one management of many scientifically related manufacturing processes.

In so far as the interest of the enterprise in the market is limited to an attempt to keep costs at a minimum, mass production industries do not differ essentially from those enterprises engaged in quality production which operate on a large scale. Where reduction in costs is the only motive, combinations, even in mass production industries, remain fairly limited in extent, as in England. On the other hand, where a combination is organized to modify the relationship with the market it becomes wide in scope and enormous in size. When the combination aims at independence of the market it may extend to include the entire production cycle from raw material to finished product. Where control of the market is the goal, the combination may grow to include all the plants in a certain branch of industry. In either case the form of combination is more likely to be the concern or the cartel than the simple merger.

The reason for such extensive combinations is found in the profound and otherwise irreconcilable contradiction between the rationale of production as a technological process and the conditions under which the output must be sold. This contradiction becomes the more pronounced the greater the reliance upon fixed capital investment induced by increasing technological rationalization. Fixed capital in large enterprises calls for an unchanging product to be sold at a stable price. This is due not only to the large proportion of the fixed charges but also to the exigencies of large scale organization, which cannot be easily adapted to changing conditions and which thus "fixes" even the variable portion of the costs of production. The markets for mass products, however, are not inherently stable; they are governed by competition, often international in scope, and exhibit continual fluctuations in the quantities of goods demanded and the prices at which they are wanted. Since no change is possible in the technique of production, the situation can be corrected only by an organization designed to neutralize or even to eliminate these fluctuations.

The presence of large quantities of fixed capital stimulates combination in another way also. In contrast to industries with small overhead costs, in mass production industries the complete elimination of economically weak competitors is not easily attainable. Even when they are thrown into bankruptcy their plants continue to operate, the only result being a reorganization in the financial structure and an ensuing change in the basis of cost calculation. Competition in the market thus fails to adjust supply to demand and does not offer the stronger producers the opportunity to recoup the losses incurred in the competitive struggle. Experience has taught the mass production industries to avoid price wars and to look for other ways of adjusting the market to the needs of production.

Independence of the market is sought mainly through the organization of vertical combinations. The production of raw material is combined with its refinement in the largest possible number of production stages. The combination does not then have to rely upon the market for

purchases, and its dependence upon the market is limited to the disposal of the final product. In none of its plants does the market price appear as a factor in the determination of costs, and hence production costs can be kept stable. Nor need the costs at each successive stage of production be tested in the market, since the profit or loss is determined by the margin between total cost and the sales price of the final product. Such a combination also derives a certain advantage from the fact that the market price of a product is likely to be the more stable the further it is removed from the raw material or semi-finished stage.

A horizontal combination may also afford some independence of the market. When it is introduced in the higher stages of production of a vertical combine, the enterprise profits by the fact that even in the case of goods based on the same raw material the price fluctuations are likely to be distributed more evenly as to range and time of occurrence where a number of different articles are involved. A purely horizontal combination offers similar advantages: individual price fluctuations are likely to offset one another if a wide range of commodities is dealt in. Moreover, a horizontal combination can adjust its production policy to increase the output of money making articles at the expense of less profitable lines.

The true aim of a horizontal combination is the control of the market rather than independence of the market. It attempts to unite under a single management competing plants manufacturing the same commodity as well as all the potential productive forces in that field. Even when control is not fully achieved and competition continues to rule the market, a horizontal combination offers the advantage of better adaptation to existing market conditions: production is concentrated in lower cost plants and the losses accruing from the shutting down of other plants are more than offset by the reduction in unit costs incident to the operation of the better equipped or more advantageously situated plants at full capacity.

The cartel is the classical device used by producers to control the market, but such control is scarcely ever fully achieved even by this means. The most closely organized syndicate must perforce leave a marginal field where competition prevails; this marginal competition delimits the area dominated by the syndicate and affects its policy. In the majority of cases the cartels cannot go beyond a rather slight mitigation of the competitive struggle. And yet a price war and the grievous losses which it entails in industries with large fixed capital investments can be avoided only by combination. Karl Marx was right beyond doubt in insisting that a tendency toward monopoly is inherent in modern technology. From this point of view all loosely organized cartels are the forerunners of more rigid forms of combination. Although the area controlled and extent of control exercised must in many cases remain limited, even cartels allow hope for a certain degree of market stabilization.

Closely organized cartels stimulate further combination by their members. By attaching to its enterprise plants operating on the higher stages of the production process the strong member hopes to achieve a certain freedom from the regulations limiting it in the cartellized stage. Such combinations reach progressively higher stages of production as the cartels move further along the series of production stages. It is illuminating, for instance, that a large part of coal mined in the world today is sold by the coal producers in the form of gas and electric energy. A similar stimulus is given by the cartel to horizontal combinations. Stronger members acquire control of weaker enterprises in order to add the latter's quota to the output of their own plants and thus reduce unit costs.

Not the least important factor in the combination movement is the personality of the industrialist. Since considerations of a quantitative nature are of primary importance in individual plants and even more so in combinations of plants, it is not surprising that even the leading personalities think in numerical terms, are seized with a *rage du nombre*. In an age when the technology of mass production is organized on a scientific basis and the results of scientific research are available to each enterprise, the superiority of the stronger competitor cannot be tangibly expressed otherwise than in terms of larger output and larger capital investment. Interest in the technology of production, which must perforce concentrate on individual processes, cannot preoccupy the industrial leader whose prime vocation is the business coordination of plants employing different techniques. Even in enterprises operating on a single stage of the mass production process the tone is set not by technical expertness but by commercial shrewdness, whatever formal position the possessor of this faculty may hold.

Similarly, it is the employment of numerical

devices that makes it possible for a human being to direct a large organization. A numerical survey of conditions in each department of production and of the existing relations with customers is invaluable for a quick sizing up of the situation by the central management. The performance of numerous departments can be compared in the quiet of the director's office. It is no accident that the most advanced forms of accounting and production statistics are developed in the United States, where the emphasis on figures is particularly great owing in part to the standardization of consumers' tastes. Office technique becomes increasingly adapted to the needs of mass production and combination.

Cartels also stimulate further combinations by their members through their influence on the personal side of business management. Where a cartel is closely organized, the owners of the individual enterprises are more or less relieved of the necessity to watch the market for their product and to make proper adjustments in their production policies. What little work of this type is left can be safely delegated to unimportant subordinates. The leading men in the enterprise are then free to concentrate their attention upon the improvement of the structure of the enterprise and upon its relation to the higher, lower or parallel stages of production.

If it is true that in the mass production industries a number of important factors encourage combination in all its forms, the reason that such combinations have rarely achieved the final goal, the monopolistic control of the market, must be found in the existence of equally serious obstacles to success. In fact, as combinations extend beyond a certain point they meet with a series of resistances, in material and personal factors, which cannot be overcome.

Combination reaches the lowest limit of practicability where the emphasis shifts from the quantity to the quality of the output and the manufactured article is being adapted to the specialized needs of individual consumers. No matter how great the advantages which may be derived from the fuller utilization of the power plant or the greater adaptability to conditions in the market, they cannot offset the disadvantages which would result in such industries from the lack of a close control over technical performance in each operation and of a personal contact between the manager and the employee. While combinations may be formed in which the mass production enterprises manufacturing the materials for the quality industries will attempt to annex plants in the quality lines, such combinations are not very likely to occur. In order to carry a sizable part of their output through the further stages of production, enterprises manufacturing the semifinished product would have to resort to mass production methods in the higher stages where quality is important, and would thus endanger the salability of the final product. Nor would a vertical combination directed toward the lower production stages be undertaken by quality product enterprises, if competition prevails in these lower stages. A combination of this type would run the risk of producing its materials at a cost in excess of the price charged in the open market, particularly when competition is so severe as to bring about the financial reorganization of many weaker enterprises in the lower stages with the ensuing reduction of costs and selling prices.

The personal factors which retard the growth of combinations are the limits to organizing ability inherent in human nature and the desire for independence, which is particularly strong in enterprises owned for generations by one family. Concerns allow more independence to the managers of the individual plants and permit their central managements to concentrate more upon the really vital questions than do mergers; for this reason they are able to acquire and maintain control of a much larger number of plants than straight consolidations. For the same reason cartels enjoy similar advantages over concerns.

It is not to be inferred, however, that a concern can expand indefinitely. The ability of the concern management to supervise the entire enterprise is still somewhat limited. A precise knowledge of the technological potentialities and the commercial contacts of each member plant is essential, and the lack of it may prove fatal in deciding important questions. Nor do the concerns leave enough freedom to the more independent spirits among the managers of the individual plants. If no room is found for them in the councils of the central management they are apt to leave the concern and organize competing enterprises of their own. The concern is then in danger of having the ranks of its subordinate managers filled with second rate bureaucrats. On the other hand, if independent spirits remain in subordinate positions in the concern, a serious difficulty is encountered in establishing cooperative relations between them and their superiors, who are themselves likely to be strong willed and extremely self-confident.

While the cartels are not similarly handicapped they encounter obstacles in other directions. In the first place it is difficult to describe products, particularly finished goods, with such precision as to make them the subjects of legally binding cartel agreements. For example, there does not yet exist an internationally acceptable definition of steel. Also the conditions in the plants of the various cartel members must be similar lest stronger members be tempted to break away and launch into competition with weaker. This is the chief obstacle to interregional and international cartels of raw material producers. The business organizations of the cartel members must also be similar in order to avoid group conflicts within the cartel. The demands made upon the cartel by the members enjoying certain advantages in equipment or location, and by members who control the production of materials used in the manufacture of the cartellized article, are likely to be quite different from those made by members not enjoying similar advantages. While the solution of this problem may be found in the purchase by the stronger members of the plants and quotas of their weaker colleagues, even a cartel composed entirely of strong members cannot eliminate the possibility of the appearance of outside competition due to the development of hitherto unused productive potentialities. This danger is present, for instance, even in the field of mining because there still exist undiscovered and untapped mineral deposits. It is much greater in the manufacture of semifinished and finished products, where technical innovations may bring forward substitute goods manufactured by different processes and based on a different raw material.

Thus the formation of combinations and the extent of their development are conditioned by the interplay of stimulating and retarding forces. In the post-war period combination in all its forms seems to have progressed far beyond the point reached before the war. It is certain, however, that this is merely a temporary phenomenon caused by a shortage of capital, the accumulation of which was interrupted for nearly a decade by the war and the disturbances consequent to it. The fact that at present, after years of persistent effort, there is still but a slight degree of international regulation in the world market suggests that at least for the near future competition will remain the supreme regulating principle in the world economy.

KURT WIEDENFELD

See: ECONOMIC ORGANIZATION; CAPITALISM; INDUSTRIALISM; FACTORY SYSTEM; LARGE-SCALE PRODUCTION; MARKET; MARKETING; COST; PRICE; COMPETITION; CUT-THROAT COMPETITION; UNFAIR COMPETITION; MONOPOLY; CORPORATION; CORPORATION FINANCE; HOLDING COMPANY; POOLS; TRUSTS; CARTEL; TRADE ASSOCIATIONS; RESALE PRICE MAINTENANCE; LAISSEZ FAIRE; GOVERNMENT REGULATION OF INDUSTRY; PATENTS; PROTECTION; RATIONALIZATION; NATIONAL ECONOMIC PLANNING.

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COMENIUS, JOHN AMOS (Komensky) (1592–1670), Bohemian educational reformer and theologian. Like his father Comenius was a member of the religious sect known as the Moravian Brethren. His earliest efforts in the realm of educational reform after his graduation from the University of Herborn in 1612 were directed toward improving the schools of the brethren, first at Prerau, where he became rector of the *Gymnasium* in 1614 and later at Fulneck, where he served as pastor and school superintendent from 1618 to 1621. As a result of the religious persecution accompanying the Thirty Years War he was eventually forced to flee from Moravia and to take refuge at Lissa, Poland. While devoting himself to the religious and secular education of the brethren at Lissa he elaborated his theories of education and composed numerous textbooks embodying his ideas. It was during these years also that he became obsessed by pansophism, a scheme to eliminate the religious and international dissensions of the world through scientific research and the universalization of knowledge. His plan, outlined in *Conatuum comenianorum praeludia*, attracted the attention of the English reformer Samuel Hartlib, who secured an invitation for Comenius to lay his plan before Parliament. Chelsea Col-

lege had been practically selected as the seat of the Pansophic College when the civil war broke out and prevented further action. Bitterly disappointed, Comenius attempted to put his project into effect in Sweden, but soon discovered that his patron, Ludwig de Geer, was interested only in his textbooks and not in pansophism. In 1647 he was appointed bishop of the brethren and ten years later settled in Holland. During his last years mystical tendencies, which had never been less than dormant in his nature, became more apparent and produced a corresponding decline of his influence.

Although pansophism was the *ignis fatuus* of Comenius' career, his reputation rests on his reformed textbooks and on his writings dealing with the practical organization of schools. In the composition of these works he was guided by two fundamental principles, that all instruction should be carefully graded and that in so far as possible the teacher should appeal to the faculties of sense perception. He shared the tendency of his age to assign primary importance to the study of Latin but believed that it should be taught as a language of reality and not of books. His famous *Janua linguarum reserata*, which was translated into most European tongues and became almost a universal textbook, his *Vestibulum*, intended as an easy introduction to the *Janua*, and his *Orbis sensualium pictus*, the earliest illustrated textbook to enjoy a wide circulation, were all composed with the twofold object of imparting instruction in the language and of providing a compendium of useful knowledge. Comenius' most important contribution to educational theory was the *Didactica magna*, completed in Czech in 1632 and in Latin in 1638. In this work he presented a complete educational ladder, beginning with a school of infancy and ending with advanced research institutions, a scheme modern in its breadth and insight. Some of his views on early instruction received further elaboration in his *Schola infantiae*, which was composed primarily as a manual for parents. He also wrote a number of treatises on philosophical and theological subjects, and several historical accounts of the Moravians.

I. L. KANDEL

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COMITADJI. The Turkish word *comitadji*, meaning committee man or supporter of the committee, is applied to members of the Macedonian Committee, which is more properly known as the Interior Macedonian Revolutionary Organization. This organization, founded in 1893 by a group of young Macedonian school teachers under the leadership of Damian Gruev and Gotze Deltchev, had as its original program popular agitation designed ultimately to force recognition by Turkey of a limited Macedonian autonomy as guaranteed by Article XXIII of the Treaty of Berlin. Although from the beginning membership in the organization was open to all Macedonians—whether they belonged to the Serbian, Greek, Rumanian, Turkish, Jewish or Bulgarian racial groups—the actual direction of affairs tended to center in the hands of a revolutionary majority composed of Bulgars. So effectively were secret methods maintained that it was not until 1901, as a result of the seizure of the organization's archives in Salonika and the subsequent arrest of practically all the leaders, that the neighboring countries of Greece, Serbia and Bulgaria became aware of the serious threat of Macedonian autonomy which, if attained, would collide squarely with their expansionist ambitions.

Each of these countries, intensely suspicious of one another and having in common only a hatred of Turkey, maintained an active propaganda among its particular group within Macedonia; each fostered its own language, schools and churches, hoping thereby to establish a claim for future annexation following the anticipated liberation of Macedonia from the Turkish yoke. Greece, through its church, organized filibustering bands which by a campaign of terrorism should counteract the influence of the local Macedonian agitators. Serbia's government, nourishing dreams of a Greater Serbia, likewise sought to nullify the movement for Macedonian autonomy.

The most effective pressure of this kind was exerted, however, by Bulgaria, whose racial affinity with the Macedonians was closer than that of the other countries. Bulgaria, freed by the Treaty of San Stefano (1878) from Turkish domination and awarded generous boundaries which included Macedonia, in spite of her protests had been forced to accept the reversal of diplomatic policy represented by the Treaty of Berlin, which restored Macedonia to Turkey.

Also there was in Bulgaria a large body of immigrant Macedonians who had fled from Turkish persecutions. These refugees organized political societies whose leaders established, more or less with the support of government officials who were also in many cases Macedonian immigrants, the Supreme Macedo-Adrianople Committee under the leadership first of Boris Sarafov and later of General Tsonchev. In 1902 bands of young Macedonians, led principally by Bulgarian army officers of Macedonian birth, were sent across the frontier to stir up revolutionary activities against the Turks. The raiders, to their surprise, found themselves confronted not by Turkish soldiers alone, but by the organized forces of the Interior Macedonian Revolutionary Organization, which thus for the first time actively repudiated the Bulgarian expansionist movement and which was now engaged in the slow task of arming and disciplining a revolutionary force within Macedonia which should eventually be strong enough to assert itself. Tsonchev's raids brought no results, but the leaders of the Interior Organization, fearing further activities from this direction, were compelled to precipitate a general uprising the following year (1903), though not fully prepared for it. It was, of course, crushed by Turkish military force, but at least it succeeded in bringing about European intervention.

The reforms promised by the sultan in response to the European intervention were, as usual, not forthcoming. On the contrary, most severe retribution for the insurrection was dealt out to the Macedonians. The Revolutionary Organization was now definitely known to the world as a power and as the sole representative of Macedonian aspirations. Expansionist activity in Sofia dwindled. Russia brought pressure to bear upon the Bulgarian government, forcing it to suppress Tsonchev's Supreme Committee in Sofia. The raids were abandoned and Sarafov went so far as to accept, although with some mental reservations, membership in the Macedonian organization. Serbian and Greek bands were driven back against their frontiers, although for a number of years afterwards there was almost continuous skirmishing between them and the comitadjis. Against the expansionist activities of these countries the organization in its proclamation of 1903 committed itself categorically: "Our work . . . is superior to all national and racial prejudices. We accept as brothers all who suffer under the yoke of the sultan."

During the next five years the organization attained its fullest development. In 1906 a general congress finally ratified a constitution and a definitely outlined policy for the future guidance of the members. The slogans "Macedonia for the Macedonians" and "Evolution, not Revolution" were run as standing matter on the front page of the official organ, edited by Yavorov, Macedonia's foremost poet. Its program included agitation for autonomy, under Turkish rule or under a Balkan federation, and opposition to the expansionist activities of the neighboring states. A broad, non-Marxian socialism was, as it still is, the underlying philosophy of the movement. Organization was on a democratic basis. The local committee, elected by universal suffrage, sent a delegate to the *rayon* committee. Above this was the *okrug* committee, covering a territory corresponding to the *vilayet*. From the *okrug* committees came the forty-seven delegates to the regular general congresses, which elected and vested with executive authority the Central Committee of three members. There was another body, known as the Zadgranitchno Predstavitelstvo (Beyond-the-frontier representatives), appointed by the Central Committee, which represented the organization to all outsiders; it purchased arms, ammunition and other supplies and arranged channels for smuggling them into Macedonia. In

matters of particular importance it acted in an advisory capacity to the Central Committee. In no case was authority ever delegated to single persons; hence the significance of the word *comitadji*.

Meanwhile conditions forced the organization to assume functions additional to those implied in its name. The Turkish administrative system, although not unduly oppressive, as the Macedonians have since learned by comparison, failed completely to provide law and order. The Macedonian committees, therefore, took on the functions of courts. Brigandage, which had been rife, was suppressed. In those districts assigned to the spiritual administration of the Greek church, where non-Greek schools were forbidden, "outpost" schools were established, the children taking turns on outpost duty, to warn the teachers of the approach of strangers. The *chetas*, or military bands, which during the early days of the organization had been developed under the authority of the *rayon* committees, enforced the decrees of the courts. To support them, in case of emergency, were the secret village militia bodies, with hidden arms. The beys, Turkish and Albanian landowners, were next brought into line. They were invited to discuss wages, and the large majority found it not only advisable but profitable to do so. Not a few of these beys became loyal members of committees. Tons of literature were printed—much of it propaganda, of course, but a considerable portion consisting of pamphlets on strawberry raising, grape culture, cattle breeding and the like. Such were the activities carried on between the frequent irruptive periods of skirmishing and warfare, during which the *chetas* resumed their military operations. The organization was literally an underground government functioning beneath the outer husk of the legal Turkish rule.

The Young Turk uprising in 1908 brought into power a group with whom the Macedonian organization shared at least a desire for a constitutional Turkey. When the Young Turks raised their flag in Ressen in southern Macedonia, the organization was with them. When the Young Turk army battered down the gates of Stambul to depose 'Abdul-Hamīd II, a *cheta* marched in the vanguard, headed by Yani Sandansky, an outstanding Macedonian comitadji. The Young Turks, however, overwhelmed by the more reactionary elements from Asia Minor, failed to bring about the expected reforms in Turkey's Balkan policy and the movement for armed resistance became increasingly strong.

When in 1912 the three rivals, Bulgaria, Greece and Serbia, decided on joint action against Turkey, the Macedonian organization enlisted as a fourth member of the alliance. Within a short time the Turkish Empire in Europe was destroyed and Turkish domination in Macedonia was at last ended. There is the feeling to this day that in this first Balkan war the comitadjis were deceived, even by their kinsmen in Bulgaria, for throughout they believed they were fighting for an autonomous Macedonia. Instead, the victorious nations began to quarrel among themselves over the partition of Macedonia. The second Balkan war, for which the Macedonian organization was primarily responsible, resulted in a crushing defeat for Bulgaria and in the extension of Greek and Serbian influence in Macedonia. The alliance of Bulgaria and Macedonia with the Central Powers in the World War was another bid for recovery, and here too the Macedonians swung the balance. The Greater Bulgarian movement again suffered a severe check. Bulgars in large numbers emigrated from Macedonia to Bulgaria and created a floating population conducive to the spread of violence.

The Interior Macedonian Revolutionary Organization was revived in 1920 by Todor Alexandrov and the Central Committee was reestablished. Never was it more alive than today; never has it caused greater worry to the minds of European diplomats. Its strength and influence would undoubtedly be greater were it not for the internal broils which shake its solidarity. First it was Sarafov who after becoming a member attempted to revive the Greater Bulgaria propaganda. For this he was killed. In 1924 it was Soviet gold; Moscow offered financial aid and in the quarrel over whether this should be accepted Alexandrov was killed, although his, the anti-Bolshevik, side finally won. In 1928 it was the old pre-war issue—autonomy or union with Bulgaria. Macedonians who had held commands in the Bulgarian army during the wars had penetrated the organization. But their leader, General Alexander Protoguerov, was killed. The old idea, Macedonia for the Macedonians, triumphed. The cause of these dissensions may probably be found in the democratic basis of the organization, encouraging, as it does, the formation of parties. The members of the Central Committee in 1929 were Ivan Michailov, a graduate of a Serbian high school in Macedonia, later law student in Sofia University; Strahil Razvigorov, a lawyer; and Ivan Karadjov, a

professor of history. The military element has been eliminated.

ALBERT SONNICHSEN

See: NEAR EASTERN PROBLEM; MINORITIES, NATIONAL; NATIONALISM.

Consult: Bazhdaroff, G., *The Macedonian Question Yesterday and Today*, tr. by R. H. Markham and published by the Macedonian National Committee in Bulgaria (Sofia 1926), for an extensive bibliography; Interior Macedonian Revolutionary Organization, *La Macédoine et le vilayet d'Andrinople (1893–1903)* (Sofia 1904); Brailsford, H. N., *Macedonia* (London 1906) ch. v; Bérard, Victor, *Pro Macedonia* (Paris 1904); Tachauer, Boleslav (B. T.), "La question macédonienne" in *Revue de Hongrie*, vol. xxx (1924) 219–26, vol. xxxi (1924) 13–21, 72–79 and 110–19; Abbott, G. F., "Macedonia and Its Revolutionary Committees" in *Nineteenth Century*, vol. liii (1903) 414–29; Radeff, S., *La Macédoine et la renaissance bulgare au XIXe siècle* (Sofia 1918); Strézoff, G., *Les luttes politiques des bulgares macédoniens* (Geneva 1918); Georgevitch, T. R., *Macedonia* (London 1918); Colocotronis, V., *La Macédoine et l'hellénisme* (Paris 1919); Christowe, Stoyan, "Secret Government of Macedonia" in *Living Age*, vol. cccxxxv (1928–29) 332–35; Emin, Ahmed, *Turkey in the World War*, Carnegie Endowment for International Peace, Division of Economics and History, Economic and Social History of the World War, Turkish series (New Haven 1930) ch. v.

COMITY. With various refinements of meaning the term comity has become established as a legal concept in the conflict of laws, constitutional law and international law.

In the conflict of laws, or private international law, comity has acquired a rather technical meaning and has been the subject of much controversy. The fundamental theoretical problem in the conflict of laws has been concerned with the process by which principles derived from foreign law are given effect in the decision of cases adjudicated locally. Dutch jurists in the seventeenth century—notably Joannes Voet (1647–1713) and Ulricus Huber (1635–94)—conceived that foreign law is actually given effect locally and that the extent of its application depends upon comity. Huber elaborated three propositions, often repeated, which are in substance as follows: first, that the laws of each state have force only within the territory of that state; second, that all persons found within a state, whether their residence is permanent or temporary, are considered subjects of that state; third, that by comity the laws applied in any state are given like effect in other states, provided there is no prejudice to other states or their subjects.

Huber's maxims were accepted and elaborated in Story's *Commentaries on the Conflict of Laws* (Boston), first published in 1834. Story concluded that there was "not only no impropriety in the use of the phrase 'comity of nations,' but it is the most appropriate phrase to express the true foundation and extent of the obligation of the laws of one nation within the territories of another" (§ 38). While the maxims of Huber were reproduced also by Wheaton and were countenanced later by Holland, it was chiefly through Story that the theory of comity advanced by the Dutch school found its way into and largely influenced the development of English and American law. Delivering the opinion of the United States Supreme Court in a famous case, Chief Justice Taney declared: "The comity thus extended to other nations is no impeachment of sovereignty. It is the voluntary act of the nation by which it is offered; and is inadmissible when contrary to its policy, or prejudicial to its interests. But it contributes so largely to promote justice between individuals, and to produce a friendly intercourse between the sovereignties to which they belong, that courts of justice have continually acted upon it, as a part of the voluntary law of nations" [Bank of Augusta *v.* Earle, 38 U. S. 519 (1839) citing Story, *Conflict of Laws*, § 37]. In another leading case the United States Supreme Court decided that since foreign judgments were given effect only on grounds of comity there was no occasion for giving effect to the judgments of French courts in the absence of reciprocity. Four dissenting justices maintained, however, that interests acquired under foreign laws were given recognition as a matter of right [Hilton *v.* Guyot, 159 U. S. 113 (1895)].

The theory of comity in the conflict of laws has been vigorously criticized. Increasingly the conviction has spread that courts do not give exterritorial effect to foreign laws as matter of comity or grace, but that they are bound by their own rules of the conflicts of laws or by international law, which is said to be a part of their own law, to accord recognition and protection to foreign created rights. The acute mind of Lorimer penetrated the fallacies of the doctrine and denounced the so-called *comitas gentium* as an "old woman's fable"; Dicey saw in it only "idle logomachy"; Goodrich has branded it as "a slippery term"; Westlake suggested that it "had better be dropped"; and Kuhn has anticipated its "complete abandonment." There are, indeed, many indications that the theory is losing ground, where it once flourished, in the decisions

of English and American courts. Among European jurists, who have always been more critical of the maxims of Huber, the theory of comity has been even more generally repudiated.

In the constitutional law of a federal state such as the United States comity has been interpreted to mean legally in substance what it means etymologically. For example, the United States Supreme Court has, as a matter of comity, declined to review the decision of a state commission until the complaining party has availed himself of the appeal to the state courts which the local law provides [Prentis *v.* Atlantic Coast Line, 211 U. S. 210 (1908)]. On grounds of comity, likewise, United States federal courts in one circuit may follow the decisions rendered in another circuit although not bound legally to do so [Mast, Foos & Co. *v.* Stover Mfg. Co., 177 U. S. 485 (1900)]. On similar grounds United States federal courts usually accept the interpretation of a state statute or constitution which has been adopted by the courts of the state concerned [Burgess *v.* Seligman, 107 U.S. 20 (1882)]. And conflicts in jurisdiction between state and federal courts or between federal courts of concurrent jurisdiction have frequently been resolved upon principles of comity [Covell *v.* Heyman, 111 U.S. 176 (1883)].

In public international law the notion of comity (*comitas gentium*, *convenance et courtoisie internationale*, *Staatengunst*) is generally invoked to explain such practises as are more or less consistently observed, although not considered as having the quality of legally binding customs. Thus comity is a factor which influences the growth of international law; and usages based on comity are sources from which law may be expected to develop. Despagnet distinguishes usages based on comity from rules of international morality on the one hand, upon the ground that observance of such usages is conditioned on reciprocity, and from rules of international law on the other hand, upon the ground that non-observance of such usages gives rise to no rights of reparation. Matters of ceremonial, the extradition of fugitives in the absence of treaty, the immunities of foreign merchant ships in port in the absence of treaty [Wildenhus's Case, 120 U. S. 1 (1886)] and consideration for the interests of other countries in deporting paupers and criminals have been said to rest on comity. Since public international law is the law of an imperfectly organized society it is frequently difficult to distinguish practises based on comity from those based on obligation. The immunities of foreign merchant ships in port, for example, are founded upon comity, in the absence of treaty, according to the Anglo-American view, while according to the French view they are founded upon legal obligation. It is noteworthy that certain practises referred to as comity by earlier writers are regarded by contemporary writers as conforming to legally binding custom. It may be anticipated that many of the practises now founded on comity will eventually become legally binding custom.

EDWIN D. DICKINSON

See: CONFLICT OF LAWS; INTERNATIONAL LAW; SOVEREIGNTY; COURTS.

Consult: Hershey, Amos S., *The Essentials of International Public Law and Organization* (rev. ed. New York 1927) p. 16, where a long list of authorities is cited; Beale, J. H., *A Treatise on the Conflict of Laws*, vol. i, pt. i (Cambridge, Mass. 1916–) p. 18–113; Lainé, Armand, *Introduction au droit international privé*, 2 vols. (Paris 1888–92) vol. ii, p. 95–112; Lorenzen, E. G., "Huber's 'De conflictu legum' " in *Illinois Law Review*, vol. xiii (1918–19) 375–418; Piggott, F. T., *Law and Practice Relating to Foreign Judgments and Parties out of the Jurisdiction* (2nd ed. London 1884) p. 4–22; Barry, Herbert, "Comity" in *Virginia Law Review*, vol. xii (1925–26) 353–75.

COMMANDEERING. *See* REQUISITIONING, MILITARY.

COMMENDATION. *See* FEUDALISM.

COMMENTATORS. The commentators were a school of jurists which arose in the second half of the thirteenth century in France and Italy. The school derived its name from its method of treating the Roman texts. Since it succeeded the school of the glossators it is also sometimes known as the school of the post-glossators. Again, its expositors are often called Bartolists after the name of its greatest master.

The school of the commentators, which arose at a time when Accursius was still in his ascendancy, represented a strong reaction against the gloss. The glossators had been inspired by a double purpose: to discover the exact meaning of the Roman texts and to introduce into mediaeval practise the pure Roman law embodied in those texts. But not only was it impossible to apply the Justinian law in its integrity to mediaeval conditions of life, as the writings of the later glossators bear witness, but the great gloss of Accursius, treated as an infallible authority, had in fact supplanted the Roman texts. The new juristic movement inaugurated by the commentators represented a demand for

greater independence in legal thought and practise and called for a new synthesis to develop the law in harmony with mediaeval conditions. It arose in France where during the twelfth and the first half of the thirteenth century the exegetical method of the Italian glossators had been adopted by a certain number of French civilians and canonists. Jacques de Revigny (Jacobus de Ravanis), philosopher and theologian, professor at Toulouse and later at Orléans, may be considered the founder of the commentators. He applied to the law the method which Thomas Aquinas had used in theology, the dialectics of scholasticism, and in France he was followed by many disciples, notably Pierre de Belleperche (Petrus de Bellapertica), likewise professor at Toulouse and Orléans, who died in 1308. The great reputation of these French jurists awakened an interest among the jurists of Italy. Cino da Pistoia (*q.v.*) came to France to study the new method, and it was he who introduced it into Italian legal study. Bartolus of Sassoferrato (*q.v.*), unquestionably the greatest and most influential of the commentators, studied under Cino. Baldus de Ubaldis (*q.v.*), the pupil of Bartolus, was the most distinguished of all his successors. Among other commentators of note were Albericus of Rosate (d. 1354), Bartholemew Salicetus (1330–1412), Paul of Castro (d. 1441), Raphael Fulgosius (1367–1427), Paulus de Imola, Philippius Decius and Jason de Maino.

Applying their dialectical method to the Roman texts the commentators sought to extract from them principles and theories that would meet the needs of contemporary practise. As distinguished from the glossators, who had accumulated a vast number of *casus*, many of which were unrelated to one another, the commentators endeavored by the processes of logic to deduce from general principles all the corollaries which they contained; they thus aimed at the production of methodical expositions, with divisions and subdivisions. Their work was essentially constructive, as opposed to the glossators' labor of interpretation. Although they were not seeking to free the pure Roman law from the gloss they created legal systems based in large measure on the Roman law. But while they drew many elements from the Roman legal system they gave full consideration to mediaeval legal sources, such as city statutes, Germanic and feudal customs and the rules and principles of canon law. Bartolus, for example, used custom and statute not merely as illustrations but as parts of his elaboration of a system of law which, while based on Roman law, was to have practical application in the Italian courts of his own day.

The commentators developed many ingenious and fruitful theories both juridical and political, useful in the later Middle Ages and also in modern times, as, for example, the theory of personal and real statutes established by Bartolus. Although derived in part from Roman texts these theories were essentially mediaeval in character, being based upon isolated texts or fragments which were frequently misunderstood or given a meaning different from their original signification in Roman law. The legal and political thought of Bartolus and also of most of the other commentators reflected and interpreted Italian conditions of their own time. Although they derived many elements of their thought from the writings of the glossators and canonists, the commentators adopted, modified or expanded the theories of the earlier jurists. Thus Bartolus elaborated the theory of juristic personality which the glossators and the canonists had originated. The influence of the ideas of Bartolus may be further illustrated by his doctrine in regard to the binding force of Roman law. To Bartolus it was still essentially the emperor's law, but he separated obedience to the emperor's laws from recognition of the emperor himself, holding that obedience to the Roman law was not dependent upon recognition of the Roman emperor. In the later Middle Ages and during the age of the Renaissance this idea of the universal validity of Roman law as *jus commune* lay at the basis of many of the processes of adopting Roman law throughout Europe.

The great achievement of the commentators was the transformation of the Roman law into a mediaeval Italian law. They created a literature on Romano-Italian law which not only possessed authority in Italy itself but played a role of great importance in the legal and political life of Europe as a whole. The preeminence of Bartolus in the school is marked by the professional maxim that no one was a jurist who was not a Bartolist (*nemo iurista nisi sit Bartolista*); and, indeed, not only in Italy but also in many other parts of Europe the opinions of the great commentator, some of which have preserved their validity to the present day, were held to be the law itself. The scholastic method elaborated by Bartolus and his school, known as the *mos italicus*, exerted a far reaching influence and was adopted in other European countries, notably in Germany. Indeed, it was the Romano-Italian law of the commentators which crossed the

Alps into Germany in the period of the reception. Even into the sixteenth century, despite the protest of early Renaissance writers, the lawyers proceeded on the lines developed by Bartolus and his school, whose work was largely continued by the "practical jurists," who for their own age further adapted Roman legal materials to the needs of daily practise in the courts.

But the eager pursuit by the commentators of their ideal to solve all problems by a painstaking and elaborate logic unquestionably led many members of the school to absurd refinements. Boccaccio's remark that in the hands of the commentators law had ceased to be a science was a criticism far too severe, but there was, nevertheless, much truth in the sentence which Cujas passed upon the school as a whole: *verbosi in re facili, in difficile muti, in angusta diffusi*. A great mass of books written in a harsh crude style, a mass which would have made, it has been said, *multorum camelorum onus*, issued forth as the result of their labors. Once again, as in the similar case of the Accursian gloss, the texts of the pure Roman law were now buried beneath mediaeval dialectical exercises. Teachers, practitioners and judges came to do little more than cite authorities by name and treatise, and as a result there arose the doctrine of *communis opinio*, the doctrine that the sound juristic view was that which had the greater number of supporters in the books. Thus the new life given to legal studies by the work of the early commentators was followed by a period of stagnation.

During the fifteenth century, while the Bartolists were still in the ascendancy, humanism created a new movement in Italian legal studies. Classical scholars and poets, notably Lorenzo Valla (d. 1457), Pomponius Leto (1428–98) and Angelo Politian (1454–96), devoted their learning and skill to an enthusiastic study of the Roman legal texts. They aimed to restore the Roman law of the classical jurists as the basis of the Justinian codification and later legal growth, seeking through the help of history and philosophy to infuse legal research with the spirit of new and enlightened tendencies and to give to law itself a true scientific foundation. The work of the fifteenth century humanists was carried on by one of the most famous of all the Renaissance jurists, Andrea Alciati (*q.v.*), a Milanese professor who more than any other humanist personified the new school of legal thought which had arisen as a reaction against the Bartolists. Alciati transplanted to France the aims and methods of the science he had learned and taught in Italy; while in France Jacques Cujas (*q.v.*) brought the work of the school to its highest perfection. The Renaissance jurists, notably Alciati and Cujas, used in general the historical method, but other French jurists of the school, especially Douaren (*q.v.*) and Doneau (*q.v.*), applied another method, the synthetic and dogmatic, in studying the Roman texts.

The aims of the commentators were fundamentally different from those of the other two schools. While the Bartolists strove to formulate a mediaeval Italian law, both the glossators and the Renaissance jurists represented a revival of ancient Roman law. The dialectical method of the commentators also differed fundamentally from the interpretative method followed by the glossators and also from the historical method of Cujas and other sixteenth century jurists; but, on the other hand, there was an affinity between the dialectical method of the Bartolists and the dogmatic method, suffused by logic, of Doneau and the jurists who followed his example. In yet another respect, that of system, there was similarity between the Bartolists and Doneau; but while the Bartolists, using an analytical-exegetical method, wrote treatises on mediaeval law Doneau employed the processes of natural synthesis to reconstruct the legal system of ancient Rome. The great French school of the sixteenth century exercised an extensive influence upon the whole world. That influence was, however, largely of a scientific and educational character; on the practise of the courts it left an imprint of far lesser significance. In Germany the courts remained faithful to Bartolus and in France to the doctrines of the school of Jacques de Revigny and Bartolus; indeed, Dumoulin (*q.v.*), the last of the great Bartolists, wielded on practise a far greater influence than Cujas.

H. D. HAZELTINE

See: LAW; ROMAN LAW; GLOSSATORS.

Consult: Savigny, F. K. von, *Geschichte des römischen Rechts im Mittelalter*, 7 vols. (2nd ed. Heidelberg 1834–51); Esmein, A., *Cours élémentaire d'histoire du droit français* (15th ed. by R. Génestal, Paris 1925) p. 723–35; Chénon, E., *Histoire générale du droit français public et privé*, 2 vols. (Paris 1926–29) vol. i, p. 502–13, vol. ii, p. 329–31; Caillemer, E., "L'enseignement du droit civil en France vers la fin du XIII^e siècle" in *Nouvelle revue historique de droit français et étranger*, 3rd ser., vol. iii (1879) 599–618; Flach, J., *Cujas, les glossateurs et les bartolistes* (Paris 1883); *Continental Legal History Series*, vol. i (Boston 1912); Gierke, O. von, *Das deutsche Genossenschaftsrecht*, 4 vols. (Berlin 1868–1913) vol. iii (a survey of theories of juristic personality held by the Bartolists); Woolf, C. N. S., *Bartolus of Sassoferrato: His Position in the History of Medieval Political Thought* (Cambridge, Eng. 1913).

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Barnes, Harry E.
New York City
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Harvard University
Beer, Max
Institut für Sozialforschung of the *University of Frankfort*
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Boston
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New York City
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University of Michigan
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Davis, Horace B.
New York City
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Phillips Academy, Andover, Massachusetts

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London School of Economics and Political Science
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Hochschule für Welthandel, Vienna

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Jacob, E. F.
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Jastrow, Joseph
New School for Social Research
Jenks, Leland H.
Wellesley College
Judges, A. V.
London School of Economics and Political Science

Kallen, Horace M.
New School for Social Research
Kandel, I. L.
Columbia University
Kareyev, N.
Leningrad
Kayden, Eugene M.
University of the South
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Kirchwey, George W.
New York School of Social Work
Kirkaldy, A. W.
University College, Nottingham
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University of California
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University of Pennsylvania and *National Bureau of Economic Research, New York City*

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The Brookings Institution, Washington, D. C.
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The Brookings Institution, Washington, D. C.

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Stockholm
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International Labor Organization, Washington Office

Malinowski, Bronislaw
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New York City
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Columbia University
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Pasadena, California

Nadler, Marcus
New York University

Oatman, Miriam E.
The Brookings Institution, Washington, D. C.
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University of Illinois
Oualid, William
University of Paris

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Istituto Superiore di Magistero, Rome

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Columbia University
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University of Pennsylvania and *Bureau of Social Hygiene, New York City*
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Sneller, Z. W.
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COMMERCE. Many a reader has smiled over the passage in the third book of the *Odyssey* where Nestor converses with Telemachus. After lavishing on Telemachus all the hospitality due to a stranger the old man observes that the time has come to ask him who he is and turning to him he asks whether he is a trader or a sea robber, much as he might have asked him whether he was a painter or a musician. Yet there is nothing odd in the question, for the chief merchants of the sea at that time were the Phoenicians and they were also the chief pirates. And in the history of the world the two pursuits have often been combined. It is only within the last hundred years that slaves have ceased to be a recognized article of commerce, and when it is lawful to seize and sell men and women the commerce that depends on bargaining and the commerce that depends on brute force are not easily distinguishable. When Delos was the great commercial center of the Mediterranean world that little island was also the chief slave market. So late as the end of the eighteenth century a British or French ship arriving on the Gold Coast would have prompted the question that Nestor put to Telemachus. From the earliest to comparatively modern times the peoples through whose hands international trade has passed have been partly merchants and partly robbers.

The sea has been a more lawless element in history than the land in the sense that the state which became its master could exercise a wider sway than any land empire. In the ancient world the danger of a sudden surprise by pirates or enemies from the sea led to an avoidance of exposed sites. Readers of Cicero's *De republica* will recollect his praise of the founder of Rome for choosing a site that was not on the sea but in touch with it. Commerce has been chiefly associated in the progress of mankind with this more lawless element, with this more ungoverned power, and in consequence has had throughout most of history a warlike rather than a peaceful aspect. It was the aim of enlightened teachers like Adam Smith to show that commerce need not be what it had generally been—a cause of rivalry and of war, or the reward of naval power—and that when once men understood their true interests commerce would become a great force for peace.

This view of commerce as a civilizing force is natural because commerce begins where civilization begins. In the earliest phase of civilization we find peoples enriched by special conditions of climate and able to use water communications for creating contact with their neighbors. Civilization began in this way in Mesopotamia and Egypt. The Tigris, the Euphrates and the Nile were the source of the wealth and culture of Sumerians, Babylonians, Assyrians, Egyptians —the peoples who were the first to write and to make beautiful objects. This world is the cradle of commerce. For commerce is not merely exchange between individuals but between tribes or peoples as well. It implies, therefore, the existence of a certain surplus of wealth and a certain provision for communication.

In this phase of what may be referred to as river civilization there were two outstanding centers of culture, Mesopotamia and Egypt, both of them exporting and receiving products. The rich character of the civilization created by the Sumerians somewhere about 4000 B.C. and the wide range of their relations with the rest of the world are only now being brought to light. Babylonia we can picture in early days as a great market where the world's produce was collected and distributed, carried by river or on the back of man or ass. These products included corn, dates, wool and woven garments, all of which Babylonia exported in return for wines, olive oil, timber, bitumen, stone, spices and drugs. These two centers were surrounded by great tracts of desert and grassland, across which those products were carried just as modern products are carried across the sea. The place taken in this type of economy by the Venetians or the Dutch in early modern times and by the British in the nineteenth century was taken in the ancient East by the Arab nomads; the place of the ship was taken by the caravan. The great desert of Arabia is like the sea. To cross it you must know where are the wells, what are the landmarks, where there is

danger. The only people who know these secrets are the native nomads, who are in touch with the peoples living on all sides of the deserts. In this way the Arab became the great carrier of the East. He organized caravans, set up bazaars and formed desert cities, sometimes at places where the desert touches a river as at Deir, or the sea as at Suakin. And the Arab was half brigand, half trader.

Even in the days when Mesopotamia and Egypt were the great powers the sea began to be important. The Sumerians had ships on the Euphrates and Tigris which reached the sea: Eridu was then at the head of the Persian Gulf. But the development of the new form of commerce fell to other peoples. The Cretans, of whose exploits, like those of the Sumerians, we have learned only in quite modern times, inaugurated a new phase in the life of the world—the phase in which the Mediterranean becomes the source of wealth and power. The pottery and textile manufactures, the sculpture and painting, the gem and ivory work, the metal and inlaid work, all the remarkable treasures left behind speak of a culture spread over the Aegean and a commerce that brought Cyprus, Egypt, Sardinia, Mycenae and the Hellespont into touch with one another. The Cretan age, which began somewhere about 2500 B.C. and lasted till the sack of Knossos about a thousand years later, was followed by the rise of the Phoenicians. The Phoenicians were Semites with all the special gifts of their race. The Semites discovered or invented numerals, arithmetic and algebra; it was from their sense for numbers and counting that they derived their idea of justice so prominent in the Old Testament. But the Phoenicians had in addition the gifts that made them the pioneers of method in business, the spirit of adventure that made them explorers. They began by setting up trading cities on the edge of the sea at Acre, Tyre and Sidon, just as the Arabs set up trading cities on the edge of the desert. From these they sent out settlements, which gave them harbors in Sicily, Sardinia and Africa. Carthage, founded by Tyre before 800 B.C., eclipsed the fame and power of the original Phoenician cities. In her great days Carthage had a land trade with central Africa; sold negro slaves, ivory, metals, precious stones to all the Mediterranean peoples; worked copper mines in Spain and sent out ships that coasted along Portugal and France in quest of tin. For four centuries the Phoenicians monopolized the sea commerce of the world. At first they received the gold and precious stones and spices of Asia from Arab caravans, but afterward they crossed the Isthmus of Suez, entered the Persian Gulf and visited the coast of India. Thus there was continual exchange of the products of the East and those of the Mediterranean countries; corn and linen from Egypt, wines from Italy and Greece, slaves from Africa, gold and spices from Asia and Arabia, all passed through the hands of these brilliant traders. Tin was brought across Gaul and iron from Lorraine and Burgundy. Exchange on this scale would not have been possible of course if people had still used as their medium of exchange cattle or tripods or slaves. Money had come into use first in Asia. We hear of gold coin minted by Croesus in the sixth century B.C., but there may have been metal money earlier. The Carthaginians used leather money.

The Phoenicians were the chief traders in the Mediterranean. But they soon had rivals in the Greeks: first the Ionian cities of Asia Minor, then the cities of the Greek mainland. The Greeks opened up the Black Sea trade and drove the Phoenicians out of the Aegean and Ionian seas. In the West they spread settlements in Sicily and Italy, while Massilia (Marseille), founded on the coast of Gaul, gave them for a time access to the Spanish markets. But then Carthage and the Etruscans joined forces against them and in the sixth century they had to sign a treaty which left the Spanish markets to the Phoenicians. After the conquests of Alexander the Greeks developed trade over central Asia and India, and from the new port of Alexandria foodstuffs and manufactured goods from the Nile valley, Ethiopia, east Africa, Arabia and India were distributed over the Greek world and the West.

The Romans were less commercial in habit and instinct than the Phoenicians or the Greeks, but the establishment of the Roman Empire was an event of capital importance in the history of commerce. For the Romans succeeded where the Greeks had failed. The Greeks could not make a political unit of Greece; the Romans made a political unit which included not merely Italy or the Mediterranean, but a world that stretched deep into three continents. Over this world Roman law and administration created conditions more favorable to commerce than any that had existed. Government was liberal and strict; peace was less disturbed than it had been in the days when state was competing with state; piracy if not abolished was greatly reduced;

trade routes were made comparatively safe; roads were excellent; the Roman coinage impressed the Indians and Roman honesty the Chinese: there have been few moments in history when commerce looked less like a cause or a means of war. In the early empire the secrets of the monsoon were discovered and navigation of the eastern waters made much easier. There was consequently a great development of trade between East and West, all the trading genius of Greek and Syrian and Phoenician finding scope under the rule of Rome. Industrial production was developed and specialized, and with specialization came a development of the system of exchange. A map of the world in the second century of the empire would have shown ports all over the known world which received and exported goods under the protection of Rome: Gades in Spain, Bordeaux and Boulogne in Gaul, connecting Rome with the eastern coasts of Spain and the British Isles; Myos Hormos and Berenice connecting her with India and the Far East. The coasts of the Euxine and of the Aegean and Mediterranean were studded with Roman harbors. Metals were carried from Britain on one side, from the depths of Asia Minor on the other. Egypt sent flax and papyrus; Asia Minor and Illyricum hides; Africa and Syria timber; Gaul pottery, glass, leather, port; Greece marble; Syria perfumes; Pergamum parchment. Cloth stuffs dyed or embroidered came from Spain, Gaul, Asia Minor, Syria, Phoenicia and Egypt. The Baltic and Germany sent amber; Scythia corn, furs and precious stones; east Africa tortoise shell and ivory; China raw or manufactured silk. Slaves came from equatorial Africa, from India, from the plateau of Iran, from the Baltic. The Roman Empire included such various peoples and climates that it supplied most of its wants; from outside it imported luxuries such as silk, spices, perfumes and ivory, for which it paid for the most part in specie. For this trade shipowners in the different ports were combined in colleges and merchants in guilds. There were large numbers of Orientals in Rome representing eastern shipping agencies or mercantile houses. The first and second centuries of the Roman Empire have been compared in respect of the vigor of their commercial life with the age of the industrial revolution.

With the fall of the Roman Empire in the West this economic life came to an end, and the center of gravity shifted back to the East. Around Constantinople centered the trade carried on by Greeks, but its importance was soon eclipsed by the renaissance of the Arabs after the rise of Islam, for this religious revival made the Arabs great soldiers and great traders. During their supremacy, which lasted through the seventh and eighth centuries, they divested the Byzantines of their most important commercial provinces in the East by the conquest of Syria, Mesopotamia, Persia and Egypt. Long before the time of Mohammed Mecca had been an important center of commerce for Arabs traveling between the Euphrates and the Yemen. With the new vitality infused by religious zeal the Arabs spread over a wide area, trading between China and the west of Asia. Arab traders visited China regularly and when the disturbances there at the end of the ninth century put an end to these direct relations, they established a depot in Malacca to which Chinese merchants resorted. Arabs traded in emeralds and elephant tusks between Egypt and India, by way of Aden. In the East their trade was partly a caravan trade. They had depots at Antioch, Trebizond and Alexandria, where they passed the spices and luxuries of the East into the hands of the Greeks, who took them to Europe. In the West after their conquest of Spain they had harbors at Cadiz, Malaga and Almeria. Their conquests in Spain and Sicily had lasting results for commerce, for they acclimatized eastern plants and introduced eastern industries. At first they were violent visitors, introducing Islam at the sword's point as well as bringing articles of commerce, but in the eleventh century their fanaticism declined and they were content to put trade first. At this time they had trading relations with the north of Europe; the Russian merchants had a quarter in Constantinople, and there was Arab money in Russia in the tenth century. Then this trade died out and Arab money became scarce. One reason was that the Russians had converted Bulgaria to Christianity, and the Arabs thus lost their Mohammedan link with the north.

In the eleventh century the Arabs were driven from Sicily by the Normans and the offensive in the wars of religion passed to the Christians. The crusades, the most dramatic episode in those wars, have as great an importance in the history of commerce as in the history of religion, in that they brought back the old relationship between Europe and the East. There was one great difference, however, arising from the fact that Europe had been making a steady advance in the arts of commerce and production. Reli-

gion, with its use of beautiful brocades in cathedrals and monasteries, had given a great stimulus to commerce. And Europe had learnt from the East: from the Syrians, who were ready to brave every kind of danger in their zeal for business and settled in towns like Narbonne and Bordeaux where they mixed easily with the natives; and from the Arabs in Sicily. Just as the slaves brought by Sulla had taught Italy the scientific culture of vine and olive, so Europe was now learning new arts. The crusades gave a great impetus to this development. Venice, Genoa and other Italian cities had at this time become prosperous trading cities, and when the crusades were organized the accompanying fleets carrying munitions and food were furnished by these towns, which as a reward were given concessions in Syria and Palestine. In this way Venice, Pisa and Genoa acquired commercial colonies in such towns as Jerusalem, Antioch and Tyre. For the next three centuries there was fierce rivalry between these Italian towns, much like the rivalry of Athens and Corinth in the fifth century B.C. or that between the English, Dutch and French in the seventeenth century A.D. Venice gained the ascendancy in this competition because her naval power enabled her to obtain access to the markets of the Byzantine Empire. The Venetians had acquired in this way a trade connection that linked their commerce with the Black Sea and China on one side and Great Britain and the Flemish ports on the other. A large fleet protected by archers carried every year spices, silks, wine and raisins to the western ports, taking back at first hides, tin and wool and later manufactured cloth. During these centuries there was a great development of production. From the ports of Venice, Genoa, Barcelona, Montpellier, Narbonne, cloth manufactured in England, Flanders, France and Italy went regularly to the East. Cairo had a special market for western cloth and Lucca learned to rival Damascus in silk manufacture. Political strife, which has so often checked commerce, in this case proved a stimulus. For the arts and secrets of these textile manufactures were carried from town to town and from country to country by refugees and exiles.

Meanwhile the market for the goods brought to Europe from the East was extended northwards. In the twelfth century the port towns of Germany had organized to defend themselves against the piracies of the Swedes and Danes. From this there grew up the great league of the Hanse towns, the most famous of which were Lübeck and Hamburg, with depots at Novgorod, London, Bergen and other places. Bruges was the meeting place of a great exchange of the raw materials of the Baltic and the wares of the Mediterranean, while the Rhine and the Danube were busy highways. In Venice large warehouses and offices were put at the disposition of German merchants, and merchants from Ratisbon, Nuremberg, Augsburg, Ulm, Constance, and from the provinces of Austria and the Rhineland did business there; there was a similar provision at Genoa. All this commercial development was accompanied and aided by the development of banking, an art invented by the Italians and improved by the Dutch.

Thus Europe had a vigorous commercial and industrial life in the fifteenth century. But three things happened in that century which brought a revolution into the life of commerce. In 1453 Constantinople fell to the Turks, in 1486 Dias rounded the Cape of Good Hope and in 1492 Columbus, looking for the Indies, stumbled on America. The first of these events threw the old economy into confusion. For the trade on which Venice and Genoa had grown rich was controlled and taxed by the Turks, who made themselves masters of Cairo and Alexandria half a century after the capture of Constantinople. The second and third events—the discoveries—gave to commerce a different balance and range and ultimately a different character.

A scholar describing the economy that came to an end with these events has compared the Europe of the Middle Ages tapping the wealth of the East through the Levant to a "giant fed through the chinks of a wall." The discovery of the Atlantic routes by reducing that chink to relative unimportance deprived of their advantage those trading peoples who had benefited by living near it. In the new economy, which placed a premium on access to ocean routes, no country was so favorably located as England. Hitherto she had been less important in the world of commerce than Italy, France, Spain or the Low Countries; her population in 1600 is estimated at 4,500,000 while the population of Venice at that time is believed to have been nearer to two millions than to one. But in the phase of the world's history ushered in by this new revolution England became eventually the leading commercial power. But that ascendancy was obtained only gradually after a series of wars in which trade was more directly a cause and a prize of war than ever before, covering three

centuries and resulting in the successive elimination of Portugal, Spain, Holland and France.

The riches resulting from these discoveries were at first shared exclusively by Portugal and Spain. The famous Bull of Borgia, as issued by Pope Alexander VI in 1493 and as revised the following year by the conference at Tordesillas, awarded Portugal all new lands that might be discovered east of a "line of demarcation" drawn from pole to pole 370 leagues west of the Azores; while it gave to Spain all lands lying to the west of that line or, in modern terms, all of the Americas except the eastern part of Brazil.

To follow the history of commerce during the next three centuries it is convenient to observe this distinction between the East and America. What the explorers wanted in the fifteenth century was to find a new way to the East, and Columbus thought he had solved this problem when he saw in the distance the shores of America. The East was valuable as the source of spices and silks, which were articles of importance in the luxury trade of Europe. It was therefore a triumph for Portugal when she found herself possessed of a monopoly of the increasingly rich trade with the coasts of Africa, India and the many islands that lay beyond the Cape of Good Hope. For over half a century Portugal developed an empire of tremendous wealth. Then came a decline in her national strength and her annexation to Spain in 1581. The loss of Spanish maritime power that followed the destruction of the Armada constituted a death blow to Portugal's commercial empire. The Dutch eagerly took over the Portuguese islands and settlements and in 1602 formed an East India Company with its capital in Batavia.

The Dutch became the great trading power of the seventeenth century. But the era of commercial monopoly, as typified by Portugal in the East and Spain in the West, was over; commercial power was now a prize to be fought over and divided. The early clash over supremacy between the Dutch and the English was concentrated on the East. As the Dutch already held the Spice Islands, the English were forced to content themselves with trading stations in India. Within a brief period the French were similarly attracted by this Indian trade. Before the Europeans entered on this commerce India had been clothing a good part of southern Asia, sending calicoes, chintzes and fancy goods to Persia and muslin to different parts of Asia and to Egypt. The Indian export trade was in the hands of Chinese, Japanese and Javanese merchants who formed settlements in the Indian ports. The Europeans who took their place in this economy likewise formed settlements and they extended this Indian trade. The Portuguese sent Indian clothing to Brazil, and the Dutch, English and French sent Indian goods to western Europe.

In the lands which lay to the west of the papal "line of demarcation" Spain established one of the richest empires of history. Spanish treasure fleets brought to Spain the gold of Mexico and the silver of Peru. While this wealth often fell into the hands of English, French or Dutch sea rovers, enough reached Spain to establish her dominance in Europe during the sixteenth century. Spain established a wide influence in the new world, to which Spaniards brought her religion, her laws, her customs and her language. The loss of her maritime power with the defeat of the Armada in 1588 did not affect this influence. She kept her empire intact down to the break up of the European empires in America in the nineteenth century. But she lost her chance of building up a great commerce because, eager as she was for wealth, she did not put commerce first or understand its needs. She did not put commerce first because politics and religion led her rulers into the pursuit of other ambitions. Her industries declined. The Spanish kings, borrowing from great houses like the Fuggers, went bankrupt from time to time and the Atlantic commerce was heavily taxed for the defense of the treasure ships that brought the bullion from America.

The rivals of Spain had a more adequate appreciation of commerce. The Dutch, the British and the French looked at the new world in fact through the eyes of commerce. The Dutch invented new methods of banking and of business to meet the new needs; the British copied their example. The French were slower, embarrassed by problems and ambitions from which the British as an island people were free. But all three peoples threw themselves into the struggle for commercial expansion, and as the ideas of the time taught that monopoly was the secret of success, the result was incessant strife.

In this manner the world passed into a new phase. The wars of religion ended with the Peace of Westphalia in 1648. The wars of economic nationalism, extending to the four corners of the earth, began with the war between the Dutch and the British in 1652. Commerce and war for a time were aspects of each other. Even

when governments were at peace their subjects were sometimes at war. Between 1748 and 1754 Great Britain and France were at peace, but a fierce war was in progress between the French and the British in India. Clive won some of his most brilliant victories when officially there was no war between the English and the French.

The great feature of the new commerce was the chartered commercial company. The cost and the risk of trading in distant seas demanded large capital and elaborate organization. In the past there had been powerful, and often conflicting, bodies like the Merchant Adventurers and the Hanseatic League, who had enjoyed social privileges and had exercised a great influence on diplomacy. But the new chartered company was a much more powerful body. Not only was it given an exclusive right to trade with the inhabitants of a particular colony; it was given the right and duty of defending it. Great Britain, France, Holland, Denmark, Scotland and Prussia had each an East India company. Some were unimportant, but a company like the British East India Company, which ruled India down to the Sepoy Mutiny of 1857, was a new kind of great power. The struggle for ascendancy in India which lasted till the nineteenth century was largely a struggle between companies formed by the Dutch, the English and the French to develop their trade, backed by governments sometimes overtly, sometimes informally, at war with one another.

The decline of Holland's commercial power in the eighteenth century left Great Britain and France as the chief claimants of the commerce of the New World; their principal battlefields were India and America. By the end of the seventeenth century France held Canada and Louisiana, and Great Britain the whole of the east coast between Canada and the Spanish settlement in Florida. The English, French and Spanish shared the West Indian islands. The range and value of overseas commerce were enormously extended. The natives were helpless and the traders and settlers did not spare their weakness. America sent potatoes, tobacco, cocoa, rice, rum, dyewood, timber, furs, molasses, cane sugar, while Europe sent back manufactures, luxuries and slaves.

This last item was historically the most important of all and is an interesting index of England's mounting commercial prestige and power. The leading place in this trade fell naturally to the people who came to the front in the struggle for maritime supremacy. In the last twenty years of the seventeenth century 300,000 slaves were transported from Africa in British ships. One of England's chief gains from the Treaty of Utrecht (1713) was the clause which made her the chief slave trading nation of the world. The Dutch, then the French and after 1713 the British were given the monopoly in the supply of slaves to the Spanish colonies.

The type of colony founded by Spain, France and Great Britain in America was a settlement of colonists living its own life as a community, making the colony their home. Such a colony resembled the Greek type except that it was still under the government of the mother country. But a colony might also be a place held by a small population or a garrison, valued simply for the wealth and trade that it brought to its owners. Most of the acquisitions in the East at this time were of this latter type. When the Portuguese lost such a possession to the Dutch, or the Dutch to the English, they lost everything. But colonies of the other kind were spread over America, settlements where Spaniards, Britons and Frenchmen made their homes. In the British settlements the colonists were often immigrants who had left their mother country to escape oppression or intolerance.

To the most vigorous European peoples of the time commerce was the source of power and colonies the source of commerce. "I state to you the importance of America," said Chatham, "it is a double market: a market of consumption and a market of supply." Holding this view British governments valued the West Indies more than the colonies on the continent. When an issue arose on which the sugar colonies and the mainland colonies had different interests, the sugar interests were strong enough to weigh the balance in their favor. In the bargaining preceding the Treaty of Paris of 1763 it was for some time doubtful whether Great Britain would not prefer Guadeloupe to Canada. European governments regarded their colonies as places to which they could send their manufactures and from which they could receive raw materials, and treated them accordingly, regulating their commerce in the interests of the mother country.

This shortsighted view was condemned by two of the wisest minds of the time, Turgot and Adam Smith. It brought a sensational nemesis. Colonies that were strongholds used for exploiting local resources often changed hands in the wars of the seventeenth century: in the Seven Years War, for example, France lost Canada, where a French population had made a home.

But this loss, like the loss of a Portuguese settlement in the East, was a result of the fortunes of war. In the latter half of the eighteenth century and the first half of the nineteenth European governments suffered heavy colonial losses from a new cause, namely, the discontent and eventual revolt induced among colonists by treatment received at the hands of the mother country. The first to suffer such loss was the nation that had been most successful in the pursuit of commercial success. In 1783 Great Britain lost thirteen of her American colonies.

The sequel is curious. The French, Spanish and Dutch seized the opportunity of attacking their rival. The consequences proved serious to England but more serious to the French and Dutch. The strain on French finance brought France to revolution, while the Dutch were severely damaged as a commercial people and the Dutch East India Company ruined. Consequently, when between 1811 and 1825 Spanish and Portuguese colonies, like Argentina, Chile, Colombia, Mexico, Peru and Brazil, broke away and set out as independent communities directing their own life, the British were far better able than the French or the Dutch to take advantage of the new markets and of the opportunity offered to European enterprise by the inability of the United States to supply all the capital or manufactures needed by South America.

Meanwhile, the loss of the thirteen colonies had not meant, as the British feared, the loss of all commerce with their inhabitants. In December, 1793, Jefferson, secretary of state, laid before President Washington an elaborate table on the foreign commerce of the United States which showed that although the French tariff was more favorable than the British, exports to Great Britain were twice as great as to France, and imports from Great Britain seven times greater than from France. These figures are all the more impressive from the fact that cotton, which twenty years later was to become the most important American export to Britain, did not figure on the list at all.

This table was drawn up at the beginning of a struggle between Great Britain and France which had a great effect on the commerce of the two peoples. By the end of the eighteenth century Great Britain had built up her strength as a commercial power dependent on her use of the sea. Napoleon resolved to strike at her trade and in 1806 issued his famous Berlin Decree excluding British goods from the continent. Great Britain, placed in a difficult position, was forced to retaliate very cautiously in order to avoid difficulties with the neutrals, the chief of whom was the United States by virtue of the extreme rapid development of her carrying trade during the Napoleonic wars. Eventually the economic duel between Napoleon and Great Britain, growing fiercer and fiercer, almost ruined the British cotton industry and in 1812 brought Great Britain and the United States to war. It is significant that at one time Napoleon thought of trying to make the continent an economic unit, planning among other things the establishment of a cotton industry in Italy. Great Britain, surviving this great strain, emerged from the Napoleonic wars relatively stronger than before. During the years from 1803 to 1814 she had lost about 40 percent of her ships, but on the continent, where the net effect of the struggle was a somewhat prolonged disablement, she had no close rival; while the United States, which as a result of rapid strides had come to be the second great carrying power, had only half of Great Britain's tonnage.

Thus the world had passed during the half century that followed the Declaration of Independence through a commercial revolution almost as important as that which had followed the discovery of the Atlantic routes. The great powers which had used the resources of America for their own benefit had all of them lost a great part of their possessions, and vigorous independent states had taken the place of the colonies governed by regulations from Europe. One of these states had already become the second carrying power, ready to take advantage of the opportunity created by the industrial revolution. The first phase of this revolution was the establishment of the textile factory industries. Down to this time the manufacture of cotton was an eastern industry; in the age of handicraft the Hindu with his delicate touch clothed most of southern Asia. By 1830 the manufacture of cotton had become, as the result of a spectacular achievement, a Lancashire industry, and Lancashire mills were sending out cotton goods to India and the China seas. Great Britain, using her paramount influence in India, placed heavy duties on Indian cottons and silks in the home market, while only a nominal duty was imposed on cotton goods entering India. In 1830 45,000,000 yards of cotton yarn were sent to India. In 1833 Great Britain was importing 300,000,000 pounds of cotton wool. And more than two thirds of this supply came from the United States.

The sensational growth of this American commerce was due to the invention by Whitney of the cotton gin, which made possible a vast development in the production of short stapled cotton. Up to that time the only cotton available for export had been the long fibered cotton known as sea island cotton, which grew in only a few specially favorable places. After Whitney's invention there was a tremendous increase in the export of cotton. In 1793 the quantity exported was under half a million pounds; in 1832 it was over 300,000,000 pounds. The carrying of all this raw material across the Atlantic created a great demand for shipping services. Raw cotton condensed into compact bales by the aid of a hydraulic press was brought from the Atlantic states to England for a halfpenny to five eighths of a penny per pound. This commercial development, like the discovery of America, was followed by a correspondingly great evil. Whitney's invention gave a powerful impetus to the slave trade by making the cultivation of cotton in the rich lands of the Mississippi valley immensely profitable.

The industrial revolution, then, in its first phase gave a great stimulus to commerce and particularly to the commerce of the new world. But this commerce is significant for an additional reason. Before the discovery of the Atlantic routes commerce had been mainly in luxuries; silks, spices, furs, camphor, cinnamon, pepper were the commodities that the Arabs carried overland and the Venetians overseas. Pepper and cinnamon were in great demand for food and medicine, because there were few vegetables for the table, little fresh meat in the winter, and the monotony of food and drink made condiments specially desirable. When only small ships were available there was no profit in carrying cargoes that had to be carried, if at all, in bulk. But nineteenth century commerce was largely a commerce in bulky goods—goods used by the mass of consumers. Without this change the industrial revolution would not have gone very far. There were two features of the industrial revolution without which it would have been comparatively limited in scope. One was mass production; clearly mass production demanded mass consumption. The other was specialization. There had been specialization in the days when Damascus made silks, Arezzo pottery and Toledo swords, but it now assumed a new form. Whereas formerly a district had supplied itself with necessaries and had imported luxuries, now specialization extended to necessaries, and Lancashire was clothing the poor of other countries and continents.

We can see another effect of this change in the history of the commerce in corn. Before the nineteenth century this commerce was checked by two difficulties. The first was the cost of transport: England, for example, could only import from the north of France, the Netherlands, Denmark or Germany. The second arose from the fact that conditions of climate were much the same over wide areas, and if a harvest failed in one country it often failed also in that from which corn might have been imported. There was indeed an important and sensational exception. In 1808 and 1809 England had bad harvests and France good harvests. Napoleon did not dare, or was unable, to prevent the French farmer from taking advantage of this situation, and thus England was fed by France in the fiercest moments of their struggle. Down to the days of industrial specialization most countries in so far as possible grew their own corn, and commerce in this commodity was on a restricted scale until the middle of the nineteenth century.

Conditions then changed. With large and swift ships it was possible to transport corn across the Atlantic from countries where the conditions of climate were different. Thus corn became a most important commodity for export—a development which was aided by what we may call roughly the revolution in land transport. In Great Britain the first industrial revolution was carried out before the railway age. The coal fields and the districts suitable for the spinning of cotton happened to lie near the ports. Canals and roads were made to connect them, and the Lancashire cotton industry was flourishing before the first railway. But in this respect Great Britain was peculiar, for in other countries the introduction of the railway preceded the industrial revolution, solving the problem of transport for the United States, Russia and Germany and paving the way for the great industrial development of these countries. In the United States in the second half of the nineteenth century the wheat raising districts of the middle western and western states were in this manner connected with the seaboard. Russia was enabled to get an outlet to the sea through Germany or by Odessa. The extent to which this revolution in transport changed the commerce of the world is indicated by a comparison of the imports of wheat into England before and afterwards. Before 1850 England could only obtain wheat from Odessa, or from

Poland and Prussia via Danzig. In 1905 she had cargoes from all parts of the world: in January from the Pacific coast of America, in February and March from Argentina, in April from Australia, in May, June and July from India, in July and August winter wheat from America, in September and October spring wheat from America and from Russia, in November from Canada. The effect of the revolution is that wheat, whether produced in England, Russia, Germany or the United States, fetches approximately the same price on the London or the Mannheim Corn Exchange. For corn, cotton, rubber, tea, sugar, the world is one market. Other perishable goods, such as meat and fruit, which had never before been carried about the world were similarly affected. By the end of the nineteenth century chilled or frozen meat was carried in enormous quantities from America and Australia to Europe.

Another consequence of the improvement of transport was the creation of great free trade areas. Although in one sense it is true that protectionist tariffs were a prominent feature of the nineteenth century, it must be remembered that the economic units were much greater than when Adam Smith wrote *The Wealth of Nations*. At that time the most considerable free trade area was Great Britain. One reason for the more rapid progress of Great Britain as a commercial power was this freedom from the restriction which hampered development in France until the revolution. In the eighteenth century Great Britain united in one area the finance of London, the commerce of Bristol and Liverpool, the industries of the textile north and the coal and iron of the Midlands. If Holland and Belgium had been united in one economic system the two states would have had the advantages Great Britain enjoyed. France had, in spite of the vain efforts of Vauban and Turgot to abolish them, local duties and internal customs down to the revolution. Until its unification in 1859 Italy consisted of eight states with eight tariff barriers. The creation of the modern national states changed all this. In the peculiar case of Germany economic unity preceded political. Under the inspiration of List, a Zollverein was formed which in 1833 included all the German states. However severe the national tariffs, goods traveled free over much wider areas in all parts of the world in the nineteenth century.

This freedom had an important bearing on another consequence of the improvement of transport, namely the neutralizing of many great advantages of geographical position. Invention makes industry less and less dependent on immediate local conditions. The first spinning mills in England were located by the streams because, until the steam engine was invented, they depended on water power. In 1830 a German complained that it was impossible to develop a coal industry in Westphalia because the coal and iron were nearly fifty miles apart. But by the beginning of the twentieth century Germany's output of pig iron exceeded that of Great Britain. Meanwhile the great railway systems of Europe gave German industry access to the north Italian markets and to the port of Genoa, while the railway to Constantinople gave her access to the Levant. In the United States railways have connected the haematite ores of Lake Superior with the bituminous coal of Pittsburgh, making America the greatest producer of crude steel in the world.

The effect of railway development is seen in the great change that took place in the nineteenth century in the distribution of industrial power. After the Treaty of Vienna in 1815 Britain became the workshop of the world, a position which she kept for half a century during which industrial development on the continent was hindered by the wars that created the new Italy and the new Germany. Great Britain, having built her own railways, was busy building similar ones for other countries. But after the Franco-Prussian War and the American Civil War industrial development was rapid both in Europe and in the United States. This is made clear by the statistics for certain important exports.

TABLE I

EXPORTS OF PRINCIPAL COUNTRIES
1880–84 AND 1900–04
(In £1,000,000)

YEARS	GREAT BRITAIN	GERMANY	FRANCE	UNITED STATES
Manufactures				
1880–84	206.4	91.9	73.1	30.6
1900–04	224.7	154.2	94.6	99.8
Iron and steel				
1880–84	27.6	11.5	0.9	1.5
1900–04	33.3	22.8	3.8	10.7
Machinery				
1880–84	11.5	2.7	1.1	2.6
1900–04	19.5	10.1	2.3	14.7

Source: Knowles, L. C. A., *The Industrial and Commercial Revolutions*, p. 159–60.

Before the end of the century there were a great many workshops in the world, all of them representing powerful interests in finance, shipping and commerce as well as in industry. The attention of governments began to be occupied more and more with the task of finding employment for labor and capital. Commercial rivalry therefore took new forms. The great institution of the seventeenth century for the extension of commercial enterprise was the chartered company, the great institution of the nineteenth century was the trust or ring—the steel trust, the meat trust, the oil trust, the shipping trust, the money trust, the rubber trust. With the beginning of the twentieth century the most tempting openings for commercial enterprise were to be found in those parts of the world that were beginning to use railways or possessed resources awaiting development. A new rivalry began for concessions and spheres of influence in such countries as Turkey, China or Persia or for the control of tropical products that had suddenly become valuable. Diplomacy was more and more occupied with such prizes. Behind the jealousy and fears that produced a Triple Alliance and a Triple Entente were banking and financial houses more powerful than the Fuggers, and great trusts seeking special opportunities for penetration and influence.

When the World War came the commerce of the world was very different in character and scale from the commerce that was interrupted by the wars of the French Revolution. It was now a commerce in the goods consumed by the bulk of mankind. The conditions of shipping were also different. In the eighteenth century the trader was his own carrier; in the nineteenth shipping had become a separate service, carrying goods and persons at regular tariffs over regular routes. After the Napoleonic wars Great Britain and the United States were the two great carrying nations. Toward the end of the nineteenth century, under the influence of a more intense nationalism, the development of a national mercantile marine became an object of public policy. The French government set the example in the eighties and Germany, Italy, the United States and other less powerful peoples all gave encouragement in some form or other to their shipping interests. When the war broke out Great Britain was still the leading shipping nation but Germany had become a formidable competitor. Although, as a result of the war, competition from Germany was measurably decreased, that from the United States and Japan became much more acute. The gains of the latter were inevitable, because under the pressure of necessity British ships were withdrawn from the more distant trade and Japan filled the gap.

Japan had begun to push ahead as an industrial power in the last twenty years of the nineteenth century. The war accelerated this process especially in the case of the textile industries. The general effect of the war was to reduce Europe's preponderant share in the commerce of the world, as is clear from Table II, which gives the percent share of various countries in the total exports of the world.

TABLE II

SHARE OF PRINCIPAL COUNTRIES IN WORLD EXPORTS, 1913 AND 1925

(In percent)

	1913	1925
United Kingdom	13.9	12.4
Germany	13.1	7.0
France	7.2	7.2
Belgium	3.8	2.3
Italy	2.6	2.4
Switzerland	1.4	1.3
Sweden	1.2	1.2
Russia	4.2	1.0
United States	13.3	16.0
Canada	2.4	4.4
Argentina	2.7	2.7
Brazil	1.7	1.7
India	4.2	4.8
Japan	1.7	3.0
China	1.6	2.2
Australia	2.0	2.5
South Africa	1.7	1.4
Other countries	21.3	26.5

Source: League of Nations, *Memorandum on Balance of Payment 1911–1925*, 2 vols. (Geneva 1926) vol. i, p. 132–33.

Any survey shows what difficult problems commerce has put to the statesmanship of man. In one sense the problem was never harder. World exchange is now the basis of the economic life of almost every people, and that exchange, the commerce by which nations are enriched, is now the commerce by which they are fed and clothed. Mistakes in one part of the world bring calamities in others. Man by his ingenuity has created a mechanism so delicate and elaborate that the penalties of mishandling it are more disturbing to the peace and common life of man-

kind than the suspension or the destruction of the trade relations of the ancient or the mediaeval world. Raw materials, such as oil, which are badly needed and found in few places are the object of fierce rivalry or dangerous intrigue. Oil in this respect tends to occupy the place held by cotton in the struggle between England and France in the eighteenth century. At the same time it is easier now than then for a few interests to draw into their hands the control of resources that are vital to mankind. Moreover, the number of states in Europe has as a result of the war risen from twenty to twenty-seven, and 7000 miles of new tariff walls have been added.

Yet Cobden's view that commerce might be made the great force for friendship derives support from its checkered history. Commerce brought peoples together; spread over the ancient world the great Greek civilizing idea of city life; created common interests between enemies. The Hellenist kingdoms and the Roman Empire, with all their influence on the life and mind of man, were made possible partly by the relationships established by commerce and the penetration of distant countries by enterprising traders. Even the ancient world had commercial treaties. Greek traded with Phoenician; Saracen with Christian. Good faith was a commercial asset. The destruction of Carthage and of Corinth by the commercial selfishness of Rome was bitterly condemned by good Romans, and the Roman Empire owed its power to its escape from the views of the age of Cato.

In modern times, although organization is employed for protecting selfish or particularist interests, it is employed also for cooperation. There are 20,000 commercial treaties in force. Moreover, if there are more tariffs in Europe now than before the war, there is greater readiness to discuss and take common action. Important economic conferences have been held: at Brussels in 1920; at Genoa in 1922; and at Geneva in 1927. For the first time in history a collective convention in the sphere of tariffs has been signed in the Hides Agreement of July, 1928, whereby no prohibition is to be allowed on the export and import of hides, skin and bones. Under a commercial convention adopted in 1930 the leading European states have bound themselves not to denounce bilateral commercial treaties then in force before April 1, 1931, with a view to discussion of the best methods for the improvement by international agreement of the production and distribution of commodities. The sense of common interests, and of common dangers, was never so strong as it is today and for the first time in history mankind has machinery that can be employed with effect.

JOHN LAWRENCE HAMMOND

See: PRIMITIVE ECONOMICS; COMMERCIAL ROUTES, TRANSPORTATION; SHIPPING; PORTS AND HARBORS; ROADS; WATERWAYS, INLAND; RAILROADS; EXCHANGE; MARKET; MARKETING; FAIRS; PIRACY; RAW MATERIALS; METALS; FUR TRADE; FOOD SUPPLY; SLAVE TRADE; CRUSADES; EMPIRE; COLONIES; COLONIAL ECONOMIC POLICY; CHARTERED COMPANIES; MERCANTILISM; PROTECTION; FREE TRADE; COMMERCIAL TREATIES; INDUSTRIAL REVOLUTION; MACHINES AND TOOLS; BUSINESS; FOREIGN INVESTMENT; IMPERIALISM; ECONOMIC POLICY; INTERNATIONAL TRADE.

Consult: Toutain, J., *L'économie antique* (Paris 1927), tr. by M. R. Dobie (London 1930); Rostovtsev, M. I., *Social and Economic History of the Roman Empire* (Oxford 1926); Charlesworth, M. P., *Trade-routes and Commerce of the Roman Empire* (2nd ed. Cambridge, Eng. 1926); Warmington, E. H., *The Commerce between the Roman Empire and India* (Cambridge, Eng. 1928); Frank, Tenney, *An Economic History of Rome* (2nd ed. Baltimore 1927); Salvioli, G., *Le capitalisme dans le monde antique* (Paris 1906), tr. from the Italian ms. by Alfred Bonnet; Heyd, Wilhelm, *Geschichte des Levante-handels im Mittelalter*, 2 vols. (Stuttgart 1879), French translation revised by author (Leipsic 1885–86); Knight, M. M., *Economic History of Europe to the End of the Middle Ages* (Boston 1926); Segre, A., *Manuale di storia del commercio*, 2 vols. (Turin 1915); *Studies in Economic History: the Collected Papers of George Unwin*, ed. by R. H. Tawney (London 1927); Moreland, W. H., *India at the Death of Akbar* (London 1920), and *From Akbar to Aurangzeb* (London 1923); Haring, C. H., *Trade and Navigation between Spain and the Indies in the Time of the Hapsburgs* (Cambridge, Mass. 1918); Levasseur, É., *Histoire du commerce de la France*, 2 vols. (Paris 1911–12); Sombart, Werner, *Die deutsche Volkswirtschaft im neunzehnten Jahrhundert* (2nd ed. Berlin 1909); Cunningham, William, *An Essay on Western Civilization in Its Economic Aspects*, 2 vols. (London 1898–1900); Knowles, L. C. A., *Industrial and Commercial Revolutions in Great Britain during the Nineteenth Century* (4th ed. London 1926); Day, C., *A History of Commerce* (rev. ed. New York 1922); Taussig, F. W., *The Tariff History of the United States* (7th ed. New York 1923); Gregory, T. E., *Tariffs* (London 1921); Unwin, George, *Studies in Economic History*, ed. by R. H. Tawney (London 1927) p. 221–61.

COMMERCE, INTERSTATE. *See* INTERSTATE COMMERCE.

COMMERCIAL COURTS. *See* COURTS, COMMERCIAL.

COMMERCIAL EDUCATION. *See* BUSINESS EDUCATION.

COMMERCIAL GEOGRAPHY. *See* GEOGRAPHY.

COMMERCIAL LAW is generally defined as that part of the law of the land which is applicable to business transactions. The Anglo-American treatises on the subject are essentially texts on the law of contracts with supplementary chapters on agency, partnership, corporations and negotiable instruments. Some select for special treatment particular contracts concerning the principal commodities (real estate, goods and merchandise, intangibles), credit (suretyship, guaranty, mortgages, conditional sales) or services commercially rendered (carriage and other bailments, insurance, banking, public utilities). Other topics treated less often in the texts include pertinent aspects of the criminal law, particularly as it affects restraint of trade, fraud and unfair competition, or such phases of procedure as the administration of estates, bankruptcy and equitable relief. In fact, any subject in a digest of Anglo-American law is apt to have a bearing on some commercial transaction. There is no formal boundary between commercial and non-commercial persons, things or transactions. There is, however, such a boundary in the civil law of continental European countries, which is emphasized by the existence of separate codes of commerce side by side with the civil codes. Treatises on commercial law in these countries are therefore concerned in the first place with a careful drawing of the line of demarcation and then with a study of (1) the types of persons and associations involved in commercial law, (2) the subject matter of commerce, (3) the transactions and "obligations" within the purview of commercial law and (4) procedure in courts having commercial law jurisdiction. The more minute subdivisions, however, are not incommensurate with the topics of Anglo-American commercial law. Thus the first numbered heading includes agency, partnerships and corporations of various kinds and intercorporate relations; the second includes various types of property and particularly the intangibles embodied in negotiable and other documents; the third includes every variety of business transaction whether in the market, at the bank or on the exchange, whether for cash or for credit, whether pertaining to things or to services. Both the common law and civil law leave water transportation to be dealt with by maritime law, and air transportation is being rapidly assimilated to the latter rather than the former category.

Analytical attempts to justify either the Anglo-American system of merging business law with the general law or the continental system of keeping them distinct have been not without merit. It is true, for example, that the merger accords well with the political theories that reached the height of their popularity in England and America in the seventeenth and eighteenth centuries. The recognition of a special merchant class seems to imply special privileges and class discrimination which are opposed to the idea of equality before the law. On the other hand, a generation ago in Germany when the proposed civil code was under discussion quite other views prevailed. It was successfully argued in favor of a separate commercial code that commerce was a thing allied to international civilization not to national culture; that accordingly it was desirable to ally its law to that of other countries so that it might be adjustable to the commerce of the world without either distorting or being distorted by the deep rooted civil law of the land; that commerce was essentially different from non-commercial transactions because it was impersonal and standardized and because it required speed and the utmost simplicity both for the making and enforcing of its arrangements. These arguments seemed to gain force from the fact that oriental countries found it possible to introduce the European codes of commerce although they were impervious to the civil codes. Yet the Swiss code merged the commercial and civil law, and Japan has built on the Swiss code. It is easy to overestimate the importance of the difference, but a unitary system does not exclude distinctions between commerce and other activities nor does a dual system exclude the interplay of influence between commercial and civil law. The explanation of the divergence is to be sought in history rather than logic.

Rome, the lawgiver, was a great commercial center, but Rome did not leave the world a system of commercial law. Its commerce although great was exceedingly simple. Disputes under it were decided among citizens according to the procedure of the *jus civile*; and in the case of foreigners from the surrounding Italian tribe states, who could lay no claim to rights under the sacred Roman law, the praetors judged their disputes in accord with such general principles as seemed natural because apparently common to all the tribes or nations—the so-called *jus gentium* which finally transformed the *jus civile* into the great system of Roman law which has come down to us. Of its adequacy for a simple commerce there can be no doubt.

That some of its *actiones* were made for purposes that we should call commercial (*actio institutoria* and *tributoria*) may be conceded. But the commerce reflected in this system is one that is conducted without the idea of "representation" by an agent, without effective association for business, without anything like the business corporation, even without documents of credit, to say nothing of negotiability. The household was looked upon as the all sufficient unit with slaves to do the work. It is perhaps characteristic of Roman thought about business that the seller was given protection against the buyer in a harsh bargain (*laesio enormis*) although no corresponding provision was made for the overreached buyer. This discrimination is understandable if the buying and selling were outside of the course of business and the desire to sell was to be explained normally by harsh necessity.

Thus the Roman law which Europe inherited was inadequate to the needs of its commerce. Moreover, since it was a formal written law it could maintain its integrity against the encroachments of mercantile custom, and the latter could develop only side by side with it as a supplementary body of customary law even though it sometimes borrowed Roman elements. The separation was encouraged by the lack of centralization in the systems of European courts, resulting in the mediaeval tendency toward the parallel development of several systems of law. Matters improved but little even after the disappearance of the personal system of law under which one was said to "live" a law—the Roman, the Lombard, etc. For a long time, as Voltaire remarked, the traveler changed territorial law as often as he changed horses. The church had a curious and extended jurisdiction, for the line between what is God's and what is Caesar's is a wavering one. In the battles over this shifting line and in the later struggle between the advocates of local laws and those of thoroughgoing Romanization the law merchant was an unimportant element. The canon law made its chief contribution to commercial law in the form of a strict prohibition of interest taking. Princes were more interested in taxing merchants than in ruling them. Feudal law was rural and particularly inhospitable to the intrusion of alien elements. When civil codes were finally drawn up there was little thought of including the law merchant.

For the origin of this mediaeval law merchant, as for the origin of commerce itself, we must look not to the West but to the East, to the Greek speaking world and beyond to Babylonia. The Levant had some kinds of written obligations: "syngraphs" and "chirographs," as the Greek bankers called them; "shetar" was a Babylonian term brought into Europe through the Hebrew. Five centuries before the Christian era clay tablets of indebtedness were common on the busy boulevards of Babylon. Checks were used and documents were endorsed. Although all traces of the latter were buried for centuries, Talmudic law took their provisions for granted and the plausible suggestion has been ventured that Jewish merchants may have introduced the bill of exchange into Europe. The Orient had also developed the idea of acting through another, an idea that seems to have found its way into the modern law of agency through the law of the church. Early mediaeval trading was outlawed rather than put under a special law. Its development paralleled the beginnings of primitive trade in which sheer need of that which was in the hands of the foreigner served to temper the fear and dislike felt for him enough to make a trade possible. Sometimes the rightless alien bought the protection of a powerful member of the community. Where there were constituted governments the rulers might for a consideration grant the right to do business, dictate the terms and provide for the summary decision of disputes. This was the procedure *secundum legem mercatoriam* promised in various charters and statutes. It is a procedure that is so named, not a body of law, for it was not until the end of the Middle Ages that any considerable amount of substantive mercantile law had been formed in the interstices of adjective law.

It was in the independent Italian cities, where the merchants were in power, that ordinances were first passed calculated to give a substantive content to mercantile law. Eventually Catalonia, France, Germany and the Low Countries followed with contributions. The materials were drawn from local law, Roman law, maritime law and from the practical arrangements between merchants for the convenient transfer of money or credit from country to country in days when it was neither convenient nor safe to ship precious metals or coins. Nevertheless, when the English royal courts began to take notice of these customs in the seventeenth century there was still much room for dispute about them.

Up to this time the English *lex mercatoria*

was in no way different from that of the rest of Europe except that it was more definitely applicable to aliens. Although a customary body of law like the common law, it did not become a part of it because the English royal courts at first took no cognizance of mercantile cases. These were adjudged in special courts: the courts of the fair, the courts of the staple and other local and limited courts. But it was not long before centralization was accomplished. Although the Middle Ages in England open with a wealth of special jurisdictions, feudal, ecclesiastical, maritime, mercantile and equitable, as distinct from the king's courts as American state courts are from the federal, a kind of federal usurpation had been going on for some time under various pretexts. The early years of the seventeenth century marked the turning point in the struggle. Lord Coke battled on behalf of the ordinary king's courts with varying success, but in the case of the commercial courts he was helped by the underlying facts, of which he was probably unaware, that commerce was passing from the hands of foreigners into those of Englishmen and that domestic commerce was ceasing to be a privilege based on royal or feudal grants but, subject to certain limited and questionable monopolies, was becoming the patrimony of every Englishman.

With the central courts ready to entertain the claims of the mercantile class and to ignore the decisions reached by the special courts, there began, under Lord Holt, a growth of commercial case law which by the end of the century was voluminous if not comprehensive. In another half century, when Blackstone lectured, the special courts were but a memory. The assumption by the king's courts of power over commercial disputes had two phases: first, it extended the scope of the law merchant by making all men potentially subject to it; secondly, it affected the law merchant itself by forcing it into the Procrustean bed of common law principles. Thus, on the one hand, no man could plead that he was exempt as a gentleman; on the other, various doctrines were grafted upon the mercantile law as, for instance, the doctrine of consideration upon the law of bills and notes, although it did not fit and although it assumed the troublesome form of a fictitious presumption that might become irrebuttable.

It was Lord Mansfield in the eighteenth century who earned the title Father of English Commercial Law. In the 1600's and early 1700's every detail of the custom of merchants necessary to establish a case had to be alleged and proved as a fact if challenged. With the aid of a special jury of merchants Lord Mansfield undertook to establish various points of mercantile custom in order to render constant reiteration of the investigation unnecessary. Yet it is sometimes said even today that Anglo-American commercial law is based on the customs of merchants, and from this statement arguments are drawn for the recognition of current customs on the same basis as old ones. These contentions, however, overlook the fact that so much of mercantile custom as has been adopted is no longer mere custom but established law.

The "innovations" of Lord Mansfield were slurred in the newly independent United States, but under the influence of Judge Story's writings they soon became established as common law. No special "mercantile class" was recognized. Allusion has already been made to the acceptability in eighteenth century America of the theory of one law for all; there was also the practical reason that in pioneer society there was no separate mercantile class. The pioneer became at will or under necessity farmer, mechanic, carpenter, clerk, trader or professional man. A law for a mercantile class would have been intolerable to men who passed back and forth across any class lines that could be drawn. Thus it was not difficult to make a virtue of this necessity and to write or read into constitutions a prohibition against interference of any kind with the natural rights of an American citizen to engage in ordinary business or calling without let or hindrance.

This tendency has been not unconnected with the early habit of American business of fighting every regulatory law as discriminatory and confiscatory. Yet despite the absence of a *Kaufmannsstand* in American law increasingly regulatory legislation was bound to come with the disappearance of pioneer conditions, and it was fought with diminishing ardor and success as the nineteenth century drew to a close. The states have passed innumerable statutes governing business. In most of them a type of partial periodic codification has resulted, if not in a code of commerce, at least in chapters of such a code scattered through the general law. Laws of this character, which have been difficult to classify even under the formal continental codes, where they often have been embodied in special subsidiary laws, are to be regarded less as

commercial law than industrial law. For instance, acts against trusts, monopolies and unfair business methods do not regulate acts of trade as such and in many of their aspects are really to be regarded as public law. Nevertheless, their connection with the development of commercial law must be regarded as very intimate. One has only to consider the effect of the Constitution of the United States upon the development of the commercial law of the several states. It does not, for example, directly affect the state laws of contract. Yet the constitution, by preventing the states from legislating in a manner that will impair the obligations of contracts and by lending support implicitly to the economic principle of freedom of contract, has kept states from digressing very far from the beaten paths of contract law. The interstate commerce clause has prevented the states from raising artificial barriers against each other, and in more recent years Congress has used this clause to regulate interstate carriage and communication. Under the constitution the regulation of bankruptcy is a direct federal concern. The relation of public law to commercial law is clearly seen in the cases where the federal courts have jurisdiction by reason of diversity of citizenship. Even though the state law is supposed to be administered by them in cases where no federal question is involved, they have often followed a view of their own as to what the state law was, and in many instances they have thus forced upon the states the "federal view" of matters of common law. While this represents a process which has affected the growth of the whole body of American law, it has been particularly important with respect to the commercial law by reason of the fact that diversity of citizenship occurs so often in commercial transactions. A certain degree of uniformity has been thus achieved.

Uniformity in American commercial law has, however, been less the result of federal agencies and processes than of the intrastate adoption of uniform commercial acts. These have become a marked feature in the development of American commercial law. Each state began by giving its own interpretation to the common law despite some efforts to check such divagations. For instance, Story had declared that the New York courts had no power to affect the law of bills and notes. But by the end of the nineteenth century, with business becoming ever more nation wide in its scope and the jurisprudence of the several states widely diversified, the framing of the uniform laws began by commissioners appointed for that purpose. They were soon presented to the several states for adoption, and today uniform state laws govern the following commercial matters in the number of states indicated: negotiable instruments (everywhere except Canal Zone and Porto Rico), sales (30 states, Alaska and Hawaii), bills of lading (25 states and Alaska), warehouse receipts (45 states, District of Columbia, Philippine Islands and Porto Rico), conditional sales (8 states and Alaska), partnership (16 states and Alaska), corporations (2 states), stock transfers (20 states and Alaska), fraudulent conveyances (15 states), limited partnerships (14 states and Alaska).

The codes of commerce which prevail in European states began to be introduced at the opening of the nineteenth century, when the general European movement for codification may be said to have been inaugurated. France led the way with its separate *Code de commerce* of 1807. Such was its prestige that it was adopted at the time over almost all of Europe, and it is still the basis of the codes of Belgium, the Netherlands, Poland, Greece and Serbia and in a large measure of that of Italy, which in turn is the basis of the Portuguese code. The Spanish code of 1885 on the whole adhered to the French code. About the middle of the century, however, a great impetus had been given to the study of commercial law in Germany under the leadership of Thöl and Goldschmidt. A general German act regarding negotiable instruments was adopted in 1847 and a general code of commerce was promulgated in 1861. The empire contributed the commercial code of 1897. The German codes have become very influential; and Austria, Hungary, Switzerland, Bosnia and Herzegovina, Japan and, as far as negotiable instruments are concerned, the Scandinavian countries have modeled their law upon that of Germany.

By force of universal interest in commerce rather than through any deliberate statutory change the commercial codes of Europe have come to be the most generally applicable part of the law, the law of everyday life. A curious reversal of the relative position of the civil and commercial codes, often almost unnoticed, has been taking place and is probably destined to have far reaching effects on the jurisprudence of Europe. For instance, when acts only unilaterally commercial are brought within the purview of the commercial law, the civil law

may be said to have been liberalized in effect although in another sense it may be said to have been superseded. The same result may be said to take place where the benefits of commercial legislation are extended to private individuals, as when bankruptcy is permitted to non-traders as well as traders.

In its international aspects commercial law raises many problems. These derive from the international character of commerce, which has always demanded uniformity in the legal rules under which it operates. The conflict of laws is troublesome also where it arises with respect to private relations, although commercial contacts and competition lead to friction more readily than do friendly visits. If some difficulties are experienced even in federal unions of states, they will be even more numerous among independent nations. It is true that the commercial law of Europe has a certain uniformity as a result of the common origins of its codes of commerce and that among all nations commercial law has had a certain similarity impressed upon it by the habits and necessities of commerce. Nevertheless, the divergences are great enough to create considerable pressure for international solutions. In extraordinary cases diplomatic machinery may have to be employed. Although the merchant who enters a foreign country to buy or sell is an alien and as such is dependent primarily upon the law of the land with which he trades he sometimes can invoke the diplomatic protection of his own government. Indeed, in the Near and Far East this has resulted in the established institution of exterritoriality, the origin of which may be regarded as in part due also to the inadequacy, with respect to commercial transactions, of the law of the regions where it has prevailed. Yet as regards the most constantly recurring of the difficulties of international commerce it is the ordinary law that must supply adjustment. The principles of the conflicts of laws act as means of conciliation, as do international treaties of a commercial type. Much can be accomplished also by the progressive international assimilation of commercial law; and some headway has been made in this direction in European countries, particularly with regard to the law of railway freights and negotiable instruments, with respect to which the need for uniformity is particularly pressing.

The compensation for the difficulties imposed on the law by foreign commerce is its resulting tendency toward improvement. Commerce has been both a cause and a means of transferring from country to country the results of experiments in the law. Thus comparative studies, likely to be academic in other divisions of law, are intensely practical in commercial law. Its problems and tasks in Europe as well as America may be said to center around the difficulty of making a working synthesis of the relatively stable, deep rooted, conservative national element in law and the rapidly varying needs of a commerce that is more sensitive to world wide developments than to local traditions. A separate code does not solve the problem for more than a moment, although it may lay the foundation for more rapid and independent adjustment than is possible where one must carefully distinguish without separating. The daily task of any system of commercial law is essentially one of adaptation of old legal tools to new purposes in order to supply business with mechanisms for its legitimate enterprises, and it is by its ability to do this that its success or failure must be judged.

In this process the commercial law has particularly reflected the increasing regulation of business everywhere. When Sir Henry Maine observed that the progress of all law was from "status to contract" his statement may have been true, but the modern tendency is in quite the opposite direction. In the field of commercial law, for instance, there has taken place a standardization of contracts and hence of contract obligations, as in contracts of employment, insurance, transportation or conditional sales, due to the complications of modern business, which have made it all but impossible to bring into personal contact all the persons among whom legal relationships are created. The transformation of other institutions of the law has been no less marked in other ways. For instance, the trust, devised to aid thirteenth century monks to hold land when they were debarred from acquiring legal title, after serving later generations as a means of evading feudal burdens, as a testamentary device, as an escape from mortmain, as a scheme for organizing charities and non-established churches, as a plan for family settlements and particularly for the emancipation of married women, has come down to our own day to be experimented with as a credit device (the original trust receipt), as an organization device (not only as in the proscribed trusts of the nineteenth century but the business trust of today), as a risk shifting device (the original investment trust) and in

general as a substitute for stewardship (the trust company with its many services). Again, the subsidiary corporation, at first a timid experiment, has been adapted to uses that are almost legion, ranging from a mere bookkeeping convenience to the most complicated and delicate balancing of financial powers with curious adjustments of return, risk, ownership or investment, not to mention its convenience as a substitute for royalty agreements in the working of a patent or as a better arrangement for local representation than the selling agency or even as a new form of land tenure. The mortgage in connection with corporate finance has undergone no less startling changes. Beginning as a simple land mortgage to one lender or to a small group it is now the most complicated of documents, serving as a basis of corporate finance and reorganization. The gap between the law in the books and the law in business is great but its size is after all a measure of the rate at which business changes are wrought.

NATHAN ISAACS

See: COURTS, COMMERCIAL; LAW MERCHANT; ROMAN LAW; CIVIL LAW; COMMON LAW; CODIFICATION; MARITIME LAW; EXTERRITORIALITY; BUSINESS; PROPERTY; CONTRACT; CORPORATION; AGENCY; NEGOTIABLE INSTRUMENTS; BANKRUPTCY; INSURANCE; TRUSTS; UNIFORM LEGISLATION; ARBITRATION, COMMERCIAL.

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COMMERCIAL POLICY. *See* ECONOMIC POLICY.

COMMERCIAL ROUTES. Economic or potentially economic resources are so unevenly distributed over the earth's surface that even the possibility of human life is in places contingent upon the transport and interchange of goods. The surpluses above bare subsistence, without which, as Alfred Marshall justly remarks, "even the simplest civilization is impossible," have more utility and are more prized if exchanged to some extent between localities. Some "foreign" trade—that is, trade between geographically separated groups—has taken place in practically all the societies concerning which we have exact information. Particular goods tend to flow from places where they are plentiful to those in which scarcity exists, and to exchange for goods drawn in the opposite direction by the same economic forces.

The commercial routes along which these goods flow are determined by both economic and non-economic forces. Of these the first may be summed up as the pull of commodities or, if viewed from the other end, of demand. This pull is affected by the social organization and the prevalent habits of consumption as well as by the methods of economic exploitation which de-

termine the nature of the goods and the difficulty of securing them. Prominent among the basic non-economic factors conditioning the placing of trade routes are distance, topography, climate and the existence or absence, as well as the direction of flow, of bodies or streams of water. To these might be added martial or peaceful traditions, political organization, the sympathy or antipathy between racial and cultural groups and the general human thirst for adventure. As the economic life of societies grows complicated, rationalization and calculation enter more and more into such problems as the relative cost and speed of transport. In the modern system of world trade changes take place rather rapidly through invention, while closely computed rate differentials determine the routes taken by passengers and freight.

Remains give us some idea of the products actually exchanged by societies living before the time of recorded history, but for their commercial technique we must rely largely upon analogy with primitive peoples now in existence. Various tribally organized societies have well developed group and territorial divisions of labor, involving the regular exchange of products along fixed routes. Im Thurn (*Among the Indians of Guiana*, London 1883, p. 270–74) and Roth ("An Introductory Study of the Arts, Crafts and Customs of the Guiana Indians" in Bureau of American Ethnology, *Annual Report 1916–17*, Washington 1924, p. 634–35) have described such specialization by tribes along the north coast of South America. This is mainly land trade, but R. S. Fortune, in a paper recently read before the American Anthropological Association ("Economic Background of the Kula"), has pointed out a similar intertribal division of labor in Melanesia in which the exchanges take place along water routes. Of the fixed commercial lanes used by primitive peoples the natural watercourses are perhaps the best example.

Fixed commercial routes are found far back in historic times. As early as the Code of Hammurabi—roughly 2100 B.C.—the caravan trade in Babylonia was so well organized that the *respondentia* type of combined interest and insurance contract (still in use in the nineteenth century A.D.) was already in vogue. Similar bottomry contracts were common in the maritime trade of Phoenicia, India, Greece and Rome. The horse may have been known in the Near East at the time of Hammurabi but was not in general use until at least five hundred years later. The donkey was chiefly relied upon for the longer land hauls, and water routes were preferred where practicable. Wheeled carts were used with donkeys for centuries before they were with horses but for the longest commercial hauls never entirely displaced pack animals. Among these the camel began to be important in the Levant about 1500 B.C. He does not appear to have been in general use in Egypt for another thousand years or in the Sahara for still another seven hundred.

Trade centers and routes are associated in various ways. For example, that part of the Syrian coast which lies nearest to the great bend in the Euphrates River has often furnished meeting places for oriental and occidental goods. Antioch has had a particularly long history as such a commercial center; others near by have at times been more important, and not always for economic reasons. Similarly, whenever there was considerable oriental trade with the Mediterranean in mediaeval or classic times, some port on or near one of the mouths of the Nile was almost certain to be flourishing. Egyptian commerce made these sites doubly advantageous. The ancient Egyptians had a shallow, meandering canal, probably at least 150 miles long, through the Isthmus of Suez to one of the mouths of the Nile, and it was reconstructed at various times later. Before the days of steamboats and power dredges this must have been of mediocre value for trade between the Indian Ocean and the Mediterranean. The Red Sea is over 1400 miles long and conditions are decidedly unfavorable for navigation with oared or sailing vessels; goods from lands bordering on the Indian Ocean were generally unloaded far south, sent across to the Nile by caravan and floated down. When a commercial center like Antioch or Alexandria had seized its opportunity and become the terminus of naturally superior trade lanes, the market itself deflected other routes or attracted new ones. Once established, such centers have often prevented the growth of rivals by force, as in the case of Bruges and Sluys in the Middle Ages. The force may be financial, not military; in the United States Providence, Rhode Island, has suffered from the watchful jealousy of Boston and New York.

The improbability of the Phoenicians having been in direct contact with India and China before the time of Alexander the Great is now generally conceded. But after his conquests there was a fairly regular flow of spices, silk and other oriental goods westward, and Alexandria in

Egypt soon became one of the great centers of oriental-Mediterranean commerce. Trade along this most famous of historic routes took a tremendous leap after a Greek named Hippalos discovered in the first century A.D. that it was possible to sail with the monsoon direct from the mouth of the Red Sea to India and to return after the seasonal wind direction had changed. Ships went to Barygaza, north of Bombay, and to Ceylon, where they met Chinese junks. The rival route up the Persian Gulf and the Euphrates River and thence across the desert to Syria was more subject to interruptions because of war, but it carried a heavy traffic at all other times. To forward these expensive eastern goods and to move the heavier produce of the region itself the small light ships of the time followed the shores of the Mediterranean and Black Seas, crossing only when it was unavoidable. The Roman system of roads supplemented sea and river routes, although the aims of many of their highways were largely strategic, the cost of transport high and economic life in the empire local to a degree which taxes the imagination of people in our age.

In the west the Roman Empire expanded to a point where, because of the expense and slowness of transport at the time, the periphery could no longer be made dependent upon the center, either politically or economically. The frontiers finally disappeared in the slow process of unifying the culture of the Roman fraction with that of the rest of a great continent. Constantinople, the remaining capital, was in the Near East, which had an older and more highly developed economic life than Italy. In the Byzantine or Eastern Roman period which followed, a new Persian Empire threatened to cut off the Syrian trade with the Orient altogether. The other old route by way of Egypt, the Red Sea and the Indian Ocean was too far from Constantinople, and the eastern end of it was especially difficult to control from there. The emperor Justinian tried to renew the contact with Chinese silk traders in Ceylon, and also to open all-land routes to the Orient, passing to the north of the new Persian Empire. His success was mediocre in both cases. One important result of the partial blockade was the smuggling of silk worms into the Levant and the founding of the industry there.

Within two centuries the followers of Mohammed wiped out the Persian state, reduced the Asiatic holdings of Constantinople to Asia Minor, conquered the entire southern shore of the Mediterranean and even took Spain. The Moslems, in possession of both Syria and Egypt, generally preferred to deal with their co-religionists. In contrast with the great days of the Byzantine Empire, few Syrians now visited Christian Europe. Goods came into Syria and Egypt from the Orient with more freedom than before, but if the Europeans wanted them they had to press the trade themselves from the West. The movement of grain, olive oil, pastoral products and various other items from north Africa across the Mediterranean continued, and at times in the Middle Ages the commerce of Genoa and Marseille with ports of what are now Algeria and Tunisia was as large as that with all Syria.

European trade with the Levant and indirectly with the Far East was greatly stimulated from the twelfth to the fourteenth century by expeditions from the West, the larger of which are known as crusades. In the same process the final decay of the Byzantine Empire was greatly hastened by the assaults of its co-religionists. On the other hand, the only considerable region where the crusades did Mohammedanism any lasting damage was Spain. Syrian trade was permanently injured by invasions from central Asia, one of which reached Bagdad in 1258 and another Asia Minor itself in 1402. In the meantime the general westward movement of central Asiatic peoples which in the thirteenth century culminated in the Tartar conquest of a vast area of eastern Europe had opened up new possibilities for northern land routes. Lajazzo, Erzerum, Trebizond and the Crimea prospered at the expense of Antioch, Acre and Bagdad. In the far north the rising German trade in the Baltic gained a tremendous impetus from the cutting by the Tartars of the old Varangian trade routes to the Black Sea. The invaders did not get quite far enough to control this Baltic commerce.

Mediaeval trade between northern Italy, southern Germany and France over the well defined land routes was greatly hampered by tolls, regulations, disordered currencies and frequent military violence entailed by the multiplicity of feudal authorities. Oriental and Mediterranean goods for Atlantic Europe and the return cargoes for them more and more took to the sea after about 1300. These "Flanders Fleets" from Venice used some northern ports, notably Bruges, in common with the vessels of the Hanseatic League. Mediaeval Europe had a fairly complete system of main sea routes, supplemented by traffic along rivers and wagon or pack trails. If the Roman economic organization

was somewhat more intensive (which is not entirely beyond dispute), that of the late Middle Ages exploited and knit together in its own fashion several times more territory in Europe. There was, however, almost no direct contact between the Orient and the Mediterranean, Arabs having taken over the commerce of the Indian Ocean. Whether eastern goods came over southern or northern routes, camel driving peoples carried them over the final laps of the journeys before they got into European hands. The number of intermediaries, the unfamiliarity of final buyers with conditions of production, transshipments from water to land and vice versa and the expensiveness of land haulage all helped to keep down the volume of trade. Moreover, the long chain of monopolies, elaborately organized and in the hands of people who did not even know one another, proved resistant to change.

Eventually European public order improved, national states began to appear, local monopolies were brought under control and the conditions surrounding road and river transport were greatly ameliorated. The most important trend of the early modern period was the dwindling in importance of the Levant trade. Even before the voyages of discovery this trade had been more or less dislocated. Disorders in the Near East were partly responsible. The decay of agriculture in the Tigris-Euphrates country led to the decline of cities like Bagdad and curtailed the possibilities for trading between the Persian Gulf and the Mediterranean. Constantinople was already crippled when the Turks took possession in 1453 and their efforts to build up the trade were not successful. One of the great disturbing factors had been the copying of Levantine and oriental goods in Europe on such a scale that the close of the Middle Ages found some industries largely transplanted. The opening of direct sea routes to the Orient and the discovery of America, coming almost simultaneously, constituted a devastating blow to the Levant trade and opened a new commercial era.

Between the beginnings of the voyages of discovery and the perfecting of the steamboat and the railway in the nineteenth century a revolution in deep sea routes took place. Ships with instruments were developed which could sail for days or weeks out of sight of land, effectively harnessing the winds for motive power. World trade, properly speaking, laid its solid foundations on cheap, direct haulage by sea. On the other hand, such changes as took place in inland routes were at first largely subsidiary to the developments mentioned above and consisted of the multiplication, with some refinements in detail, of things known for centuries. Natural watercourses were improved and eked out here and there by canal construction. Roads as good as the Roman ones were being built in various parts of Europe by the latter part of the eighteenth century. The speed attained was about the same as in ancient times and no considerable innovation in the way of artificial power had been achieved. Canals provided with locks (a mediaeval Italian or Dutch invention) lessened the cost of haulage somewhat and tapped some new inland regions; but the real opening of the interior of vast continents still had to wait. The primitive tramways of the sixteenth, seventeenth and eighteenth centuries were subject to the same basic limitations; their crawling speed and high costs limited the distances they could traverse and the kinds of goods they could carry.

At the outset the steamboat had more important effects upon inland than ocean routes, solving as it did the great problem of up stream propulsion. World history down to about 1810 had often turned on the fact that rich territories could not be assimilated economically, and hence politically, because of the limited volume and high cost of up stream traffic. Thus the Romans were handicapped in their occupation of the lower Danube valley because it drains too far to the northward into the Black Sea; and they failed altogether to manage that section of Germany where the rivers flow north and northwest. Mediterranean and Atlantic Europe were curiously separated in mediaeval and early modern times, each with its own economic nuclei. The rapid development of the Mississippi valley is an outstanding illustration of the effects of steamboats. Before their introduction imports had been almost prohibitive in cost and extremely slender in bulk. The effects, social as well as economic, of making the rivers genuine two-way commercial routes were revolutionary. Roads and canals, as feeders and connecting links, were made financially practicable by the growth in traffic. At the outset the railway itself was less a pioneer into new regions than an auxiliary to these older routes, getting its start by sharing business they had created. Wind is a fairly satisfactory source of propulsion on the open sea but it can be almost useless at close quarters, between winding river banks and against a strong current. In harbors also, where the terminals of inland and deep sea transport

systems coincide, the tugboat and other powered craft add almost indefinitely to the capacity for handling promptly large quantities of goods.

It was the railway which ushered in the placement and function of commercial routes familiar to us. On the basis of it enormous areas like the United States and the Russian Empire were united in a way previously impossible. It first made feasible the opening up of wide prairies, the swift, economical crossing of desert and mountainous stretches—in short, the political and economic unification of vast territories more or less in defiance of their strictly natural features. And the same mechanical age which applied steam power directly to the tramway and the boat soon learned to use it more indirectly in refining the transport system by dredging, shoveling and blasting out artificial waterways on an entirely new scale. Thus commerce between Europe and the Far East was revolutionized, for at least a second time, by the opening of the direct deep water route through the Isthmus of Suez; and world trade routes were again redrawn by the more difficult engineering feat at Panama.

The Suez Canal route cut nearly 3500 miles from the distance by sea from Liverpool to Hongkong, a reduction of one third. Practically 45 percent of the distance to Bombay was annihilated by the same stroke. While the saving in miles to Australia was slight, the alternative route made possible new combinations of ports, cargoes and passenger services out and back. Although, in general, Atlantic ports of the United States profited less, New York was brought 2293 miles nearer Hongkong. The cost of certain oriental goods delivered in the countries bordering on the north Atlantic dropped 25 to 35 percent in fifteen years. Demand was stimulated by the falling prices and the saving in distance made possible about a third more traffic, even without any change in the available shipping. The shifts from sail to steam and from wood to iron in ship construction were already well under way by 1869, and the swing from iron to steel was just beginning.

New York came finally into its own as a nucleus of world trade routes with the opening of the Panama Canal in 1914. Coastwise voyages between Atlantic and Pacific ports of the United States were shortened by 7000 to 9000 miles. Hongkong was brought as close to New York via Panama as via Suez, and Shanghai and Yokohama 1876 and 3768 miles closer, respectively. The west coast of Latin America is now reached from Atlantic ports of the United States almost as quickly and cheaply as the east coast. Sydney is about equally far from Liverpool by any one of three routes, and New Zealand is actually 1500 miles closer to Liverpool by the Panama Canal.

For the trade of some areas the competition between the Suez and Panama routes is keen, but generally the two complement each other. A few ports like Punta Arenas in southern Chile have suffered from the Panama route. Even for San Francisco the opening of the Panama Canal was not an unmixed blessing. Manufacturers and importers on the Atlantic coast began making many shipments direct by water to and from the Orient, whereas formerly the goods had moved across the United States by rail. For this new type of voyage San Francisco became a mere port of call instead of a port of origin. The bulk of the trade is several times larger than in 1914, but the nature of it and the routes followed are greatly changed. Deep water canals through Suez and Panama have contributed also to the recent tendency toward scheduled line traffic in the ocean freight business, replacing the sporadic voyages of tramp steamers. The emphasis upon speed, exact routes and time schedules has of late years increasingly hurt the sailing ship.

What often escapes attention is the way in which the growing dominance of a price system with closely calculated items has coordinated the various kinds of commercial routes. The same ships which carry some goods direct from Japan and China to New York call at Seattle or San Francisco and turn over raw silk to the transcontinental railways for quicker transit. Although there is competition between motor and rail routes, seventy American railways in 1929 were using motor trucks, tractors and trailers. Some of these companies also operate busses, while many independent bus lines supplement rather than compete with railway systems. Because of its great speed and a certain flexibility of route the airplane has taken over some traffic which would formerly have gone by rail. Great railroads have accepted this fact and inaugurated cooperative joint services aiming at the combination of speed with economy, comfort and safety. In a number of countries, particularly Germany, the canal has become a genuinely integral and largely non-competitive transport factor.

All over the world inland transportation by water, rail, road and air feeds the ports and is fed by them. Sometimes there is financial integration between deep sea and inland routes, al-

though it is generally partial and rarely necessary. For example, a French steamship line owns a system of busses and hotels in north Africa, while an American railway from the Pacific coast has its own steamship line from New Orleans to New York; but in neither case does the combination of land and water routes give a real monopoly.

The integration of the world's trade routes and the division of traffic on the basis of comparative costs cannot be understood separately from the commercial revolution which has taken place within a century. Telegraphic, cable and wireless transmission of quotations and information has accelerated the spread of our western price system. Speed and precision of delivery have increased at the same time that the cost per ton-mile and passenger-mile has dwindled. One of the best general indices of civilization is the degree to which territorial specialization is worked out on the basis of natural advantages. Commercial routes and techniques are inseparable, nor can either be viewed independently of the industries whose products they move; but the cost of haulage throws much light on all three. On an average, freight moves about five times as fast today by rail as it did by wagon early in the past century, and the cost is far below one fifth. Due to the speed achieved and to the organization of both commerce and industry heavy and perishable goods can be delivered in a manner that would have been impossible a hundred years ago. Along some economic frontiers like the northern Sahara transport by pack camel is about as cheap as by motor car or narrow gauge railway. Here the decisive difference between the two methods is not in cost but in speed and in the kind of goods which it is practicable to move at all.

The general economic and social effects of new commercial routes, and of the growing intensity and regularity of traffic along older ones, are the most impressive of all, although they lend themselves more to description than to calculation. Goods are more uniform in quality and price today than would have been deemed possible even a century ago. Under the pressure of a new commercial revolution the distinctiveness of old civilizations has broken down, sometimes too fast. Rapid transit, including the frequent delivery of mail to hamlets and farms, has helped to decide ancient issues between town and country. The United States is never to develop a peasantry of the Old World type, and even in those countries where the inertia of history is behind them distinctively peasant conditions are being undermined. More and more, rural populations produce for market, buy in markets where there is a saving and really calculate these differentials. We are facing a genuine, world wide price economy for the first time, and it raises problems which have been only vaguely considered.

City people no longer live walled in. They see country life as well as read about it, and the converse is also the case. To live ten, or even twenty to forty, miles from one's daily work is no longer unusual. Seasonal and longer migrations of laborers take place on a vast scale. Products are not merely hauled in great bulk between distant continents but are literally transplanted half way around the world with an elaborately calculated premeditation on the basis of cost which is unprecedented. This is one of the main reasons why no group of people can long resist the all pervading economic system of the Occident, which is brought to them by commercial routes and which cuts the ground from under their feet unless they construct similar foundations.

MELVIN M. KNIGHT

See: COMMERCE; INTERNATIONAL TRADE; PRIMITIVE ECONOMICS; MIGRATION; TRANSPORTATION; ROADS; WATERWAYS, INLAND; SHIPPING; PORTS AND HARBORS; INTERNATIONAL WATERWAYS; RAILROADS; MOTOR VEHICLE TRANSPORTATION; AVIATION; CULTURAL GEOGRAPHY; GEOGRAPHY.

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COMMERCIAL TREATIES are contracts between states relating to the rights and protection of person and property, to commerce, navigation

and consular jurisdiction and in some cases include specific customs tariff rates and other special provisions. The understanding is generally embodied in a formal instrument, negotiated and ratified according to the constitutional requirements of the respective countries; sometimes, and especially when limited in scope, it is embodied in a less formal agreement or convention or in an exchange of notes.

Until modern times the problem of commerce, if it arose in any form, related not to the rules under which trade was to be conducted but to the right to trade at all. The trader was essentially an adventurer and, if a foreigner, was looked upon with suspicion or even hostility. The empires of Mesopotamia and Egypt, Athens, Corinth, Tyre, Carthage, Palmyra, Petra and Rome traded with barbarians and savage peoples on the periphery of the then civilized world. They exacted from one another rights to trade as spoils of war. After his victory over the Arameans at Aphek Ahab exacted an agreement from Ben-hadad under which the Israelite traders were permitted to conduct bazaars in "streets" in Damascus as Ben-hadad's father had done in Samaria (*1 Kings* xx: 34). From necessity some trade was tolerated between peoples and there were no doubt arrangements for its protection. Classical writers allude to them and the texts of a few treaties have come down to us, such as the commercial treaties between Carthage and Rome dated 509 B.C. and 348 B.C.

During the Middle Ages commerce continued to be insecure or was at best protected by custom. It was subject to burdensome local taxes and regulations, against which the policy of mercantilism later became a liberal revolt. Permission to trade was personal, expressing itself in royal letters, charters and special laws. In the twelfth century Genoa, Pisa and Venice began to make definite and formal arrangements for trading and the practise, spreading over Europe, became the genesis of the modern system of commercial treaties. Slowly personal privileges were supplanted by more general and durable ones; mere permission gave way to rights. The first treaties were contracts affecting only the states directly participating in the negotiations—there being at first nothing in them in the nature of the most-favored-nation clause—and large entities, such as the very right to trade, were bargained for without the refinements which characterized later treaty bargaining. Under the pressure of competition for equal treatment, however, particularly in the Near Eastern markets, the idea of the most-favored-nation clause took form. It became the practise to include in a treaty the pledge, usually unilateral, that the western state or commercial city would receive as favorable treatment as that accorded any other.

Of the thousands of commercial treaties that have been in force the following may be regarded as among the important landmarks: the earliest English treaty, that with Norway in 1217; Cromwell's treaty with Sweden in 1654; the Methuen treaty of 1703 between England and Portugal; the first commercial treaty of the United States with France in 1778; the Convention of Commerce and Navigation between the United States and Great Britain in 1815, which is still in force after more than a century of commercial peace between the two peoples; the Cobden treaty of 1860 between England and France, which began a liberalizing tendency in continental tariff schedules; the most-favored-nation provision (art. xi) of the Treaty of Frankfort, 1871, between Germany and France; the commercial treaties negotiated by Germany on the basis of her general and conventional tariff of 1902; the commercial treaty sections of the peace treaties following the World War; and the German-American commercial treaty of 1925.

With the improvements in production and transportation and the expansion of trade and finance has come the growth of a complex commercial treaty structure which has become an important factor in stabilizing and regulating the economic relations between states. Two liberalizing tendencies have carried us far beyond the ideas embodied in the early treaties: first, the tendency to assimilate the rights of aliens to those of nationals; and second, the replacement of the mere permission to trade, often temporary and uncertain, by the right to trade under equal and stable conditions.

Changing commercial policy has been reflected in the use which nations have made of commercial treaties. Great Britain during her free trade regime, having no tariffs with which to bargain, used her diplomatic influence to extend the use of the general commercial treaty with the guaranty of unconditional most-favored-nation treatment. The United States at the beginning of its history found the conditional principle of the most-favored-nation clause best adapted to combating the harsh discriminatory policies of European states, but as American

interest shifted to internal development the commercial treaty became relatively unimportant and the conditional principle became sterile or, in so far as it was effective, its results were quite different from those originally sought. Following the World War the economic interests of the United States in foreign markets called for a more affirmative policy and the government initiated a new series of commercial treaties containing the unconditional most-favored-nation principle.

In Europe with the rise of the multiple (schedule) tariff systems the commercial treaty became an important instrument in the effort to coordinate a policy of protection for domestic industry with the encouragement of export trade.

The provisions of modern commercial treaties cover a wide range of subjects, such as: conditions of residence, travel and trade; immigration and emigration; police protection and civil rights; admission of diplomatic and consular officers, their rights and activities; vehicles and instruments of communication and transportation; navigation, quarantine and harbor regulations and dues relating thereto; conditions for importation, exportation, transit, transfer and warehousing of merchandise; tariffs and customs laws; protection of patents, trademarks, copyrights and other industrial property rights; possession and disposal of, or succession to, real and personal property; payment of taxes; rights of commercial, industrial or financial associations; exemption from military service, municipal functions, forced loans and extraordinary levies; treatment of commercial travelers and their samples; bounties and drawbacks; internal duties and local dues; treatment of vessels seeking refuge from damage or shipwreck; salvage operations and dues; coasting trade, and port to port trade with foreign cargoes; exterritorial jurisdiction; freedom of religious worship; and right of burial with suitable decorum and respect.

Aside from certain miscellaneous provisions the contents of the modern general commercial treaty fall into three sections—consular rights, national treatment and most-favored-nation treatment.

Sometimes in a separate convention, sometimes in a section of a general commercial treaty, nations define the conditions under which they will exchange consular agents, consuls or consuls general—how they are received, their rights and their duties. Consular officers are exempted from taxation; they are permitted to fly their national flag over their offices; their archives are protected; they may request redress or protection for their nationals; they have jurisdiction over disputes on their national vessels when within their districts; they can take depositions, authenticate documents and administer estates of their nationals dying within their districts.

Under the so-called Capitulations (*q.v.*) which western states negotiated with Near Eastern and Far Eastern peoples exterritorial jurisdiction was provided for and consuls of western states were declared competent to act as judges in civil and criminal cases involving their own nationals and to apply in such cases their national law.

National treatment is a guaranty to the citizens of one of the contracting parties of the same treatment received by the citizens of the other contracting party in the matters specified. Under the influence of the tendency to assimilate the rights of aliens to the rights of nationals this treatment is often guaranteed by either municipal or international law, but it is also often specifically referred to in connection with certain matters in commercial treaties. The phrase "national treatment" seldom occurs in commercial treaties and the nature, scope and extent of the treatment pledged in any treaty must be determined by the language employed. For example, in the treaty of 1815 between the United States and Great Britain reciprocal national treatment with reference to duties or charges on vessels is guaranteed in the following language: "No higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by vessels of the United States; nor in the ports of any of His Britannick Majesty's territories in Europe on the vessels of the United States than shall be payable in the same ports on British vessels."

In many other matters a nation agrees to place the citizens of another on an equality with its own, as, for example, in the right to engage in lawful commerce and industry; in the guaranty of all civil rights and access to the courts for protection of person and property; and in equal treatment with nationals in payment of import and export duties.

It is the policy of nations generally to reserve for their own citizens certain rights and privileges which for one reason or another are not extended to aliens. For example, it has been the

policy of the United States for over a century to reserve the coasting trade exclusively for vessels of its own citizens. When, therefore, national treatment is pledged in terms sufficiently broad to cover this trade, a provision is introduced expressly excepting coastwise shipping. The Convention of Commerce and Navigation of 1852 between the United States and the Netherlands provides that neither party shall impose upon the vessels of the other, from whatever place arriving, any duties or port charges of any kind or discrimination which shall not be imposed in like cases on national vessels. This convention then provides that: "The present arrangement does not extend to the coasting trade and fisheries of the two countries respectively, which are exclusively allowed to national vessels . . . ."

Equally important and better known than national treatment is the principle of most-favored-nation treatment. The former has been the central treaty principle in the tendency toward assimilation of rights of aliens to those of nationals; the latter has been the principle which has contributed to the establishment of equal and stable treatment as between states. Most-favored-nation treatment is the pledge to grant generally or in certain specified matters the same and equal treatment to the citizens and goods of another state as has been or may be granted to the citizens and goods of any third state which is on the point of becoming a favored nation. It is not the purpose of the most-favored-nation clause to establish a most favored nation, that is, a nation more favored than others. On the contrary, its function is to maintain equality of treatment and to insure to each state that it will at all times be treated as favorably as the state which is "most favored." The practical effect of the clause is to obtain for each of the contracting states any benefits which momentarily make a third nation favored. A more accurate term would be "the equally-favored-nation clause."

It is always a matter of importance to a state to be assured that the treatment its citizens receive at the hands of another shall not be less favorable than that which the other accords to the citizens of a third state. The principle of most-favored-nation treatment is based upon the conception that a state is entitled to, and should grant, equality of treatment in commercial relations. As a safeguard against oversight at the moment of negotiation and to obviate the necessity of subsequent negotiations the provision known as the most-favored-nation clause was devised to insure to the contracting states the benefits not only of concessions previously made but also of those subsequently to be made by either of the contracting states.

Most-favored-nation clauses occur in commercial treaties in a variety of forms. It is, however, sufficient to distinguish the bilateral from the unilateral; and the unconditional from the conditional.

The bilateral clause is reciprocally binding on both parties to the treaty and is the usual form in all treaties between states on the same international plane. The unilateral clause obligates only one nation to avoid discrimination and was the form of the most-favored-nation clause in the Capitulations and in some treaties with eastern states, e.g. article 9 of the Treaty of 1856 between the United States and Siam.

Many refinements appear in the discussion of the conditional and unconditional forms and interpretations of the most-favored-nation principle. The conditional form recognizes a distinction between concessions gratuitously made and concessions made in return for an equivalent concession by the other state; whereas the unconditional form names no conditions or circumstances limiting the immediate and automatic extensions of any concession when it is granted to any third state. Both forms recognize in principle that any act of either party to a treaty which makes a third power a "favored nation" is contrary to the treaty and entitles the party discriminated against to the same favor. Under the conditional interpretation a favor granted to a third nation for a compensation does not create in the technical sense a "favored" nation, and the other party to the treaty is therefore unable to claim the advantages of the concession without offering an equivalent concession.

The conditional form and interpretation of the most-favored-nation principle obtained vogue in the United States, both because of the legalistic reasoning of our statesmen and jurists, who insisted upon applying the Anglo-Saxon doctrine of "consideration" in the law of contracts to international treaties, and also because of the survival of the old idea that treaty bargaining concerns primarily only the contracting states and that a tariff rate reduction, made upon the "condition" that certain reductions be made by the other party, is not to be granted to any third power unless that power gives an "equivalent" concession.

The conditional form was inaugurated at the end of the eighteenth century when tariff rates

were of minor importance in bargaining as compared with larger rights of commerce and navigation. But tariff bargaining during the course of the nineteenth century became largely a statistical controversy over the relative value of concessions to be made, and it became increasingly difficult to arrive at any agreement upon the equivalent concession to be made by the third party. Furthermore, the United States in the case of certain reciprocity treaties took the extreme position that the third country could not offer any equivalent concession because the value of the original concession consisted in its being exclusive.

The United States adopted the policy of equal commercial treatment in the Tariff Act of 1922. Supported by this legislative authorization the American government refrained from renewing its request for the preferential tariff treatment which its citizens had enjoyed in the markets of Brazil and, furthermore, in various exchanges of notes and treaties, completely abandoned its century old policy and replaced in its commercial negotiations the conditional by the unconditional form of the most-favored-nation clause. A model was drawn up for a new series of commercial treaties and the most-favored-nation provisions were couched in the unconditional form. The new policy came before the Senate for the first time in the commercial treaty with Germany, which after full consideration was ratified February 10, 1925.

The unconditional most-favored-nation principle was used to generalize concessions under the commercial treaty system of Europe from the Cobden treaty of 1860 to 1914. In the recent post-war period doubts arose concerning its utility because of its association with the pre-war aggressive treaty policy of Germany. In general, however, the soundness of the principle is accepted and the tendency is not to revert to the old conditional practise but to make effective the unconditional principle (see League of Nations, Economic and Financial Commission, International Economic Conference, *Reports and Proceedings*, Geneva 1927). When all countries follow the unconditional most-favored-nation practise, equality of treatment is guaranteed generally and tendencies are set in motion contributing to commercial stability, simplicity and uniformity of tariff rates, mutual confidence and international good will.

The tariff treaty is one of the results of tariff bargaining. It is an extension of the general commercial treaty and is usually like the latter in that it contains the most-favored-nation clause. Modern governments have had at the same time certain economic interests pressing them for protection against foreign competition and others asking for aid in obtaining reductions in foreign tariffs which interfere with their export trade. The aims of these two groups are not easily reconciled, but the reconciliation was attempted by means of the tariff treaty. In Europe, therefore, the tariff treaty became more and more important.

The conditional most-favored-nation principle had a logical corollary in the United States in certain of our tariff bargaining experiences which were directed toward obtaining special and, where possible, exclusive concessions. In some of these experiences the method used was that of imposing penalty or additional duties; that is, rates additional to those fixed by legislation for normal conditions. The bargaining provisions of the tariff acts of 1890 and 1897 are examples. Under the former the president concluded a number of agreements while the latter was the means whereby the United States obtained certain concessions from Brazil in 1904.

In addition to penalty duties the Tariff Act of 1897 contained two provisions which empowered the president to grant reductions in duties in favor of nations making similar concessions to the United States. Section 3 of the act authorized the president, in return for "reciprocal and equivalent concessions," to grant special reductions from the duties on a very limited number of articles. Instead of penalty duties the principle is here introduced of making reductions in the regular tariff rates on certain articles in return for reciprocal reductions in the tariff rates of other countries. Two series of agreements known as the "Argol agreements" were negotiated and proclaimed. Section 4 of the Tariff Act of 1897 also provided for certain agreements which, before becoming effective, required the ratification of the Senate. Under this section the so-called "Kasson treaties" were negotiated but never ratified.

American experience under the acts of 1890 and 1897 demonstrates conclusively the futility of bargaining for special and exclusive favors. No country could have been in a stronger economic position; but even so the actual trade gains were small and uncertain. In no sense did they compensate for the effort expended, for the misunderstanding arising and for the ill will which they engendered among other peoples.

The United States has at various times en-

deavored to enter into closer commercial relations with neighboring countries, Hawaii, Mexico, Cuba and Canada. In the case of the treaties with Hawaii (1875 and 1898) and with Cuba (1903) the United States refused not only to accept equivalents from other nations in return for concessions granted these countries in the American market but also to allow those countries to generalize the concessions which they granted to the United States. Under her treaty of 1851 with Hawaii Great Britain was, from her point of view, entitled to the concessions granted the United States, but the American government refused to let Hawaii yield. In the treaty with Cuba it is stipulated that the concessions shall not be granted to any other country. "Propinquity and neighborliness," it has been said, "may create special and peculiar terms of intercourse not equally open to all the world." Frelinghuysen in a note to Mexico in 1884 entered "a courteous denial that the most-favored-nation clause applies to reciprocity treaties."

Probably the extreme in this particular phase of the subject was reached in the attempt in the treaty of 1886 with Tonga to read a special interpretation into international law. The article providing for most-favored-nation treatment contained the following clause: "it being understood that the Parties hereto affirm the principle of the law of nations that no privilege granted for equivalent or on account of propinquity or other special conditions may come under the stipulations herein contained as to favored nations."

The purpose of reciprocity may be to develop foreign markets for the products of a country, to promote closer political relations, to assist weaker economic units, or it may be a combination of all these ends. While special arrangements are in general undesirable for the reason that they tend to discriminate against third countries there are cases where close political and economic bonds would, even from an international standpoint, justify a reciprocal arrangement. The reciprocity agreement of 1903 with Cuba probably falls in this class inasmuch as its discontinuance would be a distinct injury to Cuba and to her prosperity, which depends on political and geographic relations with the United States, whose place no other country could take.

The effect of exclusive concessions in tariff treaties differs according to the circumstances. Exclusive concessions may operate as bounties to the producer, as they did in the case of the Hawaiian reciprocity treaty, or they may ultimately accrue to the benefit of the consumer, as they did in the case of the Cuban reciprocity treaty.

In bargaining there is a psychological advantage in being able to offer to reduce tariff rates in return for reductions desired from another country. Two tariff systems have had this advantage: the maximum and minimum system, under which the legislative branch of the government fixes a schedule determined by the minimum needs of revenue or protection; the general and conventional system, which is similar to the maximum and minimum with the exception that the lower rates are fixed by the executive. The lower rates are made effective either directly in a commercial treaty or through the operation of the unconditional most-favored-nation principle, which has supplemented in operation both of these double tariff systems. The negotiations under these systems tended to bring into effect all the lower rates, and if they had been completely successful and if the lower rates had been generalized by the most-favored-nation principle the result would have been the same as a single tariff fixed by each country according to its domestic needs.

But the double column tariffs failed either to establish equality or to moderate the level of tariffs. The high or fighting rates were used to exact advantages while at the same time concealed discriminations in customs regulations and commodity classification were used to avoid the obligation to grant equal treatment under the unconditional most-favored-nation clause. The experience of European countries during the last generation shows that the concessional method of tariff bargaining leads by its very nature to bickerings and tariff wars. At best it results in concealed, instead of open, discriminations against third countries. Furthermore the outcome has been higher tariffs. Each country made generous advances in its rates to fortify its position for bargaining purposes; and the concessions which it granted were frequently, if not usually, less generous than the preliminary tactical increases. Nations using the multiple tariff system with the maximum and minimum form have always definitely fixed the minimum rates at a level deemed necessary by them either for the protection of their home industry or for the production of revenue. Or if they have used the general and conventional system they have fixed the general rates high enough to allow abundant room for bargaining while still maintaining effective protection. The same special

economic interests or lobbies which exert their influence in favor of high tariff rates are equally effective in establishing the minimum or conventional rates in a multiple tariff system. Hence a system of bargaining for concessions on the basis of a multiple tariff tends not to lower the general level of a tariff but rather to increase it.

Penalty or additional duties used in conjunction with a single column tariff fixed on the basis of domestic need (revenue or protection) are the most effective means of establishing equal treatment. Under such a system the use of tariff treaties is limited to special cases, such as a border agreement or a reciprocity treaty justified by some peculiar geographical or political situation. The instruments required are: the general commercial treaty, to which we now return as a sound instrument of commercial policy; and a penalty provision in the single column tariff law similar to Section 2 of the Tariff Act of 1909 and to Section 317 of the Tariff Act of 1922. Provisions like these become active only when a foreign country discriminates. They provide not fighting but protective tariffs. They tend to be ineffective if too much discretion is left to the executive in their application. With certain restrictions which will permit bargaining their application should be compulsory if the discrimination is not removed. Their application should also be sufficiently flexible to reach all cases, including concealed discrimination, with commensurate penalties.

Bargaining for special advantages might work to the advantage of weak nations if the strong refrained from exerting their power, but in international dealings that is not likely to occur. Weak nations, if they champion a regime of special bargaining, are only forging weapons that may be used against them. On the other hand, the principle of equality of treatment gives to the economically strong nations only the advantages which are theirs by reason of their strength. At the same time it affords the economically weak nations a degree of protection not available to them under the harsh operation of a system of special dealings.

The World War for a time gave undue prominence to aggressive and discriminatory policies in commercial negotiations. The Central Powers had planned a *Mitteleuropa*; the Allies had adopted the Paris Economic Pact of June, 1916. The unilateral most-favored-nation principle was forced on Germany for a limited time by the peace treaty. In the United States there was a vigorous but unsuccessful demand for the restoration of the old discriminatory navigation laws. Such policies will always be brought forward by narrow national or class groups or by minorities seeking to use the processes of government for their personal gain.

The economic conference held at Geneva in 1927 checked the spread of discriminatory and exclusive policies. One of the results was the multilateral convention and protocol for the abolition of import and export prohibitions and restrictions (proclaimed by the United States March 6, 1930, United States Treaty Series no. 811). The preamble of this convention declares "that import and export prohibitions, and the arbitrary practices and disguised discriminations to which they give rise, have had deplorable results" and "that a return to the effective liberty of international commerce is one of the primary conditions of world prosperity."

Although liberal tendencies have begun to reestablish themselves, progress is slow. Economic difficulties in agriculture and industry have aggravated the situation. Nations are reexamining all the principles of commercial policy and are asking anew whether the acceptance of them conforms with their interests. European nations showed great reluctance to commit themselves in the preliminary conference with a view to concerted economic action at Geneva in 1930. Nevertheless, that conference did accept a "tariff truce" for one year and recognized as indispensable "that concerted action should be undertaken, directed to secure closer cooperation, the improvement of the régime of production and trade, the enlargement of markets, and to facilitate the relations of the European markets between themselves and with overseas markets, so as to consolidate economic peace between the nations" and "that it would be advisable for international negotiations to be undertaken for this purpose at the earliest possible moment, so as to determine the speediest and most effective means of adjusting economic conditions in their respective countries, of organising more rationally the production and circulation of wealth, and of removing, as far as possible, unjustified hindrances which hamper the development of international trade."

These conferences under the League of Nations indicate that the scope of commercial treaties is widening. Bilateral treaties had already been supplemented by multilateral treaties which deal with post, aviation, industrial property, sanitation and other similar subjects. The

Economic Committee of the League is doing further constructive work in this field, preparing draft conventions on such subjects as the execution of foreign arbitral awards and the treatment of foreigners and foreign undertakings.

The conviction is growing in spite of obstacles that if a group of nations, as in the war period, can cooperate to apply bad commercial policy they can under the proper impulse combine to make effective sound policy. Treaties are becoming more than instruments for the protection of rights and for securing fair commercial treatment. The municipal law of modern states has to a large degree extended to the person and property of aliens the same protection which is granted to nationals, and discriminations in commerce are regarded as exceptional and contrary to the principle of comity of nations. Far from lessening, this tendency to recognize as universally applicable the principles of friendly intercourse has increased the importance of commercial treaties as instruments in the movement contributing to uniformity, preciseness, soundness and stability of commercial law. Moreover, the growing number of multilateral commercial conventions which organize specific phases of international life foreshadow an adequate code of international commercial law.

W. S. CULBERTSON

See: TREATIES; ECONOMIC POLICY; COMMERCE; INTERNATIONAL TRADE; COLONIAL ECONOMIC POLICY; CUSTOMS DUTIES; CUSTOMS UNIONS; TARIFF; PROTECTION; FREE TRADE; OPEN DOOR; SPHERES OF INFLUENCE; EXTERRITORIALITY; CONSULAR SERVICE; DIPLOMACY; COMMERCIAL LAW; IMPERIALISM.

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COMMERCIALISM is the excessive concentration of attention upon the value in exchange or money value of goods and services. The analysis of what degree of concentration is excessive, however, is too seldom undertaken by social critics. The word "commercialism" carries a certain condemnatory tone and is generally used to indicate disapproval of business men and manual workers who frankly desire to receive some purchasing power in exchange for what they do. When applied to the desire for gain among pressmen, politicians, public entertainers or artists the term has even more unfavorable connotations. But for the social scientist it is impossible to condemn morally the fixing of some attention on the gain to be derived from any occupation; the only issue is what constitutes excessive attention in any given case.

In all communities where exchange of goods and services has been of any importance men have attended to value in exchange at the critical moment when barter or the calculation of money rates for facilitating trade occurred. But the

professionalization of such attention by the trader undoubtedly tends to make others uncomfortable in relations with him. Since in very simple societies trading, even where it becomes common, does not often attract concentrated attention, the low estimate of commerce and trading in later times may perhaps represent a survival of primitive conceptions. This estimate is reinforced in a mediaeval society by the operation of a caste system. Thus in Chinese tradition the scholar ranks above the merchant, while both rank above the warrior. In the European form of mediaevalism the saint, the scholar and the warrior are held in higher esteem than the craftsman or merchant; and there is a still lower estimate of the lender of money. Moral valuation in these societies involved the assumption that the less one thinks of the value in exchange of what one does, the more excellent is one's action. This is also the social "tone" of Homeric mediaevalism, which is reinforced by the low esteem in which work for gain is held by such writers as Aristotle and Plato. European mediaevalism, like that of India and China, confused the issue still further by a conception of saintliness or holiness, according to which a person was excellent if he did not think of the money cost of the services he accepted from others—if, for instance, he begged for food or was given it while he pursued "voluntary poverty."

Disdain for the consideration of money gains has always been greatest among those classes which have either inherited wealth or acquired it by force or privilege; and commercialism still implies moral contamination partly because the possessors of wealth and privilege have never had to consider the value in exchange of their activities. Mediaeval theologians, such as Thomas Aquinas, although they were greatly concerned that the trader maintain a "just price," were quite blind to the economic value in exchange of the services which the lords and the clergy accepted without thought. Similarly, at the present day men and women with inherited incomes who "give" their activities in public service have the gravest doubt whether poor men who have to receive incomes in order to undertake public service will not think too much of the incomes and too little of the public service.

Thus, although in the normal development of civilization craftsmanship and trading gradually become sources of wealth, alternatives to landowning or caste privilege, they continue to suffer moral and even religious disapprobation from the survival of the moral standards of mediaevalism. Luther and the early Protestants derived a large measure of strength from their restoration of moral value to craftsmanship, trading and especially money lending. Among the middle classes the ability to acquire wealth became a sign of divine favor. Except by the aristocrats and their dependents, the artists, it was no longer regarded as objectionable to think of how to increase one's wealth; and no doubt the attention to the acquisition of wealth became excessive among those who had never had any. The Protestantism which helped to establish nineteenth century capitalism (through its praise of thrift and industry) has been condemned on this score with increasing frequency; but its defect in inducing too much attention to the economic relationships between men is no greater than the defect of mediaevalism under which the saint and the noble profited by those very economic relationships without thinking of them.

The extent of commercialism in earlier times is difficult to estimate: but certainly mediaeval kings, knights and priests often had "an eye to business"; and as late as the eighteenth century what we call public services in law or the navy or diplomacy commonly furnished examples of commercialism. With the growth of democratic ideas in the early nineteenth century it came to be thought improper to use a public position mainly as a source of private income. At the same time the development of "professional" standards came to prevent the use of skill mainly as a means for extracting wealth from those for whose benefit the skill was employed. But the conception of public service was not extended to include industrial production; professional skill might be present in medicine, surgery and law, but not in banking and salesmanship. Throughout the nineteenth century some activities were generally regarded as naturally "commercial" and others as somehow superior. The application to the latter of standards of pecuniary value regarded as appropriate to the former was severely condemned. Thus a man might properly make and sell butter in order to gain wealth; but if he sold beauty, as in music or painting, he was condemned for "commercialism." Such an attitude could not long resist modification in the face of the realities of an increasingly economically orientated society. It was soon recognized that the artist must of necessity consider the ex-

change value of his products if he wished to survive. The possible menace to the integrity of his artistic imagination was balanced against the similar dangers of a system of patronage. As one after another of the non-industrial activities has been molded into the form of the business system, general concern and condemnation have gradually given way to specific analyses of the limits of commercialism. Thus we have come to take for granted the provision of public amusements by commercial organizations and to condemn only that degree of dominance of pecuniary considerations which would take away all excitement from contests or prevent all experimentation in dramatic spectacles. In another field attention has been shifted from the selling of news to the delimitation of the legitimate exercise of advertising pressure on the more subtle forms of control of opinion. The devising of a new method of marketing literature may raise temporary cries of commercialism, but the spread of such new business devices attracts less and less attention. The explicit acceptance of pecuniary valuations is perhaps most delayed in such spheres as those of religion or philanthropy. The modern church is still divided as to the legitimacy of a business organization of the affairs of the other world, although here too the process of distinguishing between desirable economic practises and commercialism is already under way.

From the opposite angle the earlier unshaded conception of commercialism is being modified by an increasing awareness and an increasing exploitation of the public service aspects of all industrial and commercial enterprise. From this point of view consideration of the economic value in exchange of whatever one does may be a step forward in morality, since value in exchange is an expression of certain important social relationships, and not until all occupations are thought of "commercially" is it possible to distinguish vicious "commercialism" in any one of them. Commercialism in the condemnatory sense is just as deplorable in the making of butter as in the making of beauty.

Commercialism in its most undesirable forms became dominant in the early stages of industrialism, partly because it became easier to acquire wealth rapidly, partly because the educational and religious guides of society ignored or opposed, instead of directing and inspiring, the new order. Thus commercialism dominated society, and the only aspect of the new system which attracted attention was the obvious private gain which could be derived from it. It becomes increasingly obvious, however, that if men want not only boots and bread but also news, beauty, religious insight, civil order, knowledge and amusement they can be made to "pay" for the latter as well as the former. It was inevitable that the press, art, religion, politics, education and amusement should be "commercialized," in the sense that they came to be regarded mainly as sources of income for those who controlled or supplied them. It also becomes evident that if the true character of teaching is misrepresented when it is considered to be mainly a source of wealth for the teacher so also the true character of the act of making boots may be misrepresented if that act is considered to be mainly a means of obtaining wealth. Vicious commercialism, then, is not the application of standards suitable for some occupations to other occupations, but the concentration upon the money value of any occupation to the person within it. An excessive attention to money value in any act is such as excludes all attention to other aspects of the act or such as involves subordination of human welfare in general to economic welfare. The press is commercialized if the main purpose of those who own or control it is the money gain they derive from it, because the press serves other and more important purposes—entertainment by gossip, information necessary for citizenship, discussion of public affairs. Similarly, art or education are commercialized if the artist or the teacher underrate their importance as sources of increased vitality in the community. But there is no moral reason for applying a different standard to salesmanship or boot making: these occupations also serve more important purposes than the mere provision of purchasing power for those who perform them.

Morally, value in exchange is a sign of the interdependence of men in a civilized society; and it might be held that every man ought to be doing not merely what he thinks his fellows need but what his fellows indicate that they want by paying for it. But value in exchange is not a sign of need or of what men ought to want; and therefore too absolute an attention to this value in exchange may obstruct the provision of real needs by promoting the supply of mere wants. Commercialism is vicious in most cases where "what the public want" is offered as an excuse for not considering what they need; and a similar moral defect is to be

found in some forms of advertisement, which aim at the creation of wants, often vicious or devitalizing, rather than at the increasing supply of needs. On the other hand, it must not be assumed that superior persons or "experts" know what others need: if men will pay for jazz and will not pay for Beethoven, it is by no means certain that Beethoven would be good for them.

Concentration upon the money value of what is done is traditionally supposed to diminish its real value for human welfare, as in the case of boots made to be sold rather than to be worn. Similarly, if a business man or a manual worker thinks of his occupation mainly as a means of obtaining an income, it is supposed that the quality of his work is lowered. This assumption may, however, be questioned and is certainly subject to qualification. If the maker is the only judge of the quality of his product it is likely to be less excellent than if others can show their valuation of it in the market.

The modern tendency of social idealists toward uncritical condemnation of commercialism produces much the same result as did the condemnation of usury by the mediaeval church: idealists are severed from current practise and moral guidance is ineffectual in the daily occupations of the vast majority of people. A secularization of morality is sorely needed in this field.

The present stage in the development of western civilization involves an increasing attention to the economic aspect or exchange value of goods and services. Commercialism, in the bad sense, therefore affects many more aspects of life than before. This implies, however, not moral decadence but a moral advance. A system of widespread payment for services is an advance upon a system of forced services accepted without thought by the privileged. Commercialism in the modern world is therefore a disease which is itself a sign of a more healthy general situation in the relations between men. Economic interests are not amoral: in order to give them their correct place in the general standard governing human acts other interests should be made more obvious or more definite. The increase of opportunities for enjoyment, improved vitality due to better education, a variety of personal contacts with those of another sex or age or race—all these naturally dwarf the purely economic aspects of action and therefore reduce the risks of commercialism. When definite purposes other than a gain in purchasing power are before the eyes of most men the abnormal concentration of attention on gain decreases. The best antidote to commercialism is public spirit, or a governing conception of one's action as valuable mainly because of its effect upon the community.

C. DELISLE BURNS

See: ECONOMIC ORGANIZATION; SOCIAL PROCESS; OCCUPATIONS; ACQUISITION; THRIFT; PROTESTANTISM; INDUSTRIALISM; BUSINESS; PROFESSIONALISM; DEMOCRACY; STANDARDIZATION; ADVERTISING; PRESS; THEATER; MOTION PICTURES; RADIO; AMUSEMENTS, PUBLIC; ATHLETICS; SPORTS; ENDOWMENTS AND FOUNDATIONS.

Consult: Tawney, R. H., *The Acquisitive Society* (New York 1920); Veblen, T. B., *The Theory of the Leisure Class* (new ed. New York 1918); Tawney, R. H., *Religion and the Rise of Capitalism* (London 1926); Weber, Max, "Die protestantische Ethik und der Geist des Kapitalismus" in his *Gesammelte Aufsätze zur Religionssoziologie*, 3 vols. (2nd ed. Tübingen 1922–23), vol. i tr. by Talcott Parsons (London 1930); Hobson, J. A., *Wealth and Life: a Study in Values* (London 1929); Van Dyke, J. C., *The Money Gods* (New York 1908); Tunis, J. R., *$port$, Heroics and Hysterics* (New York 1928).

COMMINES, PHILIPPE DE (c. 1447–1511), French chronicler. He was descended from a very ancient family of Flemish nobility. After serving for a number of years as counselor to Charles the Bold, duke of Burgundy, he decided in 1472, from motives which are unknown, to transfer his allegiance to Charles' enemy, Louis XI, king of France. He remained during the lifetime of the king his confidential adviser. With the coming of Charles VIII to the throne Commines was temporarily disgraced but soon regained royal favor, which he continued to enjoy under Louis XII.

Commines' fame rests on his *Mémoires*, written at intervals during the years from 1488 to 1498. Although composed with no pretensions to literary style and with no unifying theme except the personality of Louis XI they constitute a historical source of the first quality and are invaluable in affording interesting sidelights on the formation of the modern state. They cover in an extraordinarily vivid first hand manner, and yet with surprising critical detachment and self-effacement on the part of the chronicler, the reign of Louis XI and, after an interval of ten years, the Italian campaigns of Charles VIII. The intricate politics of these reigns are described by a politician of keen insight who devoted his life to political negotiations under four princes and was thus able to draw for his material on personal recollection. The primary purpose of the author is to explain events and occasionally to generalize concerning their broader import. These digressive reflec-

tions, with which the *Mémoires* abound, bear witness to Commines' remarkable intelligence and talent as a statesman. Because of his glorification of the role of the prince and his conception of politics as a means of increasing the prince's power he has sometimes, although with little justification, been compared to his contemporary Machiavelli, who was decidedly his superior both in knowledge and in power of mind. Incapable of theoretical reasoning, Commines confined himself to the practical and the realistic, and the value of his work is attributable primarily to the fact that from an early age he had a share in the great events of his day and thus enjoyed the opportunity of observing with clear insight the political conditions prevailing in the fifteenth century.

HENRI PIRENNE

Works: *Cronique et hystoire . . . contenant les choses advenus durant le règne du roy Loys XIe*, and *Croniques du roy Charles huytiesme*, published together as *Les mémoires*, ed. by Joseph Calmette and Georges Durville, 3 vols. (Paris 1924–25) containing bibliography; standard English translation, *The History of Comines Englished by Thomas Danett Anno 1596*, ed. by Charles Whibley, 2 vols. (London 1897).

Consult: Biographical introductions by Calmette and Whibley to the French and English editions of the *Mémoires*; Mandrot, B. de, "L'autorité historique de Philippe de Commynes" in *Revue historique*, vol. lxxiii (1900) 241–57, vol. lxxiv (1900) 1–38; Chantelauze, R., "Philippe de Commynes d'après des documents inédits et des publications récentes" in *Le correspondant*, vol. cxxi (1880) 93–123, 644–70, 891–907, and vol. cxxii (1881) 237–68.

COMMISSION SYSTEM OF GOVERNMENT is a form of city government in which all executive and legislative powers are combined in the hands of a single small board elected by the voters of the municipality. It represents a radical departure from the traditional type of city government, in which executive authority is usually divided between a mayor and various other heads of departments while legislative powers are entrusted to a city council. The distinctive characteristic of the commission form of government is its abandonment of the principle of checks and balances.

The commission plan, while it had previously been tentatively tried in various places, first received attention through its establishment in Galveston, Texas. There it was the immediate outcome of the disorganization caused by a tidal wave which swept in from the gulf and partially destroyed the city in September, 1900. Prior to this disaster the city had been governed by a mayor, a board of aldermen elected by wards and various other elective officials. All had powers independent of one another. The municipal tax rate was high, and the city ran heavily into debt through the habit of borrowing money to liquidate annual deficits. The inundation of 1900 created an emergency which the existing municipal government was unable to meet. The city defaulted on its outstanding bonds and found itself faced by virtual bankruptcy. Consequently the legislature of Texas was asked to intervene, which it did by abolishing the old city government and vesting all powers in the hands of five commissioners, who after 1903 were all made elective. It was provided that these five commissioners by majority vote should enact the city ordinances, authorize all appropriations, levy taxes, borrow money and make all appointments. The administrative work of the city was to be divided into four departments which four of the commissioners were to apportion among themselves, one department to each; the fifth commissioner, the mayor president, exercising a coordinating supervision over them all. But the plan was looked upon as an emergency measure. a sort of municipal receivership, and it was anticipated that when normal conditions were fully restored the old mayor and council plan of government would be reestablished.

The results, however, were such as to convince the people of Galveston that the plan ought to be continued permanently, and the commission plan began to attract widespread attention throughout the country. Other Texan cities adopted the plan. It spread northward and during the years 1908–14 it gained acceptance by more than four hundred cities throughout the United States and Canada, including several large urban centers such as Buffalo, New Orleans, St. Paul, Jersey City, Newark and Oakland. Then the movement slowed down, and during the years which have intervened since the close of the World War the commission form has lost considerable ground. Many cities have abandoned it and either have reverted to mayor and council government or have adopted city manager charters.

While not all features of the commission plan are uniform in the cities working under it, the essentials are everywhere the same. There is a single governing authority known as the city commission and consisting of five citizens elected at large for a term of two or four years. As a rule the nominations are made by a direct non-

partisan primary and there are no party designations upon the ballots used at the subsequent election. One of the five commissioners acts as chairman and usually bears the title of mayor but ordinarily has no independent executive powers. All business of importance is dealt with by the commission as a whole. It meets frequently and all its sessions are public. Each commissioner, including the mayor, assumes immediate supervision of a group of related administrative functions which are included under such headings as public safety, public finance, public property. In some cities there is provision for the use of the initiative and referendum, and in some the commissioners are subject to recall by popular vote.

On the whole the commission system has demonstrated the value of concentrating responsibility. It has provided a plan of city government which is simple and intelligible. It has encouraged the use of business methods in the conduct of municipal business and to some extent has drawn better men into public office. On the other hand, it has proved to be lacking in executive unity and has the weakness characteristic of all types of board government in that it too easily becomes a house divided against itself. There is a strong temptation for three commissioners to combine against the other two. That is what has happened in many commission governed cities, involving endless friction and chicanery. Another essential weakness of the plan is that although each commissioner is given supervision of a department the other commissioners can overrule him on any point. Hence the system insures neither unified control nor departmental independence.

In other words, the commission as a legislative body is too small to be adequately representative, while as an executive authority it is too cumbrous to be efficient. It is a five-headed executive, a pyramid without a peak. Hence it has not succeeded in providing the cities with either continuity or harmony in the conduct of their administrative affairs. In recognition of this organic defect many cities have modified the commission plan into a commission manager system, an arrangement by which the commission retains legislative powers but devolves all the administrative work upon an appointive city manager. This makes possible the concentration in a single head of the responsibility for departmental administration.

In spite of its defects the commission form of government has rendered a great service to the cause of municipal reform. It embodied a protest against the old diffusion of municipal authority and has made for the simplification of municipal machinery throughout the United States. In general, however, it has proved more successful as a protest than as a policy.

WILLIAM B. MUNRO

See: MUNICIPAL GOVERNMENT; ORGANIZATION, ADMINISTRATIVE; CHECKS AND BALANCES; CITY MANAGER; CIVIC ORGANIZATIONS; CITY.

Consult: United States, Library of Congress, Division of Bibliography, *Select List of References on Commission Government for Cities* (Washington 1913); Public Affairs Information Service, *Bulletin*, vols. i–xv (White Plains and New York 1915–29), for later references; Chang, T. S., *History and Analysis of the Commission and City Manager Plans of Municipal Government*, University of Iowa Monographs, 1st ser., no. xviii (Iowa City 1918); Munro, W. B., *The Government of American Cities* (4th ed. New York 1926) ch. xvi; Reed, T. H., *Municipal Government in the United States* (New York 1926) ch. xii.

COMMISSIONS. The word commission is employed in English speaking countries as the official title of many governmental bodies which consist of a number of members and are otherwise called boards. The most characteristic application of the term is to bodies charged with enforcing a regulatory statute by what may be called the administrative as distinguished from the judicial method, i.e. by a system of official inspection, permits and orders rather than by criminal prosecution or civil suits for violations of the statute.

In this sense the word and the thing are a legacy from the era of Tudor administrative efficiency. The term appears at the end of the fifteenth century as a designation of any special body of officials charged by royal commission or warrant with the performance of specified duties. The Tudors relied heavily on such bodies, some of which functioned quite like modern administrative commissions. Thus the Statute of Sewers (23 Henry VIII, c. 5) authorized the appointment of commissioners with power to make regulations and orders and to levy assessments. One of the functions which the crown occasionally conferred by commission on special bodies was that of hearing and determining controversies touching private rights. This practise, which reached its extreme in the so-called Court of High Commission, threatened the jurisdiction of the ordinary law courts and aroused constitutional objections which contributed to the downfall of Charles I. The practise was, however, continued in the system

set up in 1643 for administration of the excise laws, which vested commissioners with jurisdiction to enforce the tax and punish violations by penalties and seizures. The excise was long a target of abuse, culminating in Dr. Johnson's famous definition of it as "a hateful tax adjudged not by the common judges of property, but by wretches hired by those to whom excise is paid." These controversies fixed the connotation of "government by commission" in the English speaking world, and in the 1840's and 1850's when J. Toulmin Smith (*Government by Commissions Illegal and Pernicious*, London 1849) and Francis Lieber (*On Civil Liberty and Self-Government*, Philadelphia 1853, 3rd ed. 1874) came to write of it they had dominantly in mind the determination of private rights by official action, taken in a non-judicial manner and without the safeguards for liberty and property which the common law procedure is supposed to supply.

Meanwhile the word commission continued to be used of any governmental body created to perform a special task. In this sense it was applied to the numerous investigating bodies (Commissions of Inquiry) which in the era of law reform in England during the second quarter of the nineteenth century were created to take testimony and frame proposals for legislation. Even such purely fact finding bodies fell under the suspicion of "government by commission," and were fiercely denounced by Toulmin Smith. His assault was chiefly occasioned by the extensive recourse to the administrative method for enforcing much of the new social legislation enacted in England between 1825 and 1850. Thus the Metropolitan Buildings Act, the Poor Law Amendment Act, the Ten Hours' Act of 1847 and the Public Health Act of the following year all provided for boards with rule making powers, with a staff of inspectors and with the right to act in a quasi-judicial manner in making orders and in granting or revoking permits.

The wholesale introduction of this type of administrative enforcement came later in the United States than in England. Meanwhile the term commissioner had come into use for a variety of officials, some of them purely judicial, such as the inferior federal officers known as United States commissioners and the temporary supreme court commissions appointed in some states to clear the docket of the highest court, and in other cases executive officials such as the county commissioners, who in most states make up the chief governing organs of counties. More recently commission government has become the designation of a special type of municipal government. The present treatment is chiefly concerned not with these miscellaneous commissions and commissioners but with commissions as organs of the administrative, in contrast with the judicial, method of enforcing regulatory statutes. Sometimes the organ set up for this purpose is not a board but a single commissioner, like the commissioner of banking or of insurance in many states. The functions of such an officer no less than those of a board exemplify the administrative method of regulation and merely raise the question whether in applying that method concentration of responsibility is more desirable than the wider opportunities of consultation offered by a board. In our federal government the recent tendency has been toward boards; in the states a number of regulatory functions are still entrusted to single commissioners. The debate as to which is preferable recurs periodically; the whole method of administrative regulation, whether through a board or a single official, is constantly under attack as "bureaucratic," expensive and provocative of governmental interference with private rights.

The arguments in favor of administrative regulation by commissions, as contrasted with criminal prosecution or private action for damages in the courts, are that it makes possible preventive restraints in advance of actual injury and that it supplies an expert agency charged with taking action in the public interest, where there would be no assurance that private action in the form of a damage suit would be taken at all or taken often enough to serve as an effective deterrent of a public evil. Thus, while a lawsuit can be brought by an abutting neighbor for damage from a disease breeding nuisance the public health is better safeguarded by a governmental agency which possesses powers of inspection and has been authorized to order and supervise the removal of unsanitary conditions. Similarly, the public is better protected against incompetent physicians by requiring candidates for medical practise to be licensed by an examining board than by leaving the victims of incompetence to recover damages in a lawsuit. The requirement that physicians be examined and licensed goes back in England to Tudor times; licensing boards for many occupations requiring special fitness were set up in our states without protest during the nineteenth century, as were building inspectors, health

commissioners and commissioners of markets and docks in many municipalities. More recently racing and boxing commissions have been established in certain states.

The middle of the nineteenth century witnessed efforts to extend administrative regulation to business practises in particular fields, and commissioners or "superintendents" of banking and insurance were created in many states with power to grant licenses, require reports and formulate rules. With the beginning of railroad construction in the 1830's and 1840's railroad commissions were established in Rhode Island in 1836 and in New Hampshire in 1844—even before such a body was created in England in 1846. The English commission was abolished in 1851 and its powers transferred to a law court; and when a railroad commission was set up in Massachusetts in 1869 its powers were limited to requiring and publishing reports. About this time popular antagonism to railroad management in western states led to the so-called granger laws, which created commissions with power to fix rates and oversee and prevent discriminatory practises. Much of this legislation was soon repealed, but it had its influence in bringing about the establishment of the Interstate Commerce Commission in 1887 with power over rates and practises of interstate carriers. The powers of the commission were, however, cut down by the Supreme Court, which held it without statutory authority to prescribe rates [Cincinnati, New Orleans and Texas Pacific Ry. Co. *v.* Interstate Commerce Commission, 162 U. S. 184 (1895)]. In England a court of railway commissioners was established in 1873. The Railways Act of 1921 created a separate Railway Rates Tribunal.

A new period of government regulation of business began in the United States during the Roosevelt era, and between 1902 and 1913 forty-one states established railroad or public service commissions, most of which were given regulatory powers not merely over railroads but over public utilities generally, including street car lines, pipe lines, water, light and power companies, telegraphs and telephones. In many states administrative bodies have more recently been established under blue sky laws to oversee the issue and sale of corporate securities, with power to grant and revoke permits and require reports. Administrative commissions have also been set up as the usual organs for assessing compensation under workmen's compensation acts, for administering factory inspection laws and for applying minimum wage laws. The commission method of regulation has also been extended in the federal government. The powers of the Interstate Commerce Commission were enlarged by the Hepburn Act of 1906, which conferred authority to fix rates. The Pure Food and Drug Board set up in the same year was followed by the Federal Reserve Board in 1914 with certain powers over banking and credit. In 1914 was also established the Federal Trade Commission to supervise trade practises and prevent unfair methods of competition and attempts at monopoly. In 1920 the Federal Power Commission was created to regulate lessees of water power rights on public lands, and the Federal Radio Commission was set up in 1927 to administer the statute regulating allocation of wave lengths and the use of the air for radio communication.

The theory of administrative regulation requires that it should be in the hands of experts. Most matters submitted to such regulation are of a technical nature, as professional qualifications, building specifications, sanitary and safety devices, railroad rate schedules, chemical constituents of food, radio wave lengths. On all these trained judgments are required to determine the standards of conduct to be exacted and this is one reason for withdrawing them from the decision of a jury in an ordinary lawsuit or criminal trial. While such technical judgments can be supplied by the expert staff of the administrative body, the theory of commission regulation proceeds on the supposition that the commission will itself be an expert body. While the supposition is borne out by the facts in the case of examining boards, and sometimes in that of health boards and other sanitary agencies, it is frequently not realized in other administrative bodies except in so far as long service in a specialized post may lead to a certain technical proficiency; and sometimes it is frankly abandoned, as in those state utility commissions, more than a third of the entire number, whose members are popularly elected. The same thing is true of those federal commissions whose members consist of cabinet officers and which must accordingly rely on their employees for expert personnel. The resulting combination of the lay point of view with the technical is likely to enrich both, where the commission members are men of ability and standing and where they devote their entire time to their work. Cabinet officers, however, cannot do this; and hence the agitation for a

reorganization of the Federal Power Commission to substitute a full time personnel in place of cabinet members. This was accomplished by act of June 23, 1930.

There is danger in subjecting commissions too closely to political influences because of the combination of functions which they exercise. To perform their task they must have the right to conduct inspections and as a result initiate action against a party apparently transgressing the statute. On the other hand, they must themselves try the question of whether or not such transgression has occurred in order to determine whether to revoke a license or issue an order to cease and desist. This places them in the dual role of prosecutor and judge. For this reason some commissions, especially state public utility commissions, have tended to minimize their function of initiating action and have preferred to regard themselves as judicial bodies waiting to be moved to action by private complaint. Such a policy defeats the intent of the administrative method of regulation, of which an essential element is that a public body should initiate action in the public interest on its own motion. The combined role of prosecutor and judge would no doubt be intolerable if the judgment of a commission were absolutely final; but it is not final and on certain issues there is recourse to the courts. None the less, the danger that commission action may be influenced by political considerations in the sense of pressure for partisan or sectional advantage is always serious; and hence the importance of securing the independence of commissioners through protection in their tenure of office. The relatively short terms provided for most state commissions do not make for such independence; still less does the method of popular election. In Pennsylvania the courts have held that the governor may not remove a public service commissioner without the consent of the senate [Commonwealth ex rel. *v.* Benn, 284 Pa. 421 (1925)], but this only puts the commission at the joint mercy of governor and senate instead of at the governor's mercy alone. The only safe guaranty of independence would be a tradition of reappointment coupled with a habit of selecting appointees in the first instance from men of high qualifications and independent judgment. Hitherto our American political outlook has been too much dominated by timidity to trust to the effectiveness of such a guaranty.

Not only are administrative commissions necessarily prosecutors and judges at the same time; they must also be at the same time both judges and legislators, making many of the rules which they apply. This follows from another feature of the administrative method of regulation—the practise of laying down in the statute only the broad outline of the standard of conduct to be enforced and leaving the detailed requirements to be filled in by the commission. Thus it seems clearly desirable that a regulatory statute should not congeal into permanent requirements the details of sanitary or engineering science as currently understood, but should merely prescribe a general standard of cleanliness or safety or wholesomeness and vest the administrative body with power to make and alter from time to time rules and regulations translating into detail what the standard requires in particular types of situations. In so far as commissions make such rules in advance to govern their action in future cases their function is obviously legislative; in so far as they undertake to apply them or to apply the general standard supplied by the statute, to determine what orders to make in particular cases, their function is judicial. This combination of legislative and judicial functions was for some time combated in the United States as unconstitutional because inconsistent with the theory of separation of powers; while the exercise of rule making power by administrative organs was itself attacked as an unconstitutional delegation of legislative power. The courts, however, acting under a sense of realities, have not sustained these contentions but to soften the effect of their decisions called the power of commissions only quasi-legislative and quasi-judicial.

The extent to which commission action in making rules or deciding particular cases is subject to question in the courts is one of the recurrent issues of administrative law. In general the common law remedies against public officers by mandamus, certiorari, injunction and civil action for damages are available against administrative commissions unless specifically cut down by legislation or judicial decision; and frequently other remedies, such as a direct appeal to the courts, are added by statute. The basis of the right to question commission action in the courts is the fact that commissions, being purely statutory creations, have no jurisdiction to exceed the authority committed to them by the statute; so that the question whether they have kept within the terms of the statute is always one for the courts. This includes the question whether a rule made by a commission

and sought to be applied by it in a particular case conforms to the statutory grant of power. In England the courts have frequently been ousted from jurisdiction over this class of questions by a clause in the statute providing that orders made by the administrative body, even though not in conformity with the statute, shall have the same force as if contained in the statute itself. Clauses of this kind are denounced by Lord Chief Justice Hewart in his *The New Despotism*; they would be clearly unconstitutional in the United States.

How far the courts will examine commission action in detail to determine its conformity to the statutory grant of power depends in part on the provisions of the statute in question and in part on the rules governing the type of proceeding by which review is sought. In general it may be said that the courts show reluctance to reverse administrative action merely on the ground that they differ from the administrative body as to the conclusions to be drawn from the evidence in the case—in judicial language, they are reluctant to review questions of fact. On the other hand, where the administrative conclusion could not have been reached without transgressing a general rule which the statute lays down or implies or which for some other reason the court chooses to regard as a legal rule, there will be reversal for error of law. The issue between broad review, including questions of fact, and narrow review, limited to questions of law, is still the subject of debate in the United States. The doctrine of narrow review is favored by those who are impressed with the desirability of efficient government and with the need for governmental action in the interest of the general welfare; while the traditional American distrust of all governmental agencies except the courts and the traditional reliance on the courts to undo all the supposed mistakes of government lead in other quarters to advocacy of a reviewing power so broad as in effect to require the courts to do over again the work of administrative agencies.

JOHN DICKINSON

See: BOARDS, ADMINISTRATIVE; ADMINISTRATION, PUBLIC; ADMINISTRATIVE LAW; BUREAUCRACY; CENTRALIZATION; SEPARATION OF POWERS; DELEGATION OF POWERS; JUDICIAL REVIEW; GOVERNMENT REGULATION OF INDUSTRY; LICENSING; INSPECTION; EXPERT; ORGANIZATION, ADMINISTRATIVE; FEDERAL TRADE COMMISSION; INTERSTATE COMMERCE; PUBLIC UTILITIES; INVESTIGATIONS, GOVERNMENTAL; INTERNATIONAL ORGANIZATION.

Consult: There is no history or general treatment of the system of administrative regulation by commissions as a whole. The broader questions raised by such regulation are treated in connection with special aspects of the subject in Dickinson, John, *Administrative Justice and the Supremacy of Law in the United States*, Harvard Studies in Administrative Law, vol. ii (Cambridge, Mass. 1927); Freund, Ernst, *Administrative Powers over Persons and Property* (Chicago 1928); Robson, W. A., *Justice and Administrative Law: a Study of the British Constitution* (London 1928); Hewart, G. H., *The New Despotism* (London 1929); Port, F. J., *Administrative Law* (London 1929). Articles on particular commissions and on commission regulation in general are innumerable. Some of them are collected in *Readings on the Relation of Government to Property and Industry*, compiled by S. P. Orth (Boston 1915).

COMMITTEE OF THE WHOLE. *See* COMMITTEES, LEGISLATIVE.

COMMITTEES, LEGISLATIVE. Legislative committees are organs set up by a representative body to promote business by the division of labor. They enable a more manageable group than the full chamber, when operating under normal procedure, to examine a question, hear testimony, discuss and draft a law and prepare a report thereon. Committees in the different legislative bodies of the world, national and local, vary in such features as selection, function, power and duration.

In the British Parliament resort to committees came early, and by 1340 joint committees of lords and commoners were being appointed to draw up statutes. An early standing committee was that of privileges and elections which was set up in Queen Elizabeth's reign. It was probably under James I, however, that the very important device of the Committee of the Whole was first used by the House of Commons, primarily to protect it against the king. Under a chairman of their own choosing the members of the House held secret sessions unobserved by the speaker who, as an appointee of the crown, was regarded as hostile.

The modern version of this device in the House of Commons is still called the Committee of the Whole, but has, naturally, quite different purposes, its principal function being to secure greater informality in procedure. When appropriations are the business under consideration the designation is the Committee of the Whole on Supply or, more commonly, the Committee on Supply; when the business is the revision of revenues it becomes the Committee on Ways and Means; for other matters a title indicating the business under consideration is used. The

speaker leaves the chair and his place is taken by the chairman of Ways and Means or the deputy chairman. These committees of the whole report their decisions to the whole House of Commons. Jefferson called this a quasi-committee and the device was early adopted by American legislative bodies. The Senate has a Committee of the Whole and the House of Representatives a Committee of the Whole House and a Committee of the Whole House on the State of the Union, the latter designation being used when money bills are under consideration. In congressional procedure as in the Commons their raison d'être is the achievement of a greater informality and, in addition, in the House of Representatives an evasion of the constitutional requirement of a quorum. The latter calls for a majority of the House, but in Committee of the Whole only one hundred representatives need be present.

Until comparatively recent times the House of Commons did not segment itself into legislative committees in the manner characteristic of the American Congress. There were a few select sessional committees, such as those on public accounts (for considering the report of the auditor and comptroller general) and on public petitions (to examine the money petitions sent to the House of Commons). Special committees were used for particular investigations. When the matter was political a committee composed exclusively of Commons members was used, in other cases commissions on which outside experts could sit. Private bills were sent to private bill committees which passed upon the issue involved—a characteristic and extremely valuable practise of British parliamentary procedure. Committees on ordinary public legislation to lighten the labors of the House of Commons were not set up until the eighties. In 1882, however, there were created two standing or grand committees to consider measures relating to law and trade. They consisted of from sixty to eighty members. They were presided over by a chairman selected from a chairmen's panel of from four to six members designated by the committee on selection. Proceedings in these grand committees were much like those in the Committee of the Whole. Designed to deal with a rather technical series of bills the committees did useful work. In 1894 a standing committee for Scottish bills was formed from all the members for Scottish constituencies and fifteen or twenty other members. In 1907 the standing orders were modified to provide for four standing committees, of which one was a Scottish committee, and their competence was extended to cover all bills except money bills or bills for confirming provisional orders. In 1919 the number was made six, and in order to lighten the labors of the House of Commons they were given much more to do; in 1925 the number was reduced to five. Except for the Committee on Scottish Affairs membership is not less than thirty or more than fifty, and for bills relating to Wales and Monmouthshire members from these constituencies are added. The committees are designated by letters (A, B, C, D) with the exception of the Scottish committee. The speaker distributes the bills among them. In all but one of the committees government bills have precedence. These changes in the procedure of the House of Commons were vigorously fought by those who believed that a system of standing legislative committees struck at the principle of cabinet responsibility to the whole House of Commons. The argument was that decisions would be taken in the committees where proportional party representation was observed and that proceedings in the House would become less interesting and more perfunctory.

In the French parliament, however, an elaborate system of committees—in one sense even more elaborate and effective than that of the United States Congress—has been grafted on to cabinet government. The division of labor in continental parliaments was originally a matter of chance. The French chamber divided itself into bureaus composed of groups of members chosen by lot. For the consideration of a bill each bureau selected one or more representatives to a special committee which would examine and report on the bill. The theory was that deputies interested in a particular piece of legislation would have a chance to consider it in its preliminary stages, but in practise these special committees remained in existence for years without reporting and the burden on the individual deputy was onerous. In 1902, therefore, the chamber initiated changes in rules which looked to the creation of legislative commissions to last only for the duration of a session or of a parliament. Now there are twenty grand commissions each consisting of forty-four deputies chosen annually by proportional representation. These commissions articulate quite competently with the executive departments; indeed, one of their purposes is to control administration. Ministers appear before the com-

missions and explain not only why they desire changes of statute but also the administrative policies which their departments follow. The commissions thus have an intimate relation to the principle of ministerial responsibility. They are one of the reasons why the French ministry is so under the control of the chamber. Their absence in England may contribute to the autocracy of the cabinet.

During the World War the parliamentary commissions were particularly active throughout Europe. Efforts were made in the House of Commons to follow the French model. Immediately after he became prime minister in 1916 Lloyd George promised that the government would consider a revision of the rules, but when he heard from French ministers how annoying the commissions could be he abandoned the project. Discussion of the matter still continues with particular reference to foreign affairs and appropriations, for the control of the House of Commons is perhaps weakest over these functions. The Independent Labour party, however, has proposed the segmentation of the House of Commons into committees, one for each administrative department and presided over by the appropriate minister. It desires to give the private member of the House of Commons an opportunity to do something other than vote to support his leaders, and it intends to permit a greater parliamentary control over departmental policy. The adoption of this scheme, however, would mean the abandonment of the principle of responsibility of the cabinet as a whole to the House of Commons.

French success in using legislative committees as something of a brake on executive action was not without influence in determining certain provisions of the post-war constitutions. Ordinarily the committee organization of a parliament rests only on its standing orders. The German constitution, however, provides (article 35) for a "standing committee on foreign affairs which may act between sessions of the Reichstag and after the end of the legislative term or between the dissolution of the Reichstag and the convening of a new Reichstag"; and for a "standing committee for the protection of the rights of the representative body over against the national ministry for the period between sessions and after the end of a legislative term." Other post-war constitutions contain similar provisions. They constitute a recognition of the fact that the responsibility of the executive to the legislature can, at best, be enforced only when the legislature is in session, and that it is the business of elected representatives to know what is going on at other times as well and to have opportunities to advise, to encourage and to warn. Furthermore, these constitutional provisions are an index of the continued nervousness of republican institutions concerning the extensive ordinance making authority which, under monarchical institutions, was exercised by executives.

It is in the United States, however, that legislative committees have been most ubiquitous and numerous. Committees were in a large measure inevitable because of the absence of any effective executive leadership or responsibility to the legislature. They furnish an obvious opportunity for members of the legislature to become influential, and in some American state legislatures the number of committees has so varied at each session as to provide each member of the majority party with a chairmanship. In 1920 the House of Representatives had sixty committees, but the real business was done by a dozen at most. The Senate in 1921 reduced its committees from 74 to 33 with no sacrifice of efficiency. Some had not held meetings for years, and in one case, that of the Committee on Transportation Routes to the Seaboard, for forty years. Such a large number of committees had been maintained solely because they provided extra clerks and committee rooms for their chairmen. When these changes were made both houses adopted rules to prevent interlocking directorates. A senator cannot be a member of more than two important committees and a similar provision is adhered to in the House. This is necessary in order to limit the concentration of power made inevitable by the uncontrolled practise of the seniority principle. This principle means that the elder statesmen have the choicest assignments, that longevity and reelections will ultimately give a congressman the senior place on a committee. If he belongs to the majority he will be chairman. If not he will be ranking minority member and a putative chairman. Only in rare cases of incompetence or unpopularity is the seniority rule disregarded.

The first House of Representatives experimented with the election of committees, but this was not satisfactory. Power of selection was then handed over to the speaker who exercised it down to the change of rules under Speaker Cannon. At present the Republicans nominate through a Committee on Committees while the Democrats use their Ways and Means Com-

mittee members, who are chosen by the Democratic caucus. The House ratifies these selections as a matter of course. The Senate views the vice president as an outsider and has always chosen its committees itself, but this means that by joint resolution the designations of the majority and minority party caucuses are ratified automatically.

The importance of committees in the congressional system can hardly be overestimated. Each committee, so far as legislative action on its business goes, exerts a no less effective control over the House than does the British cabinet. Discussion of a pending measure is more real and adequate in committee than in the House itself. American legislative committees have developed committee hearings to a far greater degree than is the case elsewhere. The voicing of grievances and the real representation of interests are to be found in these hearings.

Of increasing importance in recent years has been the inquisitorial power of Congress exerted through committees. This is particularly true of Senate committees; for the upper chamber, which is far less subject than is the House to the control of leaders, is more inclined to order investigations of the executive. Congress does not seek any day by day articulation of its legislative committees and the administrative departments, as is the case in France, but it does exert some ex post facto control through its inquisitions. With a reparceling of the jurisdiction of committees to correspond with that of administrative departments, Congress might be able to establish relationships with the executive which would enable legislative scrutiny to be more intelligent and effective than it now is.

Committees in American state legislatures do not vary materially from the congressional model. They are miniature, irresponsible legislatures which dictate to their creator, the legislature itself. Ordinarily they have a prior veto on the order of business to be transacted, for it is usually difficult, and in the House of Representatives well nigh impossible, to discharge a committee from the further consideration of a measure on which it is unwilling to report. The membership of a committee is always important. A committee can influence, if not control, the decisions of the parent body. Thus when places were vacant on the Senate Committee on Foreign Relations in 1919 strenuous and successful efforts were made to "pack" it with opponents of the League of Nations Covenant.

Finally the particularism of American legislative chambers results in a dual committee system. Only rarely, as in the case of the Joint Committee on Internal Revenue Taxation, which in 1927 undertook the task of simplifying and redrafting the federal tax laws, will the House and Senate permit their committees to work together on the same tasks. Here also in maintaining a dual committee system state committees follow the congressional model. Massachusetts is a notable exception. Its joint legislative committees avoid duplication of effort and save considerable time.

Representatives and senators do work jointly on conference committees, which are a distinctive and important feature of the American government. When the two houses disagree on the principle or details of a bill, the differences are reconciled by a committee composed of the leading members, of both parties, of the two committees which have had the measure in charge. Concern over the extensive powers of such committees has frequently been expressed both in and out of Congress. A comparatively recent revision of the rules provides that the conference report, that is, the compromise recommended, is subject to a point of order if the conferees have eliminated anything agreed upon by both houses or have inserted new legislation. This ruling would now prevent such writing of a new bill as was done, for example, by the Conference Committee on the Tariff of 1883.

The tendency is for conference reports to be accepted even though they contain provisions unpalatable to one of the chambers. Frequently there is difficulty in reaching an agreement and measures may stay in conference for six months. Rather than prolong controversy members are frequently willing to accept provisions to which they would normally not agree. The leaders of the majority party always urge such a course, for they usually control the decisions of the committee.

While the activities of conference committees are reported by the press they are not a matter of public record. The voting of the conferees is not officially published. Reports by the committees are frequently presented in the closing days, even the closing hours, of a session, and must be acted upon hastily. It is not extreme to say, therefore, that such legislating in conference committees is as important a stage in the process as are the reports of bills by the initiating committees and their consideration on the floor. So long as the American government adheres to an extreme bicameral theory,

however, and does not impose responsibility for legislation on the executive, conference committees will remain necessary to reconcile differences between the two houses.

LINDSAY ROGERS

See: LEGISLATION; LEGISLATIVE ASSEMBLIES; GOVERNMENT; PARTIES, POLITICAL; CABINET GOVERNMENT; CONGRESSIONAL GOVERNMENT; BLOC, PARLIAMENTARY; COALITION; PROCEDURE, PARLIAMENTARY; DEBATE, PARLIAMENTARY; INVESTIGATIONS, GOVERNMENTAL; ADMINISTRATION, PUBLIC.

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COMMODITY EXCHANGES. The commodity exchange has been variously defined, sometimes so loosely as to include those markets the basis of which is the proximity of the places of business of traders in a given commodity, sometimes so narrowly as to include only trading in futures contracts. As treated here the exchange is an informal or an incorporated association—more commonly the latter, formed either by special charter or under general membership corporation laws for the purpose of improving the conditions of commodity trading by and among its members. Exchanges are distinguished by the characteristic effort to make buying and selling open and competitive and by the fact that trading is typically carried on by means of samples and defined grades and by the transfer of "receipts" as good delivery.

Commodity exchanges are often confused with certain other organizations. Commodity auctions differ from exchanges in that they are typically sales of produce carried on by private companies or under governmental auspices and offer to the highest bidder goods previously listed for this purpose. Cooperative marketing associations, although they often include the word exchange in their titles, are not commodity exchanges. The essential concern of these associations is selling the products of their members to outsiders. They have no interest in sales among members.

The membership of each commodity exchange usually includes a wide range of persons interested in the trade concerned. A list compiled from various membership rolls reveals besides commission men and brokers, who usually predominate, manufacturers, cooperatives, warehouse or elevator operators, exporters, importers, wholesalers and other merchants.

Acquisition of membership in a commodity exchange ordinarily requires two steps: first, election—legal age, good character, financial soundness and a reputation for fair dealing being the usual requisites—and, second, obtaining a "seat." A seat, the member's interest in the exchange, is sometimes though not always evidenced by certificate. If membership is closed, still frequently the case though less commonly than formerly, it is obtained by purchase from an existing member; if open, directly from the exchange. Variations in the market value of seats and other costs among exchanges are illustrated by the following: National Metal Exchange (January, 1930), seat $510, transfer fee, $500; New York Produce Exchange (April, 1930), seat $9000, transfer fee, $300; National Raw Silk Exchange (April, 1930), seat $2300, fee $500. Fluctuations in value as a result of market conditions may be illustrated by the fact that Chicago Board of Trade seats sold for $62,000 in the fall of 1929 and for $15,000 before April of the following year. Government of a commodity exchange is ordinarily vested in a president, vice president, treasurer, secretary and board of managers. Special committees play an important part in administering its activities.

Such factors as geographical distribution of commodities and variations in their physical nature have led exchanges to sponsor several types of markets. Some conduct a market of each of these types, others several, still others only one. The markets which need to be distinguished are: cash or spot market, to-arrive market, call market and futures market.

A cash or spot market exists for the purpose of trading on the basis of immediate or early delivery and payment. Such markets may provide for buying by inspection, as in livestock markets, or by official samples, nowhere better illustrated than on the grain exchanges. In the sample method of trading the buyer, though guided by the grade determined by the inspec-

tors, is also influenced by the merits of the samples, which may vary considerably within the grade. Because of this variation the sample market is attractive to millers and converters.

The term "to-arrive market" is used in exchanges to refer to the sale of shipments which have not yet reached the terminal or even been shipped. Such sales are generally made through the acceptance by country elevators of bids submitted by terminal buyers. This is, properly considered, another type of cash market. Specific grade is usually contemplated in to-arrive contracts; in practically all cases delivery is made by the original seller to the original buyer; delivery period is a matter of individual arrangement, although it usually conforms to trade practise.

The call market is one in which traders, usually under the direction of a chairman, make bids and offers for given grades of a commodity. This type of market is often the leading one in the produce exchanges, particularly in trading in butter and eggs. As a rule call markets operate only for one short session each day, although sometimes additional sessions are held. Bids and offers are commonly made on goods to arrive and futures as well as on goods for immediate delivery. Although transactions are not always consummated under the call, the latter provides a basis for price determination.

A futures market is one where contracts may be made for the delivery of a "contract" grade of some commodity at a definite price at some specified future time (usually within a certain authorized month). Futures markets are the most highly developed form of trading in that practically every feature of the contract, which would otherwise call for higgling, has been predetermined by the rules of the exchange. Assuming the trade to be made in a given commodity for a certain delivery month, nothing is required but an agreement on quantity and price. Even the quantity consideration is simplified by the establishment of trading units, these being on representative exchanges: 5000 bushels for wheat, 100 bales for cotton, 2.5 tons for rubber, 250 bags for coffee, 50 long tons for sugar and car lots for eggs. Typically the rules further provide that the agreement is a basis contract which permits the seller to deliver either the contract grade or certain other grades at prices below or above the agreed price. Seventeen grades of wheat are deliverable on the Chicago Board of Trade and as many of cotton on the New York Cotton Exchange. Such a range tends to lessen the value of the futures market as one through which dealers or converters purchase for use, but it works strongly to prevent corners and squeezes. While the method of determining the differential to be paid when something other than contract grade is delivered varies among the exchanges and is usually dictated by them, it is sometimes prescribed by law, as in the case of the federal Cotton Futures Act [38 stat. 693 (1914)]. The rules require the posting of a margin by each party to futures contracts, for mutual protection against price change. Delivery is considered to be effected by the delivery of warehouse receipts representing the requisite amount of the commodity, which must be stored in a "regular" or officially approved warehouse. While in other cases a definite lot is usually indicated, in the grain trade receipts represent only a specific grade. In a futures market it is presumed that delivery is intended, but trades may be and in a vast majority of cases are closed by other transactions prior to the date of delivery. The modern method of accomplishing this is the organization of a clearing house or association, the operations of which are analogous to those used in bank clearings. The association is usually independent of the exchange, but its stock ownership is limited to members. In effecting its work it assumes the obligations of the contracts it handles. For its members daily association clearing reduces the number of accounts requiring margins, lowers clerical costs and adds safety to accounts.

Not all types of commodities are equally adaptable to exchange methods of marketing. For sample and especially for futures trading a commodity must be relatively non-perishable, susceptible of grading and divisible into homogeneous units. The exchange method is unduly cumbersome except in cases where the volume of the commodity is great, and futures trading has no place unless supply and demand come from enough sources and are affected by enough factors to make both speculative. Yet the value of exchange methods was discovered early in modern commercial history, and they are apparently demonstrating their usefulness for an increasing range of commodities. Antwerp in the sixteenth century presented the first case of a great exchange closely comparable to modern commodity exchanges in that men made deals and effected sales of goods by description and the use of "receipts" without displaying or transferring the goods themselves. The Royal

Exchange of London was similarly advanced in the seventeenth century. It was not until the nineteenth century, however, that the commodity exchange reached its full development in Europe and in America.

The oldest of the exchanges in the United States is the Chicago Board of Trade, organized in 1848 and incorporated in 1850. All exchanges since formed in the United States have been patterned in some measure after the Chicago Board of Trade. Next in order of age are the New York Produce Exchange, organized in 1850 and incorporated in 1862, and the New York Cotton Exchange, chartered in 1871 and organized a year earlier. A list of other American exchanges selected to show variety, and in all of which futures trading is conducted in one or more commodities, is: Chicago Mercantile Exchange, with butter, egg and cheese markets; New York Burlap and Jute Exchange; New York Cocoa Exchange; New York Coffee and Sugar Exchange; New York Hide Exchange; New York Metal Exchange, with trading in copper and tin; National Raw Silk Exchange; the Rubber Exchange of New York; Memphis Merchants Exchange, with markets for cottonseed, various cereals and grain sorghums. The Chicago Livestock Exchange opened futures trading in live hogs on the first of March, 1930. There is no active futures market for poultry, but a call on poultry is held on a number of mercantile exchanges and poultry boards. There was at one time an organized petroleum exchange. Efforts to operate an organized wool exchange have not been successful in America.

Exchanges also play an important part in the economy of foreign countries. England, Germany, France, Holland and Japan not only furnish examples of exchanges for dealing in staple commodities but of others devoted to the sale of products of special local importance, such as rice in Japan, pepper, tobacco and alcohol in France, steel shapes and coal in England and oils and spices in Holland.

The services of the exchange are designed to aid members but may also be viewed collectively as constituting an important device in the operation of the existing economic order. In the interests of their membership exchanges quite generally provide a market place, regulate the dealings of members, aid in the settlement of trade disputes, establish grades and systems of inspection and collect and disseminate market information. The trading places of many of the larger commodity exchanges are owned by them and provide rentable offices, a trading floor and equipment for facilitating trade.

Equipment varies according to the commodities dealt in and the nature and volume of business carried on. A platform, chairs and a blackboard may be sufficient for a call market; tables for displaying samples are usual in a sample market. The "pit" or "ring" is the distinctive equipment for futures trading. The usual form is a circular or octagonal platform rising from the floor by a series of three or four steps to a height of about 2½ feet and descending to the floor on the inside by as many steps. The central floor space, in some cases, as in the New York Cotton Exchange, is kept clear by a railing, behind which the traders stand upon the tiers of steps facing each other across the open space. Such arrangements make each trader visible to every other one at any given moment and aid in bringing the mechanics of pit trading to a maximum efficiency. Manual symbols aid in communication; and mere notations of trades, made on cards, are later confirmed and furnish the data for clearing adjustments.

Important among regulations are those relating to commissions, methods of trading, forms of contracts between members, delivery of grades on contract, deposits for security and settlement methods. Trade disputes among members are commonly adjusted by arbitration committees which possess judicial powers sufficient to compel the production of papers, to subpoena members and to secure testimony.

Few activities of the exchanges are of greater consequence than the establishment of grades and the maintenance of inspection to determine them. In sample trading these limit the necessity of judgment on the part of the trader to distinctions within the grade and make it possible to certify to the seller, who may be remote from the place of sale, that his commodity has been justly ranked by unprejudiced persons. They are indispensable to futures trading. While the leading commodity exchanges played a pioneer part in establishing grading and inspection, and in a variety of commodities are still dependent upon their own efforts, the work of national and state governments is now important in both activities. Outstanding among federal laws concerning grading are the Cotton Futures Act and the Grain Standards Act [39 stat. 482 (1916)]. The former, accepting the grades previously prevailing in the trade, prohibited the delivery of certain grades on futures contracts, prescribed a method of determining "differences," provided

for a system of sampling, weighing and grading by the Department of Agriculture and regulated the issuance of certificates covering the weight and grade of cotton inspected. The Grain Standards Act empowered the secretary of agriculture to prescribe uniform grades and standards for the grain trade and to exercise jurisdiction over inspection and grading. The act found the machinery of an efficient inspection service already in existence and made it part of the governmental mechanism by means of licensing. In cases of appeals grade is decided by the Department of Agriculture.

The concentration of information is perhaps the most important service which the exchange renders its members. Knowledge of demand and supply in the technical sense of quantities sold at given prices and of bids and offers made is brought by a telegraphic price reporting system covering the leading exchanges of the United States and other countries. Estimates of prospective supplies and requirements are made possible by the gathering of information on such matters as legislation, court decisions, military threats and action, production, actual and planned, crop condition, stocks held at various points, supplies en route to primary markets, current arrivals and sales. Besides obtaining information through the use of their own agencies the exchanges make extensive use of data gathered by governmental and private agencies. The larger exchanges also engage in the wide dissemination of the prices made on their floors and of other information collected.

Socially viewed, the exchange is a remarkable institutional accomplishment in an economic order in which price is of dominant significance. It constitutes the closest approximation to the theoretical competitive market yet achieved in practise. Commodity exchanges are agencies of "right" price determination. According to a competitive philosophy there is no right price other than that resulting from the trading of buyers and sellers in an open market. The exchanges provide open markets. Judgment is no better than the information upon which it is based. No agency surpasses the exchanges in the concentration of information believed to be pertinent. More specifically, the publication of prices in terms of established grades enables buyers and sellers generally to know the value of their commodities as appraised on the exchanges, thus rendering difficult exploitation through superior information. The dissemination of price information makes arbitrage possible, thus tending to the establishment of uniform prices throughout the country or even the world. Futures market prices epitomize judgment concerning future demand and supply. These, exerting an influence on cash markets, tend to keep prices at a uniform level even for commodities produced seasonally. This in turn serves to bring about relative uniformity in consumption. The dissemination of exchange price quotations, particularly of futures, furnishes, so far as producers are pecuniarily motivated, the one best guide to production and thus to the wise social use, pecuniarily speaking, of social resources.

Additional services of the exchange are those accruing from proper grading and warehouse authorization, which, by establishing warehouse receipts as sound security, exerts far reaching benefits in financing seasonal goods; and those rendered by the futures markets, which, though furnishing less protection in hedging than has sometimes been assumed, are of great value in lessening the risks of farmers, dealers and manufacturers.

The clearest recognition of the services of commodity exchanges should not obscure their defects. As a result of criticism, well or ill grounded, certain practises believed to result in purely nominal price quotations, formerly common, particularly on the produce exchanges, have been called into court and generally modified or discontinued. Trading in futures has been widely denounced as resulting in an "uneconomic" price in cash markets. One of the several purposes of the Cotton Futures Act was to correct this alleged effect. The futures markets have been further condemned as gambling agencies and as devices of middlemen to resell products repeatedly at profit to themselves and at an increased cost to the consumer. Resulting governmental regulation has been applied particularly to grain exchanges. Between 1883 and 1921 at least 126 bills proposing to regulate trading in futures were introduced in Congress. By the latter date also the Federal Trade Commission had begun the publication of the *Report on Grain Trade*, one of the most exhaustive studies ever made of a phase of American economic activity. In 1921 Congress enacted a futures trading act, which attempted regulation through taxing power. Most of its provisions being declared unconstitutional, the Grain Futures Act [42 stat. 998 (1922)], later upheld on the basis of the interstate commerce clause, was passed in 1922.

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To carry out the purposes of this act the secretary of agriculture established a Grain Futures Administration. The accomplishments of this body are summarized by the administration chief as including: publication of authoritative and comprehensive information on the activities of operators in the grain futures markets; daily announcement of the volume of trading and of the open interest in grain futures at each market; prevention of the exclusion by grain exchanges of properly organized cooperatives; the initiation of legal action to eliminate certain irregularities which it has uncovered in connection with the execution of orders for customers and which it believes to involve a violation of the rules of the exchange and to constitute manipulation.

The activities of those commodity exchanges which deal in farm products are at the moment affected by various plans and proposals of the Federal Farm Board, which was established under the provisions of the Agricultural Marketing Act of 1929. The future significance of these exchanges depends to an important degree on the permanency and policy of this board.

LEVERETT S. LYON

See: MARKET; SPECULATION; HEDGING; GRADING; WAREHOUSING; GRAIN ELEVATORS; FORECASTING, BUSINESS; CROP AND LIVESTOCK REPORTING; CORNER, SPECULATIVE; ARBITRAGE; AUCTIONS; FAIRS; MARKETING; AGRICULTURAL MARKETING; FOOD GRAINS; COTTON; SUGAR; RUBBER; DAIRY INDUSTRY; PLANTATION WARES; MEAT PACKING AND SLAUGHTERING; AGRICULTURE, GOVERNMENT SERVICES FOR.

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COMMON CARRIER. A common carrier, in Anglo-American law, is one who undertakes to convey for hire from place to place and to deliver at destination the goods or persons of all who may choose to employ him. At the same time, however, a common carrier may be also a private carrier, as, for example, when he transports goods which are not within the class of things he professes to carry. To become a common carrier it is not necessary that he carry as a business or as a customary course of conduct. He may be a common carrier for one shipper or one passenger, on one occasion and in one direction, if the other requisites of a delivery of the goods into his control and a willingness to serve anyone to the extent of his capacity are present.

The common carrier represents one of the few surviving common callings of feudal England. The Babylonian, the Roman and the early Germanic laws subjected the carrier to special responsibility by reason of his employment, but the English common law went so far as to thrust the particular status of common carrier upon all those who held themselves out as ready to carry for the public as distinguished from those who served only a feudal overlord. The status imposed, above all, the duty to serve the public on demand, and this has remained its chief incidence in modern Anglo-American law, despite the many encroachments of contract. The historical role of the common carrier has grown in importance with the increasing dependence of the public upon his service, and his employment has been preserved among those so affected with a public interest as to be subject to common law and legislative regulation of rates and service. It is this paramount public interest in the common carrier's service which forms the constitutional basis for state and federal regulation. A proprietor has a right to decide upon the type of common carriage in which he will engage, but as long as he furnishes the service no disclaimers or subterfuges designed to give it the appearance of private carriage can relieve him of the obligations of the status thrust upon him by the law.

The concept of common carrier in Anglo-American law has expanded with the improvements in transportation from the ancient common porter, common ferryman and common pannierman through the canal and stagecoach era to include the proprietor of the modern general steamship, railroad, street railway, incline plane cable road, taxicab, motor vehicle and airplane carrying on a public basis. Among the enterprises not within the common carrier status, although their exclusion may appear anomalous, are the horse or automobile livery,

the sleeping car and other special car services adjunct to railroad transportation, the chartered steamship, the harbor tugboat and the ordinary passenger elevator in a public or business building. On the other hand, the pipe line through which oil is conveyed by pressure has been held to be a common carrier despite the fact that the vehicle is stationary. But carriage for amusement in substantially the same place, as for example a scenic railway or an airplane which takes people for short flights, returning them to their starting point, is not common carriage. Common carriage to be such must be carriage in the sense of a journey, whether undertaken for recreation or business.

The great duties of public service attaching to the status of common carrier are to render to the public on reasonable demand a reasonable service at reasonable rates and without unreasonable discrimination. The common carrier must accept and carry goods or passengers tendered to him in proper condition if they fall within the class of carriage he professes, even though they may be destined to points beyond his route. The common carrier of goods is protected in his charges by a common law lien upon the particular shipment. The duty to render a reasonable service includes the duty to provide reasonable facilities for the type of carriage undertaken. The early common carrier devoted his vehicle to the public service to the extent of its capacity and was not compelled to furnish additional facilities to meet increased demand for his services. But the modern railroad carrier, who provides not only the vehicle but also the roadway which his vehicles alone may use, is required to furnish additional equipment and facilities adapted to the transportation of all such goods and passengers as he should reasonably anticipate may be offered along his route.

The relation of common carrier of goods or of passengers is established as soon as the goods or passengers come into his custody for immediate transportation at the place designated by him and within a reasonable time before the departure of his conveyance. If he is a carrier of goods, the law subjects him to an "insurer" or non-fault liability for loss or injury of the goods carried. The common carrier of passengers is not subjected to non-fault liability except for such baggage as is delivered into his charge. This seems but a survival of the early common law absolute liability of all bailees, which although stringent was made necessary because carriers, by the very nature of their service, had opportunity to collude with thieves and also because it was difficult to prove their defection. At common law only five excuses were recognized: act of God, act of the public enemy, act of public authority, the fault of the shipper and vice of the goods. Today the carrier may avoid the non-fault liability by a valid contract with the shipper; mere notice to that effect, however, is insufficient. The carrier may not limit his responsibility for negligence, although a limitation of liability to the shipper's declaration of value as a rate base is lawful. It is generally said of wharf to wharf or station to station carriage that the relation of common carrier and shipper, with its coexistent non-fault liability, shifts to the relation of warehouseman and depositor, with its lighter duty of due care, whenever the carrier withholds the goods from transportation or stops them in transit at the shipper's order or when he has deposited them in a safe place at destination. Although the attempt to relieve the carrier of a harsh absolute liability under circumstances where it is no longer justified is understandable enough, it is a fiction to say that the carrier has become a warehouseman. A better explanation would seem to be that the relation of common carrier and shipper continues until delivery to the consignee, but that the incidents of liability within that relation shift.

Although the concept of common carrier has found no place in civil law countries it is approximated in practical effect. This development was long delayed by a contradiction in the Roman law, as a result of two passages of Ulpian in the *Digest* (*Corpus juris civilis*, *Digesta*, Lib. 4, tit. 9, 1, 1; Lib. 4, tit. 9, 7, 1; Lib. 47, tit. 5, 1, 6) as to the ship carrier's duty to serve on demand, the older view adopting the interpretation denying such duty. As far as the liability of carriers for the safety of goods is concerned, the Roman law for the same reasons as the common law imposed it upon some carriers, usually those operating by water, and without any distinction as between private and common carrier. It permitted, however, the broader excuse of *vis major* under which only superior force or inevitable accident could be pleaded. In mediaeval Europe the many principalities levying tribute, the incessant warfare, the barrier of the Alps, the dearth of highways and the distance between markets all operated to force commerce to the seas and facilitated the reception of the Roman law as to carriers, perpetuating for centuries the ancient limitation of non-fault liability to the sea carrier with no duty of public service. Later

the growth of commerce and the increasing need of general carriage for the public led to a new interpretation of the Roman texts in harmony with the early Germanic concept of a paramount public interest and the recognition of certain types of "necessary carriers" subject to non-fault liability and to the duty to serve on demand. That the law of carriage has not developed into such a comprehensive system on the continent as it has in Anglo-American law is due chiefly to its rapid codification in the first half of the nineteenth century, as well as to the fact that the continental railways have been in part at least built and operated by the respective governments rather than by private capital as in England and America.

GEORGE JARVIS THOMPSON

See: TRANSPORTATION; RAILROADS; SHIPPING; WAREHOUSING; BAILMENT; LIABILITY; PUBLIC UTILITIES.

Consult: Wyman, Bruce, *The Special Law Governing Public Service Corporations*, 2 vols. (New York 1911); Hutchinson, Robert, *A Treatise on the Law of Carriers*, ed. by J. S. Matthews and W. F. Dickinson, 3 vols. (3rd ed. Chicago 1906); Moore, Dewitt Clinton, *A Treatise on the Law of Carriers*, 3 vols. (2nd ed. Albany 1914); Goddard, Edwin C., *Outlines of the Law of Bailments and Carriers*, ed. by C. E. Cullen (2nd ed. Chicago 1928); Daggett, Stuart, *Principles of Inland Transportation* (New York 1928); Beale, J. H., Jr., "The History of the Carrier's Liability" in Association of American Law Schools, *Select Essays in Anglo-American Legal History*, 3 vols. (Boston 1907–09) vol. iii, p. 148–60, and "The Beginning of Liability of a Carrier of Goods" in *Yale Law Journal*, vol. xv (1905–06) 207–20; Thompson, G. J., "The Relation of Common Carrier of Goods and Shipper, and Its Incidents of Liability" in *Harvard Law Review*, vol. xxxviii (1924–25) 28–63; Stephen, J. B. C., "The Water-Carrier and His Responsibility" in *Law Quarterly Review*, vol. xii (1896) 116–40; Vangerow, Karl A. von, *Lehrbuch der Pandekten*, 3 vols. (7th ed. Marburg 1867–70) vol. iii, § 648, p. 463–65; Glück, Christian F. von, *Ausfürliche Erläuterung der Pandecten*, 48 vols. (Erlagen 1797–1875) vol. vi, § 490; Josserand, Louis, *Les transports en service intérieur et . . . international* (2nd ed. Paris 1926) ch. ii, § 333–35.

COMMON LAW. Used in its broadest sense the common law is the legal system of England and most English speaking lands, as distinguished from the civil law, or modern Roman law system, which prevails in continental Europe and parts of the world colonized therefrom. It obtains in England and Ireland; the United States, except Louisiana, Porto Rico and the Philippines; Canada, except Quebec; Australia; New Zealand; India, except over Hindus and Mohammedans as to inheritance and family law; and the British colonies other than those settled originally by the French or the Dutch. It gets its name from the mediaeval judicial theory that the law administered by the king's superior courts was the common custom of the realm, as contrasted with the custom of local jurisdictions.

There are other uses of the term which must be distinguished. One, closely related to the broadest meaning, is to designate that part of the law in any English speaking jurisdiction which is traditional in form, i.e. to be found in reported judicial decisions and in textbooks discussing those decisions, as distinguished from the part which is in the form of statutes. In the same way in continental Europe the modern Roman law, which is a common traditional element in the laws of the several nations, is called the common law. Sometimes also the term is used to mean that part of the law, in some English speaking jurisdiction, which grew up and is administered in courts of law and proceedings at law, as distinguished from the part administered in courts of equity or in proceedings in equity. Occasionally it is used to mean the older course of decision in the courts in English speaking countries, or only in England, in contrast to that which obtains today. The tendency to think of law as no more than a body of rules, a tendency which has come down from the twelfth century conception of Justinian's law books as bodies of enacted rules binding on all Christendom, leads to confusion between the system of law which grew up out of the administration of justice in the king's courts and the particular bodies of rules which may have been or are enforced in those courts.

A system of law as distinguished from a body of rules of law is only possible with and after the rise of a legal profession and the development of law teaching. There can be a legal system only when professional lawyers and law teachers begin to distinguish cases and find principles behind their distinctions, to work out and teach and hand down a technique of interpretation and application of legal precepts and of deciding cases, and to give definite formulation to the ideals of the social order as measures of interpretation and application. In the history of each of the systems of law which have developed thus far, namely the Roman, the modern Roman and the common law, three things have concurred at a crucial point. In each case secularization of justice, rise of a legal profession and development of law teaching took place simultaneously and marked a turning point. In English law these things had taken place in the thirteenth

century and from that time the history of the common law as a system begins. The supremacy of the king's courts, which made the common law possible, may well be dated from the Constitutions of Clarendon (1164), which put definite and narrow limits to the jurisdiction of the ecclesiastical courts. This hastened the secularization of justice. The rise of a lay legal profession and of an organized teaching of law in the Inns of Court, or self-governing societies of practitioners in the king's courts, completed the process which the limiting of the jurisdiction of the church courts and the secularizing of justice had begun. As Maitland puts it, taught law is tough law. On the whole, rules of law are relatively short lived. Legal doctrines are long lived.

A body of law is made up in part of an enacted element and in part of a traditional element. From time to time the traditional element or some portion of it is reduced to legislative form. On the other hand, a judicial or doctrinal gloss gradually grows up about all legislation of much legal importance and thus turns it back into the stream of legal tradition. Thus the traditional element is in the long run the more important. Systems of law are systematizings or organizings of tradition. Bodies of law, however, are much more than aggregates of laws or of rules of law, much more than bodies of precepts prescribing definite detailed legal consequences for definite detailed states of fact. In a large view two constituents of any developed body of law are of much more importance than the existing rules: first the traditional technique of finding the grounds of deciding cases, and second the traditionally received ideals of the social order and so of the legal order, and as to what legal precepts ought to be and how they should be applied. The traditional organization of this technique and of these received ideals distinguishes a system of law. The element of technique in law—the art, as one might put it, of the lawyer's craft—is especially important. The technique of developing the grounds of deciding particular cases out of the authoritative legal materials, of shaping precepts to meet new situations and developing principles to meet new cases, and of working out from the body of legal materials as a whole the precepts appropriate to concrete controversies as they arise, is differently but characteristically constituted and organized in the two legal systems which divide the world of today, and it is this technique which sets off the two systems decisively rather than any thoroughgoing differences in rules or institutions.

There are two constituents in the traditional legal materials of continental Europe, the Roman and the Germanic. The Roman element is partly a survival from the time when the Roman law was the law of the world and obtained as a living system, especially in southern Europe. But the significant part of the Roman element is the result of the systematic study of Justinian's codification of Roman law which was carried on first in the Italian universities in the twelfth and thirteenth centuries and has gone on in the universities on the continent down to the present. The Germanic element is a result of the customary law of the Germanic peoples which spread over Europe after the downfall of the empire, developed independently but under the influence of the Roman tradition, and was largely made over by and incorporated into the modern Roman law by systematic study and doctrinal writing in the universities. The common law is Germanic in origin. It too developed independently, although under not a little Roman influence, especially through the canon law, which was highly Romanized, as was the Germanic element in the law of continental Europe. The systematizing and organizing took place not through doctrinal writing and university teaching but through judicial decision. An independent working out of a law of property in land and of a legal procedure, the latter not along the lines of the canon law as on the continent but fitted to the exigencies of trial by jury, insured a characteristic English legal tradition. As modernized in the seventeenth and eighteenth centuries this tradition has gone round the world.

What is important for the present purpose is not so much the incidental borrowings from time to time of particular legal precepts from without as the extent and continuity of the indirect influence of the civil law system. Sometimes it furnished models where common law institutions or doctrines were formative. But chiefly it has at all times been a stimulus to systematic development: in the Middle Ages through the canon law and the study of Roman law in the universities; in the sixteenth and seventeenth centuries through the humanistic ideas of the time and the effect of continental administrative institutions during the Tudor and Stuart polity; from the seventeenth to the nineteenth century, during the absorption of the law merchant, through the continental treatises on commercial law; and in the nineteenth century through the influence of the systematic

treatises on the modern Roman law upon text writers in England and America who sought to organize the materials of English case law by the systematic ideas of the pandectists. On the other hand, the common law tradition succeeded in making over the foreign materials to its own lines. Equity, admiralty, probate and divorce and to a large extent the law merchant began their development outside of the common law with civil law materials and methods and technique. They were worked into the common law tradition quite as thoroughly as the Germanic materials were worked into the modern Roman law tradition of continental Europe.

Legal theory has it that the colonists brought the common law of England with them to America. But for a long time the colonists had no need of so advanced and technical a body of precepts as the seventeenth century English law. It was not until the eighteenth century that there was a need for courts manned by lawyers and for trained lawyers to advise litigants and assist the courts. Before the American Revolution two circumstances made for a reception of the English common law in the colonies. One was economic. Expanding commerce, acquisition of wealth and the rise of a more complex social structure called for tribunals of another type from those which sufficed for the beginnings of the colonies. About 1700 colonial legislation began definitely to run an independent course, but economic growth became too rapid for legislation to meet its demands. The other circumstance was political. The conditions which later led to the revolution caused the colonists to insist on the common law as a birthright, protecting them against the crown, the royal governors and even Parliament. The contests between the courts and the Stuart kings had put the courts in the position of standing between the crown and the subject, and the courts had taken their stand upon the immemorial common law rights of Englishmen. A legal theory of Magna Carta, which had grown up in the courts, was developed into political as well as legal consequences in the writings of Coke, the oracle of the common law. Wherever there was friction between the colonists and royal governors, or between colonial legislatures and the crown, Coke's writings were a basis of argument on behalf of the colonies. The very events which were separating them from England politically tended to make for a reception of the common law.

For some time after the revolution a number of causes operated to hold back an immediate and complete reception of English law. One was the condition of the law at that time. When Blackstone wrote, around 1765, English law was still fundamentally mediaeval. It still thought and spoke in terms of a society organized according to relations which no longer existed in England and had never existed in the colonies. It was needful to reshape the authoritative legal materials to the demands of an era of competitive individualism. In England they had to be made over to the needs of an industrial society. In America they had to be reshaped to the needs of an era of exploitation of the natural resources of a new world, to the needs of a rural, agricultural society differently organized from that of mediaeval England, and to the demands of pioneer commonwealths newly set up in successive waves of westward expansion. Thus the reshaping of the classical English legal materials followed parallel lines in England and America at the end of the eighteenth century and in the first half of the nineteenth century. Another cause for the slowness of reception may be found in Puritan views as to law and lawyers. Under the Stuarts the Puritans had experienced English administration of justice at its worst. They had seen a bar more attached to the crown than to the law. They had seen the tenacity with which the lawyers resisted Cromwell's projects of law reform. Accordingly they distrusted law and lawyers. The attitude of the Puritan clergy was a large factor in holding back the general reception of the common law, which ultimately took place. But the cause which chiefly operated against reception was the political feeling in America after the revolution, aggravated by the bad economic situation of the time. The common law was under suspicion in an era of hostility to all things English. Lawyers were suspected because they alone seemed to thrive in a time of depression. A strong and presently dominant political party was enthusiastically attached to France. For some time there was an inclination to urge reception of French law. French legal authorities stood high in many states. Until near the end of the nineteenth century it was not certain that a great body of states might not abandon the Anglo-American legal tradition and enact codes. Had there been generally available translations of French law books, the course of American legal history might well have been different; but few such books were translated and most of those translated were too late. Kent's commentaries (1826–

30) and above all the writings of Story between 1832 and 1845 started a current of law writing on the basis of English legal institutions which insured that the common law should be the basis of the law in all but one of the United States.

It is usually said that the common law as it stood at the time of colonization is in force in America today so far as it is applicable to American conditions, accordant with American constitutions and unchanged by legislation. Statutes expressly adopting the common law as the basis of the law of particular states frequently fix the date of adoption at the first year of James I, and in the absence of statute that is the legally accepted date. But in this doctrine and in these statutes the term common law is used in two senses. In consequence the courts have encountered some difficulties in applying them.

The English materials as the colonies received them were for the most part set forth authoritatively in the writings of Sir Edward Coke, attorney general under Elizabeth and chief justice under James I. Yet the common law of England, in the sense of the traditional body of legal precepts administered in the king's courts of law, continued to develop throughout the seventeenth century and in the eighteenth century. Also the common law as a system had an important development in England in the nineteenth century. If the statutes limit American courts to the English legal precepts as they stood in 1601, the traditional element of the law would have to stand still in America in its early seventeenth century form, while going forward in England. Thus the courts would be seriously hampered in dealing with many subjects where, in default of legislation, resort must be had to the common law. Hence, although some courts insist that in the absence of statutory rules they must apply English decisions as they stood in the first year of James I, the tendency of American decisions is to hold that the doctrine and the statutes refer primarily to the common law as a system. On this ground courts consider that they may refer to recent English decisions, as against the seventeenth century authorities, if the former are better expressions of the principles of the common law system. English law, as it stood at the beginning of the seventeenth century, had to do almost wholly with property in land and with procedure. Some of the most significant doctrines and important departments of American law arose after that date. It was only by assuming that the common law as a system is referred to, and by treating English decisions in the nineteenth century as affording materials for American judicial development of the traditional element, that the reception of the common law by statute or decision fixing the date at colonization could have been made tolerable.

It must not be overlooked, however, that the United States received much more than the system. It received also a body of authoritative legal materials both as the basis of its legal tradition and as a body of rules for the cases to which they were applicable and appropriate, until superseded by legislation. In the latter sense there are six forms of the common law in this country. First and most important, there is the body of English decisions and English books of authority prior to colonization. Only these are in legal theory of binding authority. The later English decisions are said to be of "persuasive authority." They are to be followed so far as they commend themselves to the courts as well reasoned, as in accord with the general body of common law doctrines and as harmonious with common law principles. Second, there are English statutes before colonization and certain English statutes between colonization and the revolution. The former are part of the American common law so far as applicable to conditions in this country. The latter are part of the American common law only where they were enacted to be applicable to the colonies or have been received as part of our law. Third, the law merchant, or universal custom of the commercial world, is said to be a part of the received common law. This custom of merchants was absorbed into the general body of the law and made over by judicial decision from the seventeenth to the nineteenth centuries. Much of the process of remaking went on parallel in England and the United States, in each case not a little influenced by the continental writers on commercial law. Today the subject has for the most part been put in legislative form. But the law merchant is the background for the interpretation and application of the statutes. Fourth, certain parts of the canon law are said to be common law in America. Those parts of the canon law applicable to probate and divorce which obtained in the English ecclesiastical courts were, so far as applicable in America, received as part of its inherited law. Fifth, the courts hold that on the appropriate subjects international law, as a body of universally recognized

precepts among civilized peoples, is a part of the common law. Finally, the books speak of customs. The type of local custom which was formerly important in England has never existed in America. But the mining customs which grew up on the public domain after 1849 became the foundation of the mining law and law of water rights in the western states and are in that sense a part of the common law in that part of the country.

In the economic order of today unity and harmony are necessary in law and administration, whereas a century ago these might well vary with each locality. Today state lines rarely coincide with economic lines. A regime of local legal units pulling in different directions or indifferent to each other's needs and not pulling together had no serious results when it mattered little outside its own jurisdiction what any one of them was doing. As things are, such a regime is wasteful. It is significant that the subject of conflict of laws has become one of the chief titles of the law in the United States. There is now an elaborate body of rules and doctrines for ascertaining, as among the divergent and discordant laws of forty-eight states, which local law is applicable to situations and transactions that increasingly transcend state lines. Obviously there is economic waste in these bodies of divergent local laws, potentially applicable to every business and every economic activity of any consequence. As to legislation, a partial remedy has been found in the Conference of Commissioners on Uniform State Laws and the uniform statutes on commercial subjects enacted as a result of its labors. But the provincialism of local legislation on matters of national concern and discordant local regulations of nation wide enterprises are still things with which the business man must reckon. Legislation had had no common basis, except as afforded by imitation of the statutes of other states, until the activities of the Conference of Commissioners on Uniform State Laws at the end of the nineteenth century. On the other hand, in that part of the law which is in the form of reported decisions of the courts the common law has been an effective unifying agency. National law schools, teaching the common law as a system and criticizing local anomalies of decision, have done much to mitigate the results of a system under which the highest court of each state is a final arbiter on all questions of law not committed by the constitution to the federal government. The importance of the common law as a unifying agency in a time of economic unification is obvious.

There would, no doubt, be general agreement that the characteristic institutions of the common law are the method of judicial precedents, trial by jury and the doctrine of supremacy of law. Each of these has had its vicissitudes in English and American legal history and each is more or less under attack in present day America. But each has endured, and these three institutions seem to set off the Anglo-American legal system as definitely as reliance upon texts, piecemeal trial and a Byzantine conception of the relation of the state official to the law mark the civil law system. They must be considered in generalized form, however, if they are to be regarded as institutions of the English speaking world. The enduring element in the doctrine of precedents is the application of reason to judicial experience rather than to legislative or juristic texts. Its significant feature is reliance, for authoritative legal material, on judicial decision of actual controversies rather than on legislative or juristic formulations of abstract propositions. Thus the common law is a law of the courts as distinctly as the civil law is a law of the universities. In form it is expressed in the law reports. Its exponents are the judges. On the other hand, the civil law, since fifth century Rome, has been in form (or in the theory of its form) a body of legislatively declared or prescribed texts interpreted by jurists. Its exponents have been academic teachers, jurists and commentators. The technique of the common law is one of finding the grounds of decision of cases in reported decisions of past controversies; that of the civil law of finding them in written texts and commentaries thereon. As the doctrine of precedents stands in America today, only the decision of the highest tribunal of the jurisdiction in which the case is before the court has binding authority. Such decisions, precisely governing, are at hand only for everyday situations, since changes in the social order, inventions and discoveries make most of the decisions of the past inapplicable after a short time except as the basis of analogical reasoning. Thus as to much of its work a common law court is remitted to the decisions of the courts of other English speaking jurisdictions, which are only of "persuasive" authority. For any difficult problem the court may draw upon judicial experience, past and present, in the whole English speaking world, without being bound by any particular formulation. This gives to the common law the flexibility required to

meet the demand for change, while the traditional technique and the prescribed application of it to authoritative materials, when there are any, give the reasonable certainty and uniformity required to meet the demand for stability.

As to trial by jury, it may be admitted that the civil jury seems to be slowly dying out in England while signs that it is moribund are not wanting in America. The enduring element is to be found in the mode of hearing cases and determining issues of fact which grew up in the common law courts and was given shape by the exigencies of a jury. Here, at any rate, is a legal institution full of life. When in 1913 the federal Equity Rules definitely set aside the civil law methods of proof borrowed by the Court of Chancery from the procedure of the church and set up for federal courts in equity cases the method of oral examination and cross examination of witnesses in open court and of hearing the case as a whole, which had developed out of jury trial, they rejected an exotic feature of Anglo-American procedure and provided a wider operation for a characteristic common law institution.

As to the doctrine of supremacy of law, it will require separate and fuller treatment than may be given to it here (*see* RULE OF LAW; JUDICIAL REVIEW). In its most general form it is the doctrine that all agencies of government are bound to act upon principles and not according to arbitrary will and that to this end their acts are subject to scrutiny in ordinary legal proceedings. It assumes an accepted ideal that those who wield governmental powers and their agents are not free to follow their own wills, wherever mere will leads them, but are held to act upon principles and follow reason. A like received ideal is behind the doctrine of precedents. Thus Coke could say that "the common law is nothing else but reason."

It must be admitted that the results of the judicial development of the law by the common law technique are less satisfactory under the conditions of today than during the formative era of American institutions. In the country as a whole the crowded calendars of the appellate courts preclude the thoroughness in presentation and deliberation in judicial study which are postulated by a regime of judicial finding of the law. The time allowed for argument has had to be restricted. It is no longer possible, even in cases of the first magnitude, to hear counsel until every detail has been gone into fully in argument. Nor can the judges take such time as they feel to be required for each individual case. To keep up with their calendars they must work rapidly and with a minimum of deliberation. Thus at a time when constructive work is called for and adjustments of the law to changes in the economic and social order are pressing upon the courts, the pressure of business operates to make the common law machinery of lawmaking much less effective. It is no easy task to adjust the received ideals and authoritative traditional legal materials, as they were given shape for the pioneer, rural, agricultural society of the formative era, to the urban, industrial society of the present. Much of the dissatisfaction with the common law manifest in the present century is due to the persistence of modes of legal thought appropriate to pioneer, rural communities, in judicial passing upon and application of the social legislation of the nineteenth century.

Five elements have contributed to make difficult the application of American judicial and professional thinking to the industrial and social problems of the time. In chronological order these are Puritanism, the idea of law as standing between the abstract individual and society and protecting the former from the latter, the philosophical theory of natural rights, pioneer ideas and the abstract individualist philosophy of law of the last century.

Puritanism put individual judgment and individual conscience in the first place where the traditional modes of thought had put authority and the reason and judgment of the prince. This mode of thinking on religious and political questions entered into legal thinking during the contests between the courts and the crown in seventeenth century England. When the colonists came to insist on the immemorial common law rights of Englishmen, as against the crown and Parliament, those rights were identified with the natural rights of man. Thus a continental philosophical theory got a concrete content of English law. The resulting tradition of legal thought was congenial to pioneer America. The pioneer was jealous of government and administration and had a rooted dislike of supervision. The conception of the common law as standing between the subject and the crown became in his mind one of the common law as standing between the individual and society. Puritan and pioneer, using the legal doctrines fashioned in the contests between courts and crown, were able to devise checks which proved effective against American social legislation for more than a generation after British lawmaking had

changed front. Finally, the nineteenth century philosophy of law, developed in continental Europe, was used to organize the result and give it the toughness of a taught tradition. Happily the idea of relation, by means of which most of the authoritative Anglo-American legal materials had taken their original shape, is well adapted to the demands of a regime of cooperative activity as contrasted with one of competitive self-assertion. Two things are likely to make the common law as a system an enduring basis for American law both in and after the transition: its technique of finding the law through judicial experience and its conception of rights and duties as involved in or incident to relations.

ROSCOE POUND

See: LAW; RULE OF LAW; JUDICIAL PROCESS; LEGAL PROFESSION; LEGAL EDUCATION; COURTS; EQUITY; PROCEDURE, LEGAL; CUSTOMARY LAW; CASE LAW; CODIFICATION; LEGISLATION; JUDICIAL REVIEW; RECEPTION; ROMAN LAW; CANON LAW; CIVIL LAW; COMMERCIAL LAW; LAW MERCHANT; CONSTITUTIONAL LAW; CONFLICT OF LAWS.

Consult: Holmes, O. W., *The Common Law* (Boston 1881); Kent, James, *Commentaries on American Law*, ed. by O. W. Holmes, Jr., 4 vols. (14th ed. Boston 1896); Terry, H. T., *Some Leading Principles of Anglo-American Law* (Philadelphia 1884); Dillon, J. F., *The Laws and Jurisprudence of England and America* (Boston 1894); Pollock, Frederick, *The Expansion of the Common Law* (London 1904), and *The Genius of the Common Law*, Columbia University, The Carpenter Lectures, 1911 (New York 1912); Pound, Roscoe, *Spirit of the Common Law* (Boston 1921), and "The Place of Judge Story in the Making of American Law" in *United States Law Review*, vol. xlviii (1914) 676–97, and "Comparative Law in the Formation of American Common Law" in Academie Internationale de Droit Comparé, *Acta (Mémoires)*, vol. i (1928) 183–97.

COMMON LAW MARRIAGE. A common law marriage is one which has not been solemnized in any particular form, being based only upon the mutual assent of the parties. It is thus a marriage which does not depend for its validity upon any religious or civil ceremony. It is an unlicensed, an unrecorded and non-ceremonial marriage.

There is now little doubt that common law marriages were recognized in England until the passing of Lord Hardwicke's Act in 1753 (26 Geo. II, c. 33). This is clear from the practise of the ecclesiastical courts, which by the twelfth century had established their jurisdiction over marriage. In these courts a distinction was drawn between *sponsalia per verba de praesenti*, that is, words between man and woman presently to become husband and wife, and *sponsalia per verba de futuro*, promises to become husband and wife in the future. A present agreement to become husband and wife or an agreement to constitute such a relation in the future, followed by sexual intercourse, created a marriage which the ecclesiastical courts regarded as complete in substance but not in ceremony; and the parties might be compelled to have the ceremony performed *in facie ecclesiae*. If the marriage were so celebrated the temporal courts would hold it good for all purposes *ab initio*. The mutual assent of the parties constituted the *vinculum* and made the contract *verum matrimonium*. But even without the subsequent performance of a religious ceremony the marriage was good for many purposes. Before the ceremony the woman was not entitled to dower; but the children of the marriage, while not entitled to inherit property, were regarded as legitimate.

Indeed, non-ceremonial marriages were quite common throughout mediaeval Europe. They were abolished, however, in all Catholic countries by the decrees of the Council of Trent, 1545–63, which required all marriages thereafter to be contracted in the presence of the parish priest and "two or three witnesses." But due to the non-reception of these decrees in Protestant countries the reform there was delayed until the eighteenth century, when religious ceremonies generally came to be required. Thus Lord Hardwicke's Act in 1753 came comparatively late in England. Under the terms of this act all marriages save those of Quakers and Jews were to be celebrated only after publication of banns and in the presence of an Anglican clergyman. It was, moreover, expressly provided that "in no case whatsoever shall any suit or proceeding be had in any ecclesiastical court in order to compel celebration of marriage *in facie ecclesiae*, by reason of any contract—whether *per verba de praesenti* or *per verba de futuro*." However, as the act was made to apply only to England and not to Scotland there began the migrations over the Scottish border which resulted in the famous Gretna Green marriages.

The celebrated leading case of Dalrymple *v.* Dalrymple [2 Hagg. Const. Rep. 54 (1811)], which contains the judgment of Lord Stowell, upheld common law marriages in Scotland after Lord Hardwicke's Act and asserted their validity in England prior thereto. But in the famous cases of The Queen *v.* Millis [10 Cl. & F. 534 (1843)] and Beamish *v.* Beamish [9 H.L.C. 274 (1861)], decided by the House of Lords, where

the question of common law marriage in Ireland was raised, the thesis was maintained "that by the ecclesiastical and the common law of England the presence of an ordained clergyman was from the remotest period onward essential to the formation of a valid marriage." Misinterpreting certain old cases wherein the children of such marriages had not been allowed to inherit property the judges erroneously took the position that such children were illegitimate. "If," says Maitland, "the victorious cause pleased the lords, it is the vanquished cause that will please the historian of the middle ages."

There exists much uncertainty concerning the development of common law marriage in the United States. Certainly the act of 1753 did not apply to the dominions beyond the seas, and in most of the colonies there existed statutes which required for a valid marriage the presence of a certain official. The leading authorities are not in agreement, however. Apparently, according to Howard, the informal marriage was valid in the absence of an express statutory provision declaring it null and void. In this he is supported by Professor Ernest Lorenzen. F. G. Cook, in a fine series of articles, has stated his belief, however, that the colonial statutory system entirely superseded the common law. Certainly there are no decisions of importance during the colonial era. When after 1776 the English common law was retained as a part of the law of the land, unless expressly superseded by constitutional or statutory provisions, almost everywhere statutes prescribed the necessary marriage formalities. In many jurisdictions, however, marriages performed in disregard of them were upheld, the statutory provisions being construed as "directory." In the leading case of Fenton *v.* Reed [4 Johns. (N. Y.) 52 (1809)] Chancellor Kent accepted as binding a common law marriage, declaring that no ceremony or solemnity was requisite. This case exerted a great influence upon the subsequent decisions in other jurisdictions. On the other hand, Judge Parsons, in The Inhabitants of the Town of Milford *v.* The Inhabitants of the Town of Worcester [7 Mass. 48 (1810)], also a very influential decision, refused to recognize the validity of common law marriages in Massachusetts, although the statute did not provide that marriages contracted against its formal provisions should be void. In any event, it is clear that the English doctrine has not been received in this country in full because there has been no recognition of a marriage *per verba de futuro cum copula*. Only present agreements to become husband and wife have gained recognition. Furthermore, there has been a dispute as to whether cohabitation following the agreement is a prerequisite to the existence of a valid common law marriage—which was certainly never the case in England.

At the present day common law marriage would seem to be recognized in the following American jurisdictions: Alabama, Colorado, District of Columbia, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Michigan, Minnesota, Mississippi, Montana, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas and Wyoming. There would seem to be no common law marriage, either as the result of statute or judicial decision, in Arizona, Arkansas, California, Connecticut, Delaware, Illinois, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Missouri, Nebraska, New Hampshire, North Carolina, North Dakota, Oregon, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia and Wisconsin. Statutory modifications of common law marriage in the various states make it difficult to predict what view any given court will take of an informal union.

When one considers the prevailing system of statutory formality and record, reflecting the present increase of interest on the part of the state and society in the institution of marriage, it would seem an anachronism that at least one half of American states are willing to recognize the validity of a marriage solely on the basis of the statement by a man and a woman that they are husband and wife. Such a practise must be conducive to instability of marriage and thus fosters the very evil which the statutory requirements of license issuance, registration and public administration were designed to prevent. Of necessity the standard of record for all marriages is thereby lowered. The difficulty is increased by the fact that no two states are in entire accord as to what constitutes a common law marriage. Nevertheless, there is a deep rooted sentiment in various parts of the country in favor of the institution. This is due to the feeling that innocent children ought not to suffer because their parents have neglected the statutory formalities and that refusal of sanction to an informal union constitutes an invasion of the most sacred right of the individual. It is true that by means of a common law marriage

many marriages are upheld which otherwise due to some impediment would be void. Frequently, however, the judicial determination of the common law relationship comes at so late a date—perhaps after the death of one or both of the parties, when the evidence is difficult to obtain—that there is little truth in the popular idea that it furnishes "protection."

The existence of common law marriage often opens the door to blackmail. After the death of a man it is frequently possible for his mistress to claim the rights of a common law wife. On the other hand, if the claims based upon illicit relations are presented during the lives of the parties, a subsequent ceremonial marriage of one of them may be made bigamous and the children bastardized. The recognition of common law marriages thus involves fundamental moral and practical dilemmas. The experience of the Federal Bureau of War Risk Insurance with many claims of informal unions is particularly interesting. The family allowances granted to wives of soldiers resulted in the filing of many applications by women who claimed to be common law wives but who, in the opinion of the officials, had in the majority of cases little right to the title.

Common law marriage has been abolished not only in England but in continental countries, where, moreover, obligatory civil marriage began to prevail after the French Revolution. The present tendency would indicate the gradual but ultimate abolition of common law marriage in the United States as well. It is opposed by the American Bar Association, by the commissioners on uniform state laws and by leading sociological authorities. Of the states which have abolished common law marriage New York is the only one to bring it back, the section of the laws of 1901 which did away with common law marriage having been inadvertently repealed in 1908.

A. C. JACOBS

See: MARRIAGE; MARITAL PROPERTY; FAMILY LAW; ILLEGITIMACY; WOMAN, POSITION IN SOCIETY; FEMINISM.

Consult: Cook, F. G., "The Marriage Celebration in Europe" in *Atlantic Monthly*, vol. lxi (1888) 245–61, 350–62, 520–32, 680–90; Richmond, May E., and Hall, Fred S., *Marriage and the State* (New York 1929); Pollock, F., and Maitland, F. W., *The History of English Law before the Time of Edward I*, 2 vols. (2nd ed. Cambridge, Eng. 1899) vol. ii, ch. vii, § 1; Howard, G. E., *A History of Matrimonial Institutions*, 3 vols. (Chicago 1904); Koegel, Otto E., *Common Law Marriage and Its Development in the United States* (Washington 1922); May, Geoffrey, *Marriage Laws and Decisions in the United States* (New York 1929); Hall, Fred S., "Common Law Marriage in New York State" in *Columbia Law Review*, vol. xxx (1930) 1–11; Lorenzen, Ernest G., "Marriage by Proxy and the Conflicts of Laws" in *Harvard Law Review*, vol. xxxii (1919) 473–88.

COMMON SENSE has three discernible meanings denoted roughly by emphasizing "sense," by emphasizing "common," by taking the two together as a single notion. This order represents in general the order in which the meanings arose. Aristotle thought of a sense or organ that, while incidentally possessed by all civilized men, had a definite function to perform, the function of correlating all the other human senses into an operative unity. In reaction to the invidious classical attitude toward slaves and barbarians, the stoics thought to find in all men, irrespective of class distinctions, some basic identities. Since they shared with Plato and Aristotle the notion that man is rational, the common element must be regarded as "sense"; but it was the community rather than the rationality that caught and held their attention. The existence of something common to all men conditioned their whole social philosophy and was guaranteed by their metaphysical belief that all souls arose from a rationality in nature itself and shared as common what made the world soul unitary.

Precisely what this was that made men alike and entitled them to equal consideration was and is subject to various interpretations. It might be thought of as a common stock of ideas innately present as the initial equipment of all human beings; it might be regarded as an identical content presented alike to all minds through experience (*see* RATIONALISM); or it might be considered a common reflective activity whereby men confront nature with diverse patterns for the purposive direction of otherwise purposeless change (*see* PRAGMATISM). But since human interest centers eventually neither in ideas nor in things but in judgments or convictions that relate the two, common sense acquires beliefs for content. Beliefs that are genuinely common are really so uncommon, however, that once found, or presumed, they easily pass from descriptive to honorific use; and in popular parlance common sense becomes good sense which to have implies praise, which to lack (although by hypothesis none lacks it) implies blame. It was foregone indeed that motivation sufficient to postulate something common in the face of such thoroughgoing

empirical diversity as men illustrate would use the postulation for purposes of privilege.

John Locke's attack on innate ideas as constituting what is common to men was definitely related to his own notion as to what concrete privileges men ought to share. He wanted to rid the world of a common sense decreed before birth to be the nesting place of authority and to put in its place a common sense empirically engendered and therefore open to influence from him and others who shared his beliefs. (The current onslaught against instincts illustrates a similar social attitude.) But when Locke's empirical emphasis eventuated through Hume into a skepticism that left neither soul nor God secure, a reaction set about to recover under the name of common sense long cherished beliefs. The resulting Scottish common sense validated such beliefs as that the soul and God and the external world exist. Before such beliefs reason must stand either acquiescent or disowned. Operating from the same religious base and against the same skeptical English empiricism, Kant found in such limitations as space, time and causality the common negative obstacles to freedom that drive men for refuge to common positive faiths in universal moral law and in presumed religious verities. These debits and assets are common to men as men and furnish therefore to even average persons who are not reflective a feeling of stability and a sense of direction.

Common sense, then, connotes both an avenue to elemental truths and the system of elemental truths thus achieved. As an organ of knowledge it never gets clearly defined and so lends itself easily to the descriptive psychology of any previous generation. As a system of beliefs, common sense at present in the Occident represents such religious elements as belief in the existence of God and the immortality of the soul, such scientific ideas as that (nearly) everything has a natural cause, such political propositions as that every adult (male at least) is entitled to one and only one vote, such economic notions as that of equality of opportunity and such cultural concepts as that of the superiority of one's own country. But the foregoing historical reflections suggest that these contents are subject to revision without notice, although they never get revised overnight. What remains through all change of content seems to be a vague feeling that there is something common in the nature and equipment of men that entitles them to claim, regardless of differences, a certain minimum of privilege and opportunity.

Common sense is thus potentially as much the matrix and sanction of political institutions and economic factors as of moral code and religious faith. It is in general a conserving agency, standing, in the person of the average man, doggedly against innovations and new ideas that disturb his composure or seem to threaten his small segment of security. It approves whatever practises have become well established and, if pressed, justifies them by articulating the assumptions of daily life. It disdains the expert and looks with suspicion upon discussions that involve novel ideas or move in terms not familiar. It represents the habitual and dimly conscious side of individual and social life. As such it is the ideational agency involved in the phenomenon of institutional law. But it is not wholly without relation to individual growth and social progress. For among the stereotypes that serve as content for common sense there are found also vague but insistent intuitions of welfare, of rights and duties, in short, a sense of justice. The course of the common law memorializes both these aspects: it has been on the one side cosmically embodied reason to be discovered and acknowledged; but it has been on the other side the insight of judges on issues in doubt. When institutions press too hard upon humble folk they achieve gradually in popular consciousness an inimical isolation; and common sense turns revolutionary—conserving still, however, the presumed welfare of the many and justifying rebellion with the same stereotypes now turned against constituted authority. The basic appeal, however, in such situations is likely to be to something deeper than any human opinions, to nature herself, as in Thomas Paine's famous pamphlet *Common Sense*.

It is an indication of the deep hold that the democratic ideal has upon modern life, particularly in America and Great Britain, that common sense is rather uniformly used in a eulogistic fashion. This is all the more remarkable since common sense does not ordinarily talk about itself. Indeed, it is almost literally true that one set of men have and use it and another set of men talk of and write about it. Since the heyday of the Scottish philosophy it seldom describes the articulated beliefs of philosophers or social scientists. They will normally represent themselves as intellectual and critical, but will actually disbelieve the basic judgments of common sense

and disapprove its conservatism. And yet they will seldom speak of it except eulogistically. George Santayana, for instance, in the introduction to a recondite and highly sophisticated volume (*Skepticism and Animal Faith*, New York 1923) declares that "common sense, in a rough and dogged way, is technically sounder than the special schools of philosophy." Franz Boas in a vein not dissimilar to that of Santayana declares (*Anthropology and Modern Life*, New York 1928), "I should always be more inclined to accept, in regard to fundamental human problems, the judgment of the masses rather than the judgment of the intellectuals, which is much more certain to be warped by unconscious control of traditional ideas . . . the ethical ideals of the best among the masses are human ideals, not those of a segregated class." E. F. Carritt confesses (*Journal of Philosophy*, vol. xxii, 1925, p. 577) that "the philosopher is specially tempted to warp his intuitions to his theory. Personally I know a dozen plain men and women to whom I would rather go for advice on a difficult point of personal ethics than to Kant or Hegel."

This temper reflects in the first instance a realistic sense for the contemporary scene, a sense so realistic in fact as to engender in some the fear that democracy always makes for mediocrity. Writers must have readers, and thinkers need a sympathetic milieu. But it is more than an obeisance to social facts; it represents also a curtsy to ideals. It is to the common man's presumed sense of justice, to his readiness to change if a better way can be indubitably demonstrated, to his capacity for institutionalizing and perpetuating what he does encompass—it is to these traits, the dynamic aspect, the educability of common sense, that deference is paid by critical minds. Moreover, it is an appeal with no alternative; for the intellectual and critical mind in modern times seems to have lost faith in classes that distinguish themselves in rank from common men and to have come to distrust its own class conceived as such more than it distrusts a lower level of rationality. What this attitude means for social theory appears more clearly when we see how equivocal is the appeal to common sense as a sanction or as a norm. Like the appeal to self-evidence it never arises except under circumstances that render it inconclusive; for one does not appeal to self-evident principles as long as anything else is left undisputed. Nor does one appeal to common sense except to refute those who disagree with him as to either its nature or locus. What was common sense to Thomas Paine was lese majesty to George III; what was common sense to Roger Williams was sinful pride to John Cotton. The only way to make fruitful an appeal to common sense, since it is always equivocal, is apparently to educate common men to accept one's own opinions as common sense. This is not to appeal to it as a norm; it is to create it as a sanction.

Accordingly, common sense as category plays the useful social role that all equivocal terms play; they facilitate the substitution of discussion for strife through the misapprehension that all parties mean approximately the same thing. The mistake is discovered only after they do mean the same: conversion forestalls resistance. Implied in this educational technique is the primacy of interest in the life of value and the efficacy of discussion for the resolution of conflict.

Here emerges democratic theory. For the basic democratic faith is that every man is a nucleus of value. Even the commonest man has desires, interests; and if interests are values, then no man but is a locus of value. Conflict of interests demands, therefore, a method of composition that respects every interested person. Maximum value cannot be maintained by dominance, even where it is physically possible, because dominance not merely suppresses specific desires but dries up their personal fountains. If there are no values more objective than interests, then no man has a preferential rating save as he wins it. The struggle of persons for place represents the life of value; a victory represents stabilization of values; and the widest social harmony openly achieved represents the only ideal that can command full respect. No one has the luxury of absolute values and no one enjoys complete neutrality. To objectify means to socialize, and to achieve final objectivity betokens socialization to the point of universality. The greatest good of the greatest number through a process in which every person has been counted for one and nobody for more than one—this represents the final statement of democratic aspiration. At its center stands the average man with common sense describing both his achievements and his potentialities.

If the prevailing deference of intellectualism toward common sense—when it might openly, and sometimes does (e.g. Faguet, É., *Le culte de l'incompétence*, 2 vols., Paris 1910–11; tr. by B. Barstow, London 1911) reprobate it—does not

imply some such theory, it certainly does seem to imply a loss of confidence in the priority of class values, even when they are buttressed by insignia of reason. And a loss of confidence in special values means an acceptance of the more general values represented by the broader human base, unless pessimism is to be taken as a goal. Human interests once accepted as final values and dominance interdicted as method, popular education becomes the sole technique for making common sense mean good sense made common. The role of the expert in such a setting is not that of revealing new values, but of devising new techniques for fulfilling human interests and for harmonizing those that conflict. Not primarily with ends, but with means does he work. And yet as servant of the people, he may question whether presumed interests are real interests; whether egoistic interests may not with profit be sublimated rather than expressed; whether some interests are not entitled to the sacrifice of others. He may interrogate, but he may not dictate; he may lead, but he may not drive. The role of the educator is conceived not as that of indoctrinating the helpless young with all the dogmatisms of the dominant old, but as that of discovering the capacities of the young, putting at their disposal the intellectual equipment already provided, sensitizing them to whatever cultural inheritance there may be, encouraging meanwhile an independence that leads to responsibility and a sympathy that will not short circuit total power by unprevised egoism.

Common sense, in short, as a philosophic-social tool, appears as good sense only where it is either common or can be made to conduce to community. It is the norm of every other kind of sense because it is the final factual sanction; and it is the final sanction in theory as well as in democratic fact because there is no value apart from interest and no objectivity apart from social agreement. Since by hypothesis common sense represents the largest social agreement achieved at any given time, it becomes the point from which democratic education sets out to increase the area of the sharable. Common sense represents thus both the beginning and the end of the democratic vista; and democracy as process stands revealed as the self-improvement through intrinsic forces of common sense itself.

T. V. SMITH

See: MORALS; ETHICS; BELIEF; AUTHORITY; ARISTOCRACY; EXPERT; EQUALITY; DEMOCRACY; INDIVIDUALISM; RATIONALISM; PRAGMATISM; TRADITION; PUBLIC OPINION; CONSENSUS; SOCIAL PROCESS.

Consult: *Dictionary of Philosophy and Psychology*, ed. by J. M. Baldwin, 2 vols. (new ed. New York 1918–20); Dewey, John, *Human Nature and Conduct* (New York 1922); Follett, Mary, *Creative Experience* (New York 1924); Montague, W. P., *The Ways of Knowing* (London 1925); Reid, Thomas, *An Inquiry into the Human Mind on the Principles of Common Sense* (6th ed. Edinburgh 1810); Sidgwick, Henry, *The Methods of Ethics* (7th ed. London 1907) ch. xi; Smith, T. V., *The American Philosophy of Equality* (Chicago 1927); Windelband, W., *Lehrbuch der Geschichte der Philosophie* (11th ed. Tübingen 1924), tr. by J. H. Tufts (2nd ed. New York 1901).

COMMUNE, MEDIAEVAL. All cities in the Middle Ages were, in the juridical sense of the word, communes. They were civil persons, recognized as such by the established authorities, and endowed with definite rights. Certain authors apply the term "commune" only to those cities which received, whether from their lord or from the king, a charter of liberties granting them more or less complete autonomy. This, however, is an abuse of language; for the grant of a charter was not indispensable to the existence of an urban commune; it merely ratified its existence.

The commune had its source in the newly created requirements of the rising class of merchants and artisans and in their need for organization to defend and promote their common interests. There were communes as early as the eleventh century, and between 1100 and 1300 they increased rapidly in number as well as in population. Communes were first established at the geographic points most favorable to commerce and industry. Here the social situation of the inhabitants differed radically from that of the rest of the population; for agriculture as a livelihood was superseded by the exchange and production of goods. Since the feudal organization, in the midst of which the communes developed, ignored the needs of the new communities, the bourgeoisie was compelled to find its own means of satisfying them.

The first of these needs was defense. Palisades or walls had to be constructed to protect the property of the citizenry against attacks by robbers. To meet the cost of such defensive works it was necessary to levy taxes upon all those who benefited by protection; and with the increase in size and complexity of the population new expenditures became necessary. Markets had to be set up, bridges, quays, halls had to be built. In order to maintain peace with-

in the fortified enclosure police measures were adopted for the regulation of the bearing of arms and for the suppression of violence.

The organization of the commune was at first purely personal. It affected only those who consented to participate in it and who bound themselves to one another by oath. At the close of the twelfth century, however, the commune became territorial rather than personal, and thereafter all inhabitants of the city and its suburbs were obliged to take the oath which placed them under the authority of the commune. If they refused they had to emigrate.

Although the communes proceeded from the initiative of the bourgeoisie their development did not go unnoticed by the established authorities. It would be quite erroneous to assume that the lords were as a general rule opposed to their development. In the majority of cases they not only did not oppose them but even favored them. In Flanders, for example, where the communes appeared earlier than anywhere else north of the Alps, the counts allowed them to develop freely, knowing that their prosperity would stimulate commerce and increase the general wealth of the country. Elsewhere, it is true, the rise of the communes sometimes provoked resistance, particularly on the part of the ecclesiastical princes. The bishops, afraid to sanction an autonomy which apparently menaced their prerogatives, spiritual and temporal, vigorously opposed the aspirations of the rising towns in Lombardy, in northern France and on the banks of the Rhine. In Milan, Cambrai, Cologne and many other episcopal cities the communes had to win their way to recognition through a vigorous struggle with their ecclesiastical lords.

In a society so divided and localized as that of the Middle Ages the form of commune naturally varied according to place and circumstance. The power of some communes extended only to the police administration and the communal finances and in no way encroached upon the superior jurisdiction of the lords, to whom they remained subject. Others succeeded in acquiring a more or less considerable share in this jurisdiction. In Flanders, for example, and in the majority of the cities of the Netherlands and of northern France, the municipal *échevins* represented both commune and prince. In Germany and Italy the urban commune became a true republic, possessing all the political and juridical rights which it had won away from its lord. As a general rule, the autonomy of the urban commune increased as the authority of its suzerain weakened. In Germany and in Italy, where the imperial authority was declining in the thirteenth century, the "free cities" acquired an independence which made them virtually collective seigniories. In England, on the contrary, the power of the crown always succeeded in holding the municipal franchises to a minimum. In France, where during the twelfth century royalty protected the communes in order to gain their support against the feudal lords, it hastened to restrict their autonomy as soon as it no longer needed their assistance.

The communes differed from one another not only in extent of power but also in their internal organizations, which ranged from the simplest to the most complex. In Italy and the south of France they were governed by consuls, in Germany by the *Rathsherren*, in northern France and in the Netherlands by *échevins* and *jurés*, in England by aldermen. Sometimes the magistrates of the city were judges and administrators as well; sometimes the judicial and the administrative powers were exercised by separate organs. Amid this variety, however, certain common characteristics may be distinguished. Everywhere the governing magistrates were grouped in councils to which members were elected either by the council, by electors following procedures which were usually very complicated, or even by lot. There was great diversity in the duration of office, which might be held for life or, as was most common, for one year.

It is in general true that the communal government, which was at first reserved for members of a plutocratic aristocracy, became more and more popular in the course of the fourteenth century. The large merchants, who at first governed the cities, were forced as a result of uprisings to share their power with the artisans and sometimes even to surrender it wholly to them. This transformation is most clearly evidenced in the industrial cities of Italy and of Belgium, where the conflicts exhibited between capital and labor were more intense than elsewhere and where the "great" (*populo crasso*) contested with the "small" (*populo minuto*). In Germany, however, where the cities were centers of commerce rather than of industry, the upper middle class maintained almost everywhere its privileged position.

The popular constitutions of the large communes never became permanent. The different groups of artisans who shared in the power were

almost always at strife with one another because of the divergence of their interests. In the course of the fifteenth and sixteenth centuries these recurring disturbances contributed largely to the triumph of the princes in their efforts to subject the cities to the authority of the state. Almost everywhere the sovereigns revoked the rights which the princes of the Middle Ages had conceded or which the communes had arrogated to themselves. In the national states of early modern times the communes were restricted to the domain of purely communal interests.

HENRI PIRENNE

See: FEUDALISM; GUILDS; MUNICIPAL CORPORATION; MUNICIPAL GOVERNMENT; CITY; CITY-STATE; HANSEATIC LEAGUE.

Consult: Von Below, Georg, *Der Ursprung der deutschen Stadtverfassung* (Dusseldorf 1892), and *Territorium und Stadt* (2nd ed. Munich 1923); Luchaire, A., *Les communes françaises à l'époque des Capétiens directs* (new ed. Paris 1911); Maitland, F. W., *Township and Borough* (Cambridge, Eng. 1898); Hegel, K., *Geschichte der Städteverfassung von Italien*, 2 vols. (Leipsic 1847); Handloike, M., *Die lombardischen Städte unter der Herrschaft der Bischöfe und die Entstehung der Communen* (Dessau 1883); Pirenne, Henri, *Belgian Democracy, Its Early History* (Manchester 1915), and *Medieval Cities* (Princeton 1925).

COMMUNE OF PARIS. The revolutionary movement known as the Commune of Paris of 1871 is significant primarily as constituting the most clearly defined attempt of the Parisian proletariat to free itself from hostile domination by rural France. Since the days of the commune of 1793 there had been in Paris a strong proletariat, inarticulate at times but always a potential revolutionary force. On a number of occasions, as in 1830 and 1848, it had attempted to exert its strength, only to be frustrated in the end by the overwhelming majority of rural representatives in the National Assembly. Revolutionary leaders of the type of Auguste Blanqui (*q.v.*), aware that their greatest strength lay in this urban proletariat, denounced the rural classes and openly advocated the "Parisification of France." The alignment of urban versus rural is strikingly indicated by the plebiscite of May, 1870, in which the vast majority of French voters recorded their approbation of Napoleon III's liberal reforms during the preceding decade, while the minority vote of repudiation was drawn almost entirely from Paris, Lyons, Marseille and a few other industrial centers.

The political situation resulting from the defeat of Napoleon III at Sedan on September 2, 1870, intensified the latent hostility between Paris and rural France. On September 4 a republic was proclaimed and the Government of National Defense set up. Two weeks later the German army laid siege to Paris. Alarmed by the seriousness of the military crisis at hand Paris accepted, although with some misgiving, the new republican leaders. But as the siege continued month after month with no sign of the promised *sortie torrentielle*, the Parisian proletariat, suffering from hunger and cold, became increasingly impatient and reviving with favor the tradition of the commune of 1793 advocated the *levée en masse* under the dictatorship of Paris. As early as September a demand for the creation of an autonomous commune had been presented to the new government. Unofficial machinery for carrying on municipal activity was being developed in the city, with the Comité Central des Vingt Arrondissements as the principal coordinating agent between the various administrative units. The power of the Parisian proletariat had been strengthened by the increase in the national guard necessitated by the war. The new battalions had been drawn from the laboring classes and had been granted the privilege of nominating their own officers, most of whom shared with the men a strong desire for an autonomous commune. In February, 1871, these proletarian battalions, joining in a loose federation (thus acquiring the name *fédérés*), formed a Comité Central de la Garde Nationale, with three representatives from each of the twenty arrondissements. Thus, by means of the two *comités centrals* as well as by several other smaller organizations of a similar nature there were being created the beginnings of a coordinated political activity similar to that which had culminated in the commune of 1793. The ultimate goal of this activity is clearly indicated in an *affiche* issued by the Comité Central des Vingt Arrondissements on January 6, 1871, after almost four desperate months of siege: "The municipality or the Commune—whichever name may be preferred—is the only salvation of the people, the only recourse against extermination." Realizing that the interests of the Paris proletariat could be protected more effectively by the strong military committee of the National Guard, which was warmly supported by revolutionists like the Blanquists as well as by the more peaceful socialists of internationalist tendencies, the Comité Central des Vingt Arrondissements withdrew to a position of comparative obscurity.

On January 28 an armistice was signed between the German army and the Government of

National Defense in order to give France an opportunity of electing a National Assembly which should decide between peace and a further continuation of the war. This assembly, reflecting the reactionary and pacifist sentiments of rural France, immediately antagonized the fervid patriotic spirit of Paris by an ignominious capitulation to the terms dictated by Bismarck. Moreover, motivated by a deep distrust of the revolutionary tendencies of Paris the "assembly of rurals" passed a series of measures injurious to the interests of the city and as a final insult voted to transfer the capital of France to Versailles. Thiers, the head of the new government and an implacable enemy of Paris, realizing the danger inherent in the national guard committee, determined, as a crippling blow to the Parisian movement for autonomy, to deprive this committee of its military strength by capturing the cannon which it had jealously guarded. The attempt on the morning of March 18 to surprise the Parisian troops and transfer the cannon from the heights of Montmartre to the headquarters of the government forces was frustrated by a comparatively feeble opposition and by the defection of many of the supposedly loyal battalions entrusted with the mission. The clash soon assumed, owing chiefly to the hysteria aroused in the mob which had assembled, the proportions of a revolutionary movement, in the first stages of which the leaders of the government forces were executed. Thrown into a panic by the apparent strength of the Paris troops, Thiers fled to Versailles, taking with him the battalions which still remained loyal and the remnants of the centralized governmental machinery and authority which had so often in the past proved inimical to the interests of the city of Paris.

Bewildered by the unexpected situation of finding itself the sole body left in Paris with any semblance of real authority and failing to receive any constructive cooperation from the mayors of the various arrondissements, the Comité Central de la Garde Nationale after a week of confused activity called for the election of representatives to an independent commune of Paris. Over two hundred thousand citizens voted, returning 90 delegates, 25 of whom were laborers, 12 professional men and the remainder representatives of the lower middle classes. The national guard committee, having served its function as a transition government, announced its retirement from political activity. Paris was at last in a position to legislate in its own interests through representatives untrammeled by a hostile majority of rurals. "By right of her autonomy," reads the Manifesto of the Commune of Paris of April 19, "and profiting by her liberty of action, Paris reserves it to herself to operate, according to her own ideas those administrative and economic reforms that are demanded by her population . . . and to universalize authority and property according to the necessities of the moment."

That the Commune of Paris was so short lived and that it failed so conspicuously to "operate" these "administrative and economic reforms" is attributable in the main to an absence of leaders capable of integrating the various incongruous elements or of formulating a constructive program. The bulk of the delegates, men of the type of Delescluze and Pyat, were essentially demagogues, would-be Jacobins, repeating the inflamed but empty phrases emanating from the radical clubs of Paris. Ignorant of contemporary economic problems they lived in a glory borrowed from the past, indulging endlessly in remote analogies to the heroic figures of the first commune in 1793. Although they confined themselves in their official manifesto to a program of decentralization with a loose federation of independent autonomous communes, they in reality foresaw, in view of the obvious political incapacity of rural communities, the quick breakdown of such a system and the substitution of a strong centralized system under the hegemony of Paris, which would thus assume the power hitherto exercised by the hostile National Assembly. As legislators they contented themselves with broad gestures, with various measures—such as separation of church and state, suppression of the budget of cults, nationalization of mortmain lands, abolition of conscription and the standing army—which they lacked the authority or the power to enforce but which seemed to imply a prerogative of legislation on a national scale.

The incapacity of the neo-Jacobins for the details of practical administration was soon revealed by the breakdown of the commission form of government which they attempted to inaugurate. Within a short time the executive commission was replaced by a commission composed of one representative from each of the other nine commissions. This proving equally ineffective, the communards, in futile imitation of their prototpyes of 1793, revived the Committee of Public Safety, which placed final power in the hands of five men. A second such com-

mittee immediately replaced the first, without, however, remedying the growing disorder. The Comité Central de la Garde Nationale, wearied with the blunderings of the commune's committee on military affairs and irritated at the failure of the majority to take the lead in transforming the insurrection into a social revolution, once more assumed an active political role and by its interference and by its incendiary manifestoes to the working classes of Paris added still further confusion. The military situation, growing more critical as a result of the advances of the Versailles troops, absorbed the attention of the commune to the almost complete exclusion of the "administrative and economic efforts" which it had in the beginning vaguely contemplated.

A very small group, typified by such delegates as Rigault, the student, and Ferré, the apothecary, was composed of professional revolutionists, followers of Auguste Blanqui. Indifferent to the subtleties of social and economic doctrine, demanding of his followers only courage and an aggressive loyalty to the revolutionary proletarian movement, Blanqui had developed during the years from 1866 to 1870 an intelligent and well disciplined party of revolt consisting for the most part of students and journalists. The abortive insurrections of the Paris proletariat in August, September and October, 1870, and in January, 1871, had been ably forwarded by Blanqui and his followers. Sharing with the majority Jacobins a strong patriotic sense, a veneration for the heroes of 1793 and an extreme hostility to rural France the Blanquists in addition championed a program of violent class struggle, which has been misrepresented by hostile critics as a characteristic of the commune as a whole.

In striking contrast to the Jacobin majority and the Blanquists was an inconspicuous group of seventeen socialists, men of the type of Varlin, the bookbinder, Malon, the painter, and Theisz, the carpenter, recruited almost entirely from the actual working classes and closely affiliated with the Paris Federal Council of the International Workingmen's Association. Peaceful organizers rather than agitators, internationalists rather than patriots, they looked forward to an eventful socialization of society rather than backward to the violent, bourgeois commune of 1793. Their deep Proudhonism had within recent years been tinged, and to some extent confused, by the doctrines of Marx and the influence of the First International. They alone in the commune were sincere federalists, seeing in the autonomous commune the first step toward social equality and an ideal agent for the socialization of land and tools. They alone had an appreciation of economic forces and problems and a sense, however embryonic, of an economic program. Their measures, such as the exploitation of deserted factories in the interests of the workers, the granting to workingmen's associations the monopoly of supplying army uniforms and ammunition, the abolition of night work for bakers as well as of seizure of fines and stoppage on wages, although insignificant in themselves represent practically the only attempt at specific legislation designed to improve the condition of the working classes and are of particular interest as indicating the socializing program that the commune, had it not been so quickly suppressed, might have pursued. The authoritarian views of the Jacobin majority were completely alien to the socialistic ideals of this group and the first Committee of Public Safety met with strong opposition. Here again, however, the lack of capable leadership—and in addition a certain confusion of ideology—defeated a consistent policy. Succumbing to the spirit of panic which pervaded the commune during the final weeks of its existence the socialists vacillated and condoned the second Committee of Public Safety.

The Versailles troops, which on May 21, 1871, entered Paris and on May 28, after seven days of most bitter street fighting, finally overcame the desperate resistance of the communards, were little disposed to make any distinction between these various groups which had constituted the refractory commune. Retribution was relentless, impartial; enraged by the commune's burning of buildings and killing of hostages the military forces of the government set out upon a campaign of execution that for its severity has seldom been equaled. Between twenty and thirty thousand citizens of Paris were executed. Blinded by the animosities and loyalties engendered by these final hysterical days of defense and retribution, historians of the commune have likewise tended to lose sight of the heterogeneous and contradictory elements constituting the actual commune. Whether conservative or sympathetic, these historians have been inclined to select some single element, or at most a few elements, to which they have given the name "Commune of Paris." This tendency to ignore the actual complexities of the commune in the effort to draw from its events a simplified conclusion is most strikingly revealed in the utter-

ances of later revolutionary labor leaders and organizations. Reading back into the activities of the commune a considerable amount of subsequently evolved ideology and methodology they have exaggerated the importance of that very small minority composed of Blanquists and Internationalists. The tradition of the heroism of the Paris proletariat and of the brutal retribution of the national government has been sedulously kept alive in the minds of socialist and communist parties, which still celebrate either the 18th of March or the "Bloody Week." Thus there grew up around the commune an aura of sentiment and emotionalized generalization which has only recently begun to be dispelled by a more critical analysis. But the proletarian mysticism as well as the anticommunalist prejudice bids fair to remain untouched by all types of scientific demonstration.

GEORGES BOURGIN

See: SOCIALISM; CLASS STRUGGLE; PROLETARIAT.

Consult: For full bibliography of early material: *Catalogue général de la librairie française*, ed. by Otto Lorenz, vol. vii (1879) 255–57, vol. xi (1888) 123–24, vol. xiii (1896) 98. See also Lissagaray, P. O., *Histoire de la commune de 1871* (Brussels 1876), tr. by E. M. Aveling (2nd ed. New York 1898); Dubreuith, Louis, "La commune (1871)" in *Histoire socialiste, 1789–1900*, ed. by J. L. Jaurès, 12 vols. (Paris 1901–08) vol. xi (1908) pt. ii; Bourgin, Georges, *Histoire de la commune* (Paris 1907), *Les premières journées de la commune* (Paris 1928), and "La commune de Paris et le comité central 1871" in *Revue historique*, vol. cl (1925) 1–66; Laronze, Georges, *Histoire de la commune de 1871 d'après des documents et des souvenirs inédits* (Paris 1928); Mason, E. S., *The Paris Commune; an Episode in the History of the Socialist Movement* (New York 1930); Weill, G. J., *Histoire du mouvement social en France, 1852–1924* (3rd ed. Paris 1924) ch. vii; Kautsky, Karl, *Terrorismus und Kommunismus; ein Beitrag zur Naturgeschichte der Revolution* (2nd ed. Berlin 1925), tr. by W. H. Kerridge (London 1920) chs. iv, vi; Elton, Godfrey, *The Revolutionary Idea in France, 1789–1871* (London 1923) ch. viii; Dickinson, G. L., *Revolution and Reaction in Modern France* (2nd ed. London 1927) ch. viii.

COMMUNICABLE DISEASES, CONTROL OF.

In the history of man's conflict with his environment there is no more dramatic chapter than that which deals with the progressive conquest of disease. Cholera, endemic in the Far East, has again and again struck terror to the capitals of Europe. Yellow fever from its home in Central America has spread time and again to nearly every seaport in the United States. Bubonic plague has twice ravaged the whole known world, and influenza in its deadliest form has girdled the globe a dozen times.

In war and in peace the destinies of nations have been changed by plague and pestilence. Typhus fever was the worst of the terrors which beset the armies of Napoleon during the retreat from Moscow. Canada would probably now be a part of the United States if the force of Montgomery and Arnold had not been wrecked by smallpox and dysentery. Of the one hundred and two Pilgrims who landed at Plymouth on December 21, 1620, forty-four had succumbed to epidemic disease by 1621. Newman brings out the broad social implications of such tragedies in the following paragraph: "Petrarch, who witnessed the Black Death in Italy, foresaw our incredulity of the terrible condition of things—empty houses, abandoned towns, squalid country, heaps of dead, a vast and devastating solitude over the world. Remotely, the plague altered the economics of the people, for in addition to depopulation, it paralyzed all trade and industry; it mobilized the laborers and dispersed industries, redistributing poverty and wealth; it initiated a new system of farming; it left its mark on wages, on rents and taxes, and on the tenure of the land; it stripped the old governing classes of their authority, and the municipalities and guilds of their privileges and status; and it brought demoralization in its train" (p. 142).

In the history of preventive medicine there have been three major theories as to the causation of epidemic disease. The inclination of primitive mankind was to ascribe epidemic disease to the influence of malign spirits. If disease was due to the power of demons the technique of preventive medicine was clearly indicated. It was essential either to propitiate the malign spirits by tribute and sacrifice, to drive them away by repellent or magic substances or to invoke the overruling influence of still higher spiritual personalities. Thus the Tunguses and Buriats placed before their huts milk, tea and meat, begging the spirit of smallpox for this service to spare the inmates; and the natives of the Andaman Islands set up in their villages poles smeared with black beeswax, the odor of which was supposed to be distasteful to the demon. Long after the more naïve forms of the demonic theory had been abandoned its vestiges survived in the practises of the leaders of science. For protection against malaria Pliny recommended either the dust in which a hawk has rolled, placed in a bag tied with red thread and worn about the neck, or the largest tooth of a black dog or a certain kind of wasp which flies alone and must be caught with the left hand. All

through the Middle Ages magic of this kind was inextricably mingled with the elements of growing scientific knowledge. In religious circles the concepts of exorcism continued to be powerful; there were solemn processions to drive away the plague and votive churches were built to commemorate its cessation. In 1918 during the influenza epidemic in the United States the stock of camphor in the drug stores was almost exhausted, so general was the belief that a bag of camphor hung around the neck would ward off the disease. Charms and amulets are still used widely.

It is to the Greeks that we owe the first break from this primary demonic theory of disease. They conceived the universe as a universe of natural laws, and although their actual explanations of phenomena were often almost as unsound as the anthropomorphic theories they replaced they were at least naturalistic theories, assuming causation. They could therefore be corrected by study and experimentation, while anthropomorphism left its votaries helpless before the essentially unpredictable. Hippocrates believed that epidemic diseases were caused by a corruption of the atmosphere associated with the exhalations from marshes or with malign influences of the stars, and he attempted to combat such influences by building great wood fires in infected areas and feeding them with fragrant wreaths, flowers and perfumed ointments. This was the basis of the second great theory of disease, the miasmatic theory, which has profoundly influenced medical thought down to comparatively recent times. When Paris was ravaged by the plague in 1348 the medical faculty reported that an evil conjunction of the planets had occurred over the Indian Ocean, raising up corrupt vapors from earth and water, and that these vapors, borne to Paris by "heavy and turbid southern winds" were the immediate cause of the epidemic. Sydenham in the seventeenth century attributed epidemic diseases to "a secret and inexplicable alteration of the air, infecting men's bodies."

Even in antiquity, however, the communicability of plague was recognized by Thucydides. The Hebrew scriptures taught the concept of contagion and the mediaeval church practised its corollary, isolation, beginning with the campaign launched against leprosy at the Council of Lyons in 583. During succeeding centuries this campaign, which included strict quarantine regulations and the segregation of patients in isolation camps or leprosaria, was apparently successful and the disease had practically disappeared from northern Europe by the sixteenth century. Meanwhile the principle of quarantine was applied to the control of plague, though with less tangible results. In 1374 Venice denied entrance of infected ships, travelers or freight to the city and port; in 1383 Marseille erected its first quarantine station, at which, after rigid inspection of the vessels, all travelers from suspected ships were detained for forty days and cargoes, ships and rigging exposed to elaborate processes of disinfection and to the influence of air and sun. The methods used were crude and imperfect and at the same time cruel and oppressive.

The leaders of medical thought consistently resisted the idea of contagion, yielding only step by step, first in the case of diseases like smallpox and leprosy, and maintaining a miasmatic theory of cholera and typhoid fever up to half a century ago. This was because the theory of contagion, as it was held up to 1880, did not and could not explain all the facts with which physicians were familiar. In diseases like plague and cholera and typhoid fever they knew that direct exposure to personal contact often failed to produce infection while cases frequently arose without such contact. Until a more plausible theory of contagion could be formulated they were scientific in maintaining that something like the miasmatic theory of Hippocrates was the best explanation of the facts. Furthermore, while the practise of isolation, based on a theory of contagion, had achieved successes in dealing with smallpox and leprosy, the miasmatic doctrine also had victories to its credit. In its final form, as applied to cholera and typhoid fever, it assumed that miasms of disease were generated by decomposing filth, particularly excretal filth, and this concept led to the work of the British sanitarians, Chadwick and Simon, who brought about the "great sanitary awakening" in the middle of the nineteenth century. They were wrong in thinking that excretal filth did its work by generating miasms but they were right in thinking that filth was related to disease, and when they cleaned up the British cities and introduced good water supplies and sewerage systems they achieved substantial results in the decrease of cholera and typhoid fever.

It was in the midst of these limited but real successes of a largely empirical sanitation that the basic scientific discoveries were made which at last cleared up the mystery of communicable disease and laid a firm basis for its control.

The first steps were taken in a field apparently very remote from that of medicine. Pasteur, then a young chemist, was studying the relation between crystalline form and chemical composition in the asymmetrical tartrates. He became interested in the process of fermentation because tartrates were found in fermenting liquids. Their presence led him to doubt the current theory of fermentation which attributed this process solely to the oxygen of the air. He ultimately proved that the microbes which his microscope demonstrated in decomposing materials were not mere accidents in the process but its causative agents, and established the germ theory of fermentation. Lister in Scotland perceived the analogy between fermentation and the suppuration of wounds, and through the aseptic technique which developed from his researches the operating room and the maternity ward were changed from charnel houses to laboratories.

But no one had perceived the more remote analogy between fermentation and the spread of communicable disease. In 1865, when Pasteur's studies on fermentation had already conferred great practical benefits upon the beer and wine makers of France, he was called upon for aid in connection with a new industrial problem. In the silk producing districts of the south the local industry was threatened with ruin because the silkworms were dying. The microscope soon revealed the fact that the bodies of the sick worms were crowded with microbes like those previously observed in fermenting liquids. It was two years before Pasteur concluded that the cause of the phenomenon was the same in the two instances. By 1870, however, his case was complete. The silk industry was saved and the germ theory of communicable disease was established.

The progress of the new knowledge was now rapid. In 1876 Robert Koch for the first time brought forward conclusive proof that a disease of man and the higher animals—in this case anthrax, or splenic fever—was due to a living microbe. In 1882 he announced the discovery of the germ of tuberculosis. The improvements in the technique of staining and photographing bacteria for identification and comparison and the methods of obtaining pure cultures of organisms introduced by him and by his colleagues in Germany made bacteriology a simple and reasonably exact science, the application of which between 1880 and 1890 led to the isolation of the causative agents of many diseases. In 1892 Hermann Biggs in New York translated the new science into terms of administrative procedure and made the bacteriological laboratory the fundamental basis of the modern public health program.

The establishment of the germ theory made it possible to close the long conflict between contagionists and anticontagionists. The elements of contagion are now no longer vague emanations about which one must reason in the abstract, but living cells of plant or animal nature which one can see under the microscope and cultivate in test tubes in the laboratory. They are parasites which have become adapted to life in the tissues or on the warm moist inner surfaces of the human or animal body. Hence they must always originate in such bodies and not in a non-living environment such as night air or decaying vegetation. Human beings must be looked to as the ultimate sources of infection, and the development of bacteriological methods has made it possible to determine which individuals are infected and in which bodily discharges the germs are likely to pass out of the body.

Bacteriological technique has made possible the discovery that it is not merely the sick who may harbor the germs of disease. Individuals who are themselves able to resist the attacks of a particular germ may cultivate that germ in nose or throat or gall bladder and discharge virulent organisms for periods of months or years. The demonstration of the existence of such human "carriers" removed the last obstacle to the acceptance of the communicability of epidemic disease, for it explained the fact that such diseases do frequently occur without exposure to a recognizable previous case.

Laboratory studies indicate that the disease germ very rarely thrives in nature outside of its normal habitat. In water or earth or on dry surfaces it dies out rather quickly. The discovery of the rapid destruction of disease germs outside the body has made it clear that many of the dangers which were once feared are illusory. Fomites (clothing, books, toys or other objects handled by a sick person) will be dangerous only if exposure has been recent. Dust contains very few disease germs. The danger from the fresh sputum of a consumptive transferred to the mouth by flies, food, fingers or some other agency is enormously greater than the danger from such sputum dried and blown about in the form of dust.

The most important way in which the spread of infection takes place is by contact—the more

or less direct transfer of discharges by mouth spray, by the hands or by objects which have been recently mouthed or handled. It is in this way that those diseases are spread in which the infectious organism is present in the discharges of the nose and throat. A second common type of infection is through the agency of certain articles of food and drink, such as water, milk, shellfish and uncooked foods, which have been handled by a carrier. It is in this way that the intestinal diseases cholera and typhoid fever are commonly spread. Diseases of the respiratory tract, such as diphtheria, scarlet fever and septic sore throat, may also be transmitted by milk and foods. Finally, in certain diseases like malaria, yellow fever, bubonic plague and typhus fever the germ does not leave the body in any of its normal discharges. It is present in the blood and is transmitted from person to person by the agency of biting insects; as a rule only one kind of insect spreads a particular disease.

These are the bases of the modern conception of the etiology of communicable disease. In the popular mind, however, and in the practises of the more conservative health departments there is still an overemphasis on the control of nuisances and a fear of bad smells and leaky plumbing which hark back directly to the older miasmatic theory of disease, and fumigation is often practised rather from Hippocratic tradition than from any real efficacy which it possesses in the destruction of disease germs.

The first essential in the control of communicable diseases is the proper disposal of those body discharges which contain the specific parasites. Particularly in dealing with the intestinal diseases typhoid and paratyphoid fever, cholera, dysentery, hookworm disease and the numerous intestinal infections of the tropics the proper disposition of intestinal and urinary discharges is of primary importance. This group of diseases, common in London and New York in the middle of the nineteenth century and devastating even today in many rural districts, has been almost banished from northern cities by the introduction of modern plumbing and sewerage systems.

Of this group of diseases hookworm infection is the outstanding example. The sufferings of the northern soldiers in Libby Prison during the Civil War were due to this unsuspected cause. Out of a total of some seventeen hundred million people inhabiting our globe it is estimated that over nine hundred million still live in countries where hookworm disease is a more or less serious menace. The inertia of the populations in many tropical lands is due chiefly to chronic infection with this parasite. By treatment with certain specific drugs it is possible to destroy the worms in the intestine and effect an individual cure. The fundamental control of this disease depends, however, on proper care of excreta. In such regions as our southern states this requires the prevention of promiscuous soil pollution by the introduction of tight outdoor closets screened to prevent access of flies or by the construction of a sewerage system. In China the excreta used for fertilization of crops should be treated in such a way as to destroy the eggs of young worms. By demonstrations carried out in fifty different states and countries it has been shown that hookworm disease may be controlled with striking success by the application of such methods. Thus in Richmond county, Virginia, the proportion of school children infected with hookworm, which was 83 percent in 1910, was reduced by soil sanitation to 35 percent in 1911 and to slightly over 2 percent in 1921.

It has already been noted that the germs of the intestinal diseases are very commonly disseminated on a large scale by articles of food and drink. A second essential of sanitation is therefore the protection of such articles. The discharge of sewage into water supplies is one of the most obvious dangers, and epidemics of cholera in Europe throughout the Middle Ages were no doubt frequently due to this cause. In the United States the first outbreak clearly traced to water supply occurred at Plymouth, Pennsylvania, in 1885, when over 1100 cases of typhoid fever developed in a town of 8000 people because the discharges of a single typhoid patient had been washed into the reservoir. Similar epidemics at Lowell and Lawrence, Massachusetts, in 1890–91, at New Haven, Connecticut, in 1901 and in hundreds of other cities throughout the country gradually taught the lesson that no untreated surface water is ever a safe source of supply.

The development of bacteriology made it easy to devise methods of eliminating such dangers. There are today four general methods of purification: storage, slow sand filtration, rapid filtration with the use of chemicals, and disinfection (usually with chlorine). By these methods, used alone or in combination, even polluted water may be made safe and potable. It was largely as a result of such purification of water supplies that the typhoid death rate of the United States Registration Area dropped from

over 46 per 100,000 in 1890 to less than 8 per 100,000 in 1920.

Next to water milk is the food which has played the largest part in the causation of epidemic disease. Germs of tuberculosis from the cow have been spread by this medium and have caused in children tuberculosis of the glands, joints and spine. Germs of typhoid fever, diphtheria, scarlet fever and septic sore throat from human cases and carriers have been transmitted to thousands, while tens of thousands of young infants have died of "summer diarrhea" as a result of germ laden milk. Tuberculin testing of cattle is useful for the protection of dairy hands from this disease. Clean dairying is imperative and certified milk helps to raise general standards of dairy cleanliness. The only kind of milk, however, which is really safe is that which has been made safe by heating. Pediatricians now give only boiled milk to infants. Public health experts recommend only pasteurized milk for adults. The latter process, by which milk is heated to 140°–145° F. for thirty minutes, destroys all disease germs without injuring any of the important nutritive qualities of the milk—an illustration of the sanitary value of cookery.

Insects may transmit disease in two quite distinct ways. The common house fly may carry the germs of typhoid fever from a privy vault to a breakfast table—a purely accidental and mechanical type of transmission. Or germs present in the blood may be sucked out by a biting insect and transmitted to a new victim in a subsequent bite. In many diseases the germ is a protozoon parasite and passes through certain stages of its life history in the body of the insect, so that its relation to the insect carrier is a specific and essential one. Malaria is an excellent example of this latter class. Up to the end of the last century it seemed a perfect type of miasmatic disease. Its very name implied that it was due to bad air. It was known to be associated with marshes and night air and the digging up of the soil. In 1897, however, Ronald Ross in India demonstrated the transmission of bird malaria by a mosquito, and in the next year Grassi and Bignami in Italy established the participation of the insect in the transmission of human malaria. The concept of a corrupted atmosphere generated by warm, moist soils gave place to the concept of a mosquito carrier bred in stagnant water. Through drainage of swamps, destruction of mosquito larvae by oil or poison sprays, screening of dwellings and treatment with quinine (a specific poison for the malaria germ in the blood) its control in most localities may be made readily effective. Recently wooded swampy areas have been sprayed from an airplane with a poison electrically charged so that it will be repelled by the leaves of the trees and will pass down through them to the larvae in the water below.

Even more dramatic is the story of the conquest of yellow fever. This disease ruled the islands of the Caribbean and the Isthmus of Panama and permeated as far as the northern borders of the United States. In 1793 a tenth of the population of Philadelphia is said to have perished from its ravages, and between 1800 and 1879, with but two exceptions, it visited this country every year. In 1900 a group of American army surgeons, Reed, Carroll, Lazear and Agramonte, discovered the mosquito carrier by a series of studies carried out in Cuba. Carroll and Lazear both acquired yellow fever and Lazear died of it. But the experiments continued and by the end of the year the mosquito carrier was identified. In 1901 the scourge was wiped out in Havana by practical mosquito control, and Gorgas, who had been in charge of the work in Cuba, went to the isthmus and made possible the construction of the Panama Canal by the application of this knowledge. A world wide campaign for the eradication of yellow fever has been undertaken, until today it exists only in certain areas of Brazil and in its place of origin, the Gold Coast region of West Africa. The problems of practical control in these last strongholds are more difficult than in Central America and much research will be needed for complete victory. Between 1927 and 1929 four investigators, Noguchi, Stokes, Young and Wakeman, lost their lives on the Gold Coast in this research.

Only brief mention can be made of the two deadliest pestilences of mediaeval times, typhus fever and bubonic plague—both insect borne and both now controllable. Typhus fever, the "ship fever," "camp fever" and "jail fever" of former days, the scourge of armies throughout the ages, is carried by body lice and can be eliminated by habits of personal cleanliness. Bathing and disinfection of clothing held it in check during the Great War except on the southeastern front, but the conditions accompanying the breakdown of the Russian Empire caused a widespread epidemic, against which western Europe was successfully defended by the cordon established at the Polish border with the aid of the

League of Nations. Bubonic plague, the "Black Death" of the Middle Ages, is primarily a disease of rodents—rats, marmots and ground squirrels —transmitted to man by the bite of the flea. In the sixth century and again in the eleventh and succeeding centuries (particularly the fourteenth and seventeenth) it spread devastation over the known world, but when a third pandemic broke out in 1894 the resources of modern bacteriology were ready to check it. Except in India, where ten millions have perished from the disease and where it still prevails, the plague has been held under control. It cannot be eradicated so long as the wild rodents in Siberia, in the Volga region, in South Africa and in California form a reservoir of infection. It can, however, be prevented from assuming epidemic form by the control of rat breeding and rat harborage in the vicinity of human dwellings.

The third great group of diseases, those which spread chiefly by more or less direct contact between one human being and another, are more difficult to control than either of the two groups hitherto discussed.

The first step in attempting to prevent the spread of these diseases is their prompt recognition. This is often a difficult task because many diseases, such as measles and whooping cough, are most contagious when their clinical symptoms are not clear enough to make a definite diagnosis possible. The germ of measles, for example, is most abundant in the nose and throat discharges when the symptoms are those of an ordinary cold and before the rash appears. In some diseases, such as diphtheria and cerebrospinal meningitis, bacteriological tests make an early diagnosis possible. In others the germ is still unknown or cannot be identified by simple laboratory procedure.

Once the disease is recognized, by laboratory test or by diagnostic signs such as the character of the rash, the case should be isolated. By isolation is meant "the separating of persons suffering from a communicable disease, or carriers of the infecting organism, from other persons, in such places and under such conditions as will prevent the direct or indirect conveyance of the infectious agent to susceptible persons." Methods of isolation differ widely in different diseases. In some, like hookworm disease, no isolation is necessary provided that ordinary methods of excretal disposal are in force; in insect borne diseases the only precaution needed is exclusion of the insect carrier. In common diseases of children, like German measles and whooping cough, separation from susceptible children and exclusion from school and places of public assembly is all that is usually attempted. In such diseases as diphtheria absolute room isolation is enforced. In all cases the most important element in isolation is the immediate disinfection of bodily discharges and of objects soiled by them during the course of the disease. Isolation must continue until all active symptoms have ceased and all open lesions healed. In certain diseases the termination of isolation can be fixed by bacteriological tests. In other diseases an arbitrary time limit, based on experience, is set. When the isolation period is over the sickroom is thoroughly cleaned and aired but fumigation is advisable only in the case of insect borne diseases. Concurrent disinfection of discharges during the course of the malady is the one essential. If this has been carried out the sickroom will not be infected; if it has not it is reasonably certain that other members of the household will already have been exposed.

Even more important from a practical standpoint than the control of the actual case is the supervision of "contacts," persons presumably exposed to infection from the case itself. Although the primary case often cannot be detected in time to prevent exposure of others, a third crop of cases can be avoided if the contacts are effectively supervised. In diphtheria, meningitis and some other diseases carriers can be detected by bacteriological tests and treated just as established cases would be. In other diseases the contacts are placed in quarantine, by which is meant "the limitation of freedom of movement of persons or animals who have been exposed to communicable diseases for a period of time equal to the longest usual incubation period of the disease to which they have been exposed." As in the case of isolation, the rigidness of quarantine varies with the disease. Moderate regulations generally enforced are far more effective than unduly severe ones which are unenforceable.

Knowledge of the real facts underlying the spread of disease germs has made methods of control not only more effective but also far less irksome. A ship from a cholera infected port need no longer be held for forty days. A two-day period suffices for bacteriological examination of the stools of all on board to determine which, if any, are carriers of the cholera *vibrio*; and all but those actually infected can be released promptly. The shadows of past superstition are by no means wholly dispelled, particularly in

the case of leprosy, but on the whole maritime quarantine can now be a precise and at the same time a humane and simple procedure.

The efficacy of measures of isolation and quarantine varies widely with different diseases, according to the ease with which cases and carriers may be recognized, but even when many light cases are missed (as occurs with scarlet fever) it is believed that the isolation of the more severe cases may lead by selection to the evolution of a milder type of disease. A most important factor in the control of communicable diseases of all kinds is the development of a "sanitary conscience," which realizes the danger of exposing others to communicable disease of even the mildest type (such as what may appear to be only a common cold), and of the "aseptic sense," which keeps everything unclean away from the mouth and nose. Fingers are the chief means of exposure to communicable disease.

Isolation and quarantine aid materially in the control of communicable disease, but in view of the frequency of "missed cases" and undetected carriers their results fall far short of completeness. Fortunately, there exists in many diseases a second line of defense which is far more effective: the creation of a state of artificial immunity in the person who has been or may be exposed to the disease in question.

It had long been an axiom of medicine that an actual attack of a communicable disease conferred more or less complete immunity against subsequent attacks. In the case of smallpox a method of producing such immunity at will had been practised for centuries in the East in the form of variolation, or direct inoculation of the disease under especially controlled conditions. The practise was introduced into Europe and America in the early eighteenth century, but through the discovery of Jenner in 1796 was superseded by vaccination, or inoculation of the smallpox of the cow. Pasteur generalized the principle of producing immunity through inoculation by his studies on chicken cholera and anthrax. In May, 1881, he demonstrated conclusively a method of vaccination against the latter disease and established the general principle that vaccines can be prepared from weakened or killed germs which will no longer cause a true attack of disease but which will stimulate the defensive mechanism of the body just as an attack of disease would do, producing immunity against subsequent infection. Four years later Pasteur himself prepared a successful vaccine against rabies, and before the end of the nineteenth century vaccines against cholera, typhoid, plague and many other communicable diseases were in use.

The immunity produced by a vaccine is "active" immunity; that is, it depends on the response of the vaccinated individual to the microbic products introduced. Such immunity is of varying duration, lasting usually for months and sometimes for life, and the vaccine is usually administered to a healthy person to protect him against possible future exposure. Due to the work of Behring and Kitasato and Roux, carried out in the last decade of the nineteenth century, there is still another general method of protection. It rests on the production of "passive" immunity by the injection into the individual of blood serum from another individual or from an animal which has been previously rendered actively immune by vaccination or by an actual attack of disease. Thus in diphtheria a horse is vaccinated with the toxin of the diphtheria germ so as to produce in its tissues a high degree of active immunity. The blood of this horse, containing the antitoxin it has formed, is then drawn off and purified and the antitoxin is used for producing passive immunity in the human being. Passive immunity is temporary and immune sera are generally used for the treatment of an infection in actual process, but they may also be employed for the protection of exposed persons in a temporary emergency. For example, young babies exposed to measles are often protected by an injection of serum from a convalescent case.

Diphtheria is a disease in which the armamentarium of medicine is unusually complete. The infected individual and the carrier can be detected by bacteriological examination. The Schick test discovers whether active immunity already exists. A case can be treated or temporary passive immunity produced by the use of antitoxin and a lasting active immunity created by inoculation with toxin-antitoxin, or toxoid, which are really vaccines. The complete eradication of this disease, like that of smallpox and typhoid, depends on the application of simple immunological methods which are already at our disposal. The problem of control is no longer medical but social, psychological and educational.

Quite separate and distinct from these types of specific immunity is another sort of bodily defense against disease, which is called general vital resistance. In some infections this is of no importance. Everyone who is exposed to measles

or smallpox and is not immune as a result of a previous attack or of vaccine or serum treatment will contract the disease, although possibly in a very mild form. In other infections the effects are quite different. In tuberculosis and pneumonia, for example, even the body which does not enjoy specific immunity may hold the invading germ in check without any symptom of clinical disease. The exact meaning of vital resistance is not fully understood, but ways to promote it are known. It is known that food, sufficient fresh air, exercise and rest and the avoidance of poisons are generally required to enable the individual to resist or to conquer tuberculosis, and the promotion of habits of healthy living is the chief weapon against this disease. Its control depends not merely on diagnosis and the provision of good hygienic conditions for the infected individual in a sanitarium; it involves the promotion of vital resistance in the population as a whole by all measures which tend to elevate standards of living. The construction of roads and railways, the development of food supplies, the introduction of new methods in industry which eliminate health hazards and increase wages, improvements in government—all these and many more elements enter into this fundamental problem.

In the interaction of the four factors discussed —disease germs, agencies for their transmission, specific immunity and vital resistance—is to be found a complete explanation of the natural history of communicable disease. Aggregation in large communities and ease of communication facilitate infection but, if sanitary precautions are adequate, they also facilitate the acquisition of active immunity on the part of those individuals who receive slight infection. It has been discovered by serological tests that in such a community a large proportion of children actually acquire specific immunity against diphtheria, scarlet fever and tuberculosis without suffering from a recognizable attack of disease.

The variations of communicable disease in relation to climate and season are also easily explicable on the basis of the four factors noted. Insect borne diseases are confined to the climatic regions and seasons to which their secondary hosts are adapted. Mosquito borne infections are diseases of the tropics and the summer season, while typhus fever is characteristic of a warm but not a hot climate. For physiological reasons which are beginning to be understood the intestinal tract is least able to resist invasion in a warm climate or season, while the reverse is true for the upper respiratory tract. Hence intestinal diseases prevail in summer, respiratory diseases in winter.

The uneven distribution of disease in various social classes is largely a problem of general vital resistance, and such phenomena as the tremendous increase of tuberculosis in central Europe at the end of the war demonstrate how potent a factor limitation of the food supply may be. Even epidemics of typhus fever have a social and economic basis under conditions such as those which in Russia in 1921 made hot water and soap luxuries quite beyond the reach of the masses of the people. The control of communicable disease is far more than a medical problem; it involves nearly everything which affects the well-being and intelligence of a people.

A picture of the present status of communicable disease control will be more easily formed by a summary in tabular form of certain essentials for the chief communicable diseases of the United States. The data are taken from the report of the American Public Health Association on *The Control of Communicable Diseases* (rev. ed. New York 1927), but all minor details, such as incubation and isolation periods, have been omitted.

Forty diseases are listed in the table, including all the well defined communicable diseases which may occur in temperate climates. The large number of purely tropical infections are omitted. In thirty of these diseases the causative germ has been identified; the exceptions are chicken pox, dengue, encephalitis, German measles, influenza, measles, mumps, rabies, smallpox and trachoma. Of these chicken pox, German measles and mumps are not of great importance, while for dengue, measles, rabies and smallpox effective methods of control are known in spite of the fact that the germ is unknown. Encephalitis and influenza are the outstanding challenges. Laboratory methods of recognition, bacteriological or serological, are available in twenty-seven of the forty diseases.

Of the forty diseases twenty are primarily contact borne (chiefly infections of the respiratory tract), eight are in large measure spread by food (the intestinal diseases and trichinosis), seven are insect borne and five are of miscellaneous nature (actinomycosis, anthrax, hookworm, rabies and tetanus).

Practical methods of immunological control are available in twelve of the forty diseases (cholera, diphtheria, bacillary dysentery, Malta

TABULAR REVIEW OF CERTAIN MAIN FACTS RELATING TO THE CONTROL OF INDIVIDUAL COMMUNICABLE DISEASES

DISEASE	CAUSATIVE AGENT	SOURCE OF INFECTION	AGENT OR MODE OF TRANSMISSION	METHOD OF LABORATORY RECOGNITION AVAILABLE	ISOLATION OR QUARANTINE	METHOD OF ACTIVE IMMUNIZATION AVAILABLE	SPECIAL METHOD OF CONTROL
Actinomycosis	*Actinomyces bovis*	Nasal and bowel discharges of men and animals, uncooked meat	Contact, uncooked meat	Yes	Neither	No	Meat inspection and control of disease in animals
Anthrax	*Bacillus anthracis*	Hair, hides, flesh and feces of animals	Wounds or scratches, inhalation of spores, meat	Yes	Isolation	No	Control of disease in animals, disinfection of hides and wool
Chicken pox	Unknown	Nose and throat discharges	Contact	No	Isolation	No	None
Cholera	*Vibrio comma*	Bowel discharges	Food, water, flies, contact	Yes	Both	Yes	Supervision of water and food
Dengue	Unknown	Blood	*Aedes aegypti*	No	Neither	No	Control of mosquitoes
Diphtheria	*Corynebacterium diphtheriae*	Nose and throat discharges	Contact, milk	Yes	Both	Yes	Active immunization of all children
Dysentery (amoebic)	*Endamoeba histolytica*	Bowel discharges	Water, food, flies, contact	Yes	Neither	No	Supervision of water and foods
Dysentery (bacillary)	*Erberthella para dysenteriae*	Bowel discharges	Water, food, flies, contact	Yes	Isolation	Yes	Supervision of water and foods
Epidemic (lethargic) encephalitis	Unknown	Nose and throat discharges	Contact	No	Isolation	No	None
Favus	*Achorion schoenleinii*	Lesions of scalp and skin	Toilet articles, contact	Yes	Isolation	No	Elimination of common toilet articles
German measles (rubella)	Unknown	Nose and throat discharges	Contact	No	Isolation	No	None
Glanders	*Pfefferella mallei*	Open lesions of men and animals	Contact	Yes	Both	No	Control of disease in horses

TABULAR REVIEW OF CERTAIN MAIN FACTS RELATING TO THE CONTROL OF INDIVIDUAL COMMUNICABLE DISEASES (*continued*)

DISEASE	CAUSATIVE AGENT	SOURCE OF INFECTION	AGENT OR MODE OF TRANSMISSION	METHOD OF LABORATORY RECOGNITION AVAILABLE	ISOLATION OR QUARANTINE	METHOD OF ACTIVE IMMUNIZATION AVAILABLE	SPECIAL METHOD OF CONTROL
Gonorrhea	*Neisseria gonorrhoeae*	Discharges from infected areas	Sexual and other contact	Yes	Isolation	No	Personal prophylaxis, social hygiene
Hookworm disease	*Necator americanus*	Feces	Soil, water and food	Yes	Neither	No	Soil sanitation
Influenza	Unknown	Nose and throat discharges	Contact	No	Isolation	Nc	None
Leprosy	*Mycobacterium leprae*	Discharges from lesions	Contact	Yes	Isolation	No	None
Malaria	Several species of *Plasmodium*	Blood	Several species of *Anopheles*	Yes	Exclusion of mosquitoes	No	Mosquito control
Malta fever	*Micrococcus melitensis* and related forms	Milk, urine, blood of men and animals	Milk and contact	Yes	Isolation	Yes	Control in animals, pasteurization of milk
Measles	Unknown	Nose and throat discharges	Contact	No	Both	Yes	Control of contacts
Meningococcus meningitis	*Neisseria intracellularis*	Nose and throat discharges	Contact	Yes	Isolation	No	Control of carriers
Mumps	Unknown	Nose and throat discharges	Contact	No	Isolation	No	None
Paratyphoid fever	Species of *Salmonella*	Bowel discharges and urine	Food, water, contact	Yes	Isolation	Yes	Supervision of foods, immunization
Plague (bubonic, septicemic, pneumonic)	*Pasteurella pestis*	Blood (nose and throat discharges in pneumonic form)	Flea (contact in pneumonic form)	Yes	Both	Yes	Control of rodents
Pneumonia (acute lobar)	Various types of bacteria	Nose and throat discharges	Contact	Yes	Isolation	For certain forms only	None
Poliomyelitis	Filterable virus	Nose, throat and bowel discharges	Contact, sometimes milk	Yes (chemical and microscopical examination of spinal fluid)	Both	No	None

TABULAR REVIEW OF CERTAIN MAIN FACTS RELATING TO THE CONTROL OF INDIVIDUAL COMMUNICABLE DISEASES (*continued*)

DISEASE	CAUSATIVE AGENT	SOURCE OF INFECTION	AGENT OR MODE OF TRANSMISSION	METHOD OF LABORATORY RECOGNITION AVAILABLE	ISOLATION OR QUARANTINE	METHOD OF ACTIVE IMMUNIZATION AVAILABLE	SPECIAL METHOD OF CONTROL
Rabies	Unknown	Saliva of infected animals	Bite or abrasion of skin	Yes	Neither	Yes	Control of disease in dogs
Rocky Mountain spotted or tick fever	*Dermacentroxenus rickettsi*	Blood	Ticks	No	Exclusion of ticks	No	Control of ticks
Scarlet fever	*Streptococcus scarlatinae*	Nose and throat discharges	Contact, milk	No	Both	Yes	Pasteurization of milk, immunization
Septic sore throat	Streptococcus	Nose and throat discharges	Contact	Yes	Isolation	No	Pasteurization of milk
Smallpox	Unknown	Nose and throat discharges, perhaps skin	Contact	No	Both	Yes	General immunization
Syphilis	*Treponema pallidum*	Discharges from infected areas	Sexual and other contact	Yes	Isolation	No	Personal prophylaxis, social hygiene
Tetanus	*Clostridium tetani*	Manure, soil, dust	Wound infection	Yes	Neither	Yes	Immunization of persons with wounds
Trachoma	Unknown	Eye discharges	Contact	Yes	Isolation	No	Social hygiene
Trichinosis	*Trichinella spiralis*	Flesh of infected animals	Uncooked meat	Yes	Neither	No	Meat inspection
Tuberculosis	*Mycobacterium tuberculosis*	Sputum, milk of infected cows	Contact, milk	Yes	Isolation	No	Pasteurization of milk, building up vital resistance
Tularemia	*Bacterium tularense*	Infected animals, particularly rabbits	Bites of flies and ticks and handling infected animals	Yes	Neither	No	Control of flies and ticks, use of protective devices
Typhoid fever	*Eberthelda typhi*	Bowel discharges and urine	Food, water, flies, contact	Yes	Isolation	Yes	Supervision of water and food, immunization

TABULAR REVIEW OF CERTAIN MAIN FACTS RELATING TO THE CONTROL OF INDIVIDUAL COMMUNICABLE DISEASES (*continued*)

DISEASE	CAUSATIVE AGENT	SOURCE OF INFECTION	AGENT OR MODE OF TRANSMISSION	METHOD OF LABORATORY RECOGNITION AVAILABLE	ISOLATION OR QUARANTINE	METHOD OF ACTIVE IMMUNIZATION AVAILABLE	SPECIAL METHOD OF CONTROL
Typhus fever	*Rickettsia prowazeki*	Blood	Lice	Yes	Both	No	Bodily cleanliness
Whooping cough	*Hemophilus pertussis*	Nose and throat discharges	Contact	Yes	Both	Doubtful	None
Yellow fever	Filterable virus*	Blood	*Aedes aegypti*	No	Exclusion of mosquitoes	Doubtful*	Control of mosquitoes

* Recent discoveries.

fever, measles, paratyphoid fever, plague, rabies, scarlet fever, smallpox, tetanus and typhoid); in pneumonia, tuberculosis and yellow fever promising experiments are under way and are already successful in certain forms of pneumonia.

A better idea of progress in the control of communicable disease may be obtained by considering those particular diseases which are of substantial importance as causes of death. Of the forty infections discussed nineteen are of minor significance, being either rare or very mild in nature. Eight are serious problems in tropical climates (cholera, amoebic dysentery, bacillary dysentery, hookworm, malaria, plague, typhus and yellow fever); all of these are controllable either by sanitation, mosquito eradication or vaccination. Thirteen are or have been of serious significance in temperate climates (diphtheria, gonorrhea, influenza, measles, meningitis, pneumonia, poliomyelitis, scarlet fever, smallpox, syphilis, tuberculosis, typhoid fever and whooping cough). Of these diphtheria, scarlet fever, smallpox and typhoid fever were of supreme importance in the past but now have been practically eliminated as important causes of death, while tuberculosis has been reduced to a fraction of its earlier importance. Gonorrhea, measles, meningitis, poliomyelitis and whooping cough cause a relatively small number of deaths, while influenza, pneumonia and syphilis remain with tuberculosis as the major outstanding problems.

To illustrate what has been achieved in disease control the figures for the city of New Haven, Connecticut, which are typical of those for other communities, may be cited. For the five years 1877–81 the death rate from all causes in this city was 1820 per 100,000; for the five years 1922–26 it was 1250, a reduction of 31 percent. In this same period the death rate for pulmonary tuberculosis dropped from 282 to 41 per 100,000; for diphtheria, from 124 to 5; for typhoid fever, from 47 to 5; for scarlet fever, from 40 to 2; for infant diarhhea (not a specific communicable disease but a food poisoning due to bacterially polluted milk), from 105 to 19. These five causes together account for an average decrease of 526 deaths per 100,000, or nine tenths of the total decrease from all causes.

Of the four communicable diseases which are still important factors in the death rate among civilized peoples influenza and pneumonia furnish problems which await scientific solution. The germ of influenza is not known and the world is almost helpless before its periodic invasions. The organisms which cause pneumonia are known, but here too there is no practical method of control, although developments are anticipated along the lines of vaccine and serum prophylaxis and therapy. Tuberculosis and syphilis can be reduced in so far as the available medical and social measures are applied, for the former is controllable by early diagnosis and hygienic living and the latter by medical treatment and social hygiene. When these four diseases are conquered, one of the most significant chapters in man's conflict with his environment will have been successfully closed.

C.-E. A. WINSLOW

See: MEDICINE; HEALING; BIOLOGY; EPIDEMICS; BLACK DEATH; VENEREAL DISEASES; PUBLIC HEALTH; HEALTH EDUCATION; SANITATION; WASTE DISPOSAL; WATER SUPPLY; MILK SUPPLY; NUTRITION; FOOD AND DRUG REGULATION; HOSPITALS AND SANITARIA; CLINICS AND

DISPENSARIES; MEDICAL MATERIALS INDUSTRIES; MORBIDITY; STATISTICS.

Consult: Newsholme, Arthur, *Evolution of Preventive Medicine* (Baltimore 1927); Newman, George, *Citizenship and the Survival of Civilization* (New Haven 1928); Tobey, James A., *Riders of the Plagues; the Story of the Conquest of Disease* (New York 1930); Chapin, C. V., *The Sources and Modes of Infection* (2nd ed. New York 1912); Jordan, E. O., *A Textbook of General Bacteriology* (9th ed. Philadelphia 1929); McLaughlin, A. J., *The Communicable Diseases* (New York 1923); Rosenau, M. J., *Preventive Medicine and Hygiene* (5th ed. New York 1927); Hill, H. W., *The New Public Health* (New York 1916); *Public Health and Hygiene*, ed. by W. H. Park (2nd ed. Philadelphia 1928); Sedgwick, W. T., *Principles of Sanitary Science and the Public Health* (New York 1902); Winslow, C.-E. A., *Man and the Microbe* (New York 1924), and *The Road to Health* (New York 1929); Simon, John, *English Sanitary Institutions* (2nd ed. London 1897).

COMMUNICATION. It is obvious that for the building up of society, its units and subdivisions, and the understandings which prevail between its members some processes of communication are needed. While we often speak of society as though it were a static structure defined by tradition, it is, in the more intimate sense, nothing of the kind, but a highly intricate network of partial or complete understandings between the members of organizational units of every degree of size and complexity, ranging from a pair of lovers or a family to a league of nations or that ever increasing portion of humanity which can be reached by the press through all its transnational ramifications. It is only apparently a static sum of social institutions; actually it is being reanimated or creatively reaffirmed from day to day by particular acts of a communicative nature which obtain among individuals participating in it. Thus the Republican party cannot be said to exist as such, but only to the extent that its tradition is being constantly added to and upheld by such simple acts of communication as that John Doe votes the Republican ticket, thereby communicating a certain kind of message, or that a half dozen individuals meet at a certain time and place, formally or informally, in order to communicate ideas to one another and eventually to decide what points of national interest, real or supposed, are to be allowed to come up many months later for discussion in a gathering of members of the party. The Republican party as a historic entity is merely abstracted from thousands upon thousands of such single acts of communication, which have in common certain persistent features of reference. If we extend this example into every conceivable field in which communication has a place we soon realize that every cultural pattern and every single act of social behavior involve communication in either an explicit or an implicit sense.

One may conveniently distinguish between certain fundamental techniques, or primary processes, which are communicative in character and certain secondary techniques which facilitate the process of communication. The distinction is perhaps of no great psychological importance but has a very real historical and sociological significance, inasmuch as the fundamental processes are common to all mankind, while the secondary techniques emerge only at relatively sophisticated levels of civilization. Among the primary communicative processes of society may be mentioned: language; gesture, in its widest sense; the imitation of overt behavior; and a large and ill defined group of implicit processes which grow out of overt behavior and which may be rather vaguely referred to as "social suggestion."

Language is the most explicit type of communicative behavior that we know of. It need not here be defined beyond pointing out that it consists in every case known to us of an absolutely complete referential apparatus of phonetic symbols which have the property of locating every known social referent, including all the recognized data of perception which the society that it serves carries in its tradition. Language is the communicative process par excellence in every known society, and it is exceedingly important to observe that whatever may be the shortcomings of a primitive society judged from the vantage point of civilization its language inevitably forms as sure, complete and potentially creative an apparatus of referential symbolism as the most sophisticated language that we know of. What this means for a theory of communication is that the mechanics of significant understanding between human beings are as sure and complex and rich in overtones in one society as in another, primitive or sophisticated.

Gesture includes much more than the manipulation of the hands and other visible and movable parts of the organism. Intonations of the voice may register attitudes and feelings quite as significantly as the clenched fist, the wave of the hand, the shrugging of the shoulders or the lifting of the eyebrows. The field of gesture interplays constantly with that of language proper, but there are many facts of a psychological and historical order which show that there are subtle

yet firm lines of demarcation between them. Thus, to give but one example, the consistent message delivered by language symbolism in the narrow sense, whether by speech or by writing, may flatly contradict the message communicated by the synchronous system of gestures, consisting of movements of the hands and head, intonations of the voice and breathing symbolisms. The former system may be entirely conscious, the latter entirely unconscious. Linguistic, as opposed to gesture, communication tends to be the official and socially accredited one; hence one may intuitively interpret the relatively unconscious symbolisms of gesture as psychologically more significant in a given context than the words actually used. In such cases as these we have a conflict between explicit and implicit communications in the growth of the individual's social experience.

The primary condition for the consolidation of society is the imitation of overt behavior. Such imitation, while not communicative in intent, has always the retroactive value of a communication, for in the process of falling in with the ways of society one in effect acquiesces in the meanings that inhere in these ways. When one learns to go to church, for instance, because other members of the community set the pace for this kind of activity, it is as though a communication had been received and acted upon. It is the function of language to articulate and rationalize the full content of these informal communications in the growth of the individual's social experience.

Even less directly communicative in character than overt behavior and its imitation is "social suggestion" as the sum total of new acts and new meanings that are implicitly made possible by these types of social behavior. Thus, the particular method of revolting against the habit of church going in a given society, while contradictory, on the surface, of the conventional meanings of that society, may nevertheless receive all its social significance from hundreds of existing prior communications that belong to the culture of the group as a whole. The importance of the unformulated and unverbalized communications of society is so great that one who is not intuitively familiar with them is likely to be baffled by the significance of certain kinds of behavior, even if he is thoroughly aware of their external forms and of the verbal symbols that accompany them. It is largely the function of the artist to make articulate these more subtle intentions of society.

Communicative processes do not merely apply to society as such; they are indefinitely varied as to form and meaning for the various types of personal relationships into which society resolves itself. Thus, a fixed type of conduct or a linguistic symbol has not by any means necessarily the same communicative significance within the confines of the family, among the members of an economic group and in the nation at large. Generally speaking, the smaller the circle and the more complex the understandings already arrived at within it, the more economical can the act of communication afford to become. A single word passed between members of an intimate group, in spite of its apparent vagueness and ambiguity, may constitute a far more precise communication than volumes of carefully prepared correspondence interchanged between two governments.

There seem to be three main classes of techniques which have for their object the facilitation of the primary communicative processes of society. These may be referred to as: language transfers; symbolisms arising from special technical situations; and the creation of physical conditions favorable for the communicative act. Of language transfers the best known example is writing. The Morse telegraph code is another example. These and many other communicative techniques have this in common, that while they are overtly not at all like one another their organization is based on the primary symbolic organization which has arisen in the domain of speech. Psychologically, therefore, they extend the communicative character of speech to situations in which for one reason or another speech is not possible.

In the more special class of communicative symbolism one cannot make a word to word translation, as it were, back to speech but can only paraphrase in speech the intent of the communication. Here belong such symbolic systems as wigwagging, the use of railroad lights, bugle calls in the army and smoke signals. It is interesting to observe that while they are late in developing in the history of society they are very much less complex in structure than language itself. They are of value partly in helping out a situation where neither language nor any form of language transfer can be applied, partly where it is desired to encourage the automatic nature of the desired response. Thus, because language is extraordinarily rich in meaning it sometimes becomes a little annoying or even dangerous to rely upon it where only a

simple this or that, or yes or no, is expected to be the response.

The importance of extending the physical conditions allowing for communication is obvious. The railroad, the telegraph, the telephone, the radio and the airplane are among the best examples. It is to be noted that such instruments as the railroad and the radio are not communicative in character as such; they become so only because they facilitate the presentation of types of stimuli which act as symbols of communication or which contain implications of communicative significance. Thus, a telephone is of no use unless the party at the other end understands the language of the person calling up. Again, the fact that a railroad runs me to a certain point is of no real communicative importance unless there are fixed bonds of interest which connect me with the inhabitants of the place. The failure to bear in mind these obvious points has tended to make some writers exaggerate the importance of the spread in modern times of such inventions as the railroad and the telephone.

The history of civilization has been marked by a progressive increase in the radius of communication. In a typically primitive society communication is reserved for the members of the tribe and at best a small number of surrounding tribes with whom relations are intermittent rather than continuous and who act as a kind of buffer between the significant psychological world—the world of one's own tribal culture—and the great unknown or unreal that lies beyond. Today, in our own civilization, the appearance of a new fashion in Paris is linked by a series of rapid and necessary events with the appearance of the same fashion in such distant places as Berlin, London, New York, San Francisco and Yokohama. The underlying reason for this remarkable change in the radius and rapidity of communication is the gradual diffusion of cultural traits or, in other words, of meaningful cultural reactions. Among the various types of cultural diffusion that of language itself is of paramount importance. Secondary technical devices making for ease of communication are also, of course, of great importance.

The multiplication of far-reaching techniques of communication has two important results. In the first place, it increases the sheer radius of communication, so that for certain purposes the whole civilized world is made the psychological equivalent of a primitive tribe. In the second place, it lessens the importance of mere geographical contiguity. Owing to the technical nature of these sophisticated communicative devices, parts of the world that are geographically remote may, in terms of behavior, be actually much closer to one another than adjoining regions, which, from the historical standpoint, are supposed to share a larger body of common understandings. This means, of course, a tendency to remap the world both sociologically and psychologically. Even now it is possible to say that the scattered "scientific world" is a social unity which has no clear cut geographical location. Further, the world of urban understanding in America contrasts rather sharply with the rural world. The weakening of the geographical factor in social organization must in the long run profoundly modify our attitude toward the meaning of personal relations and of social classes and even nationalities.

The increasing ease of communication is purchased at a price, for it is becoming increasingly difficult to keep an intended communication within the desired bounds. A humble example of this new problem is the inadvisability of making certain kinds of statement on the telephone. Another example is the insidious cheapening of literary and artistic values due to the foreseen and economically advantageous "widening of the appeal." All effects which demand a certain intimacy of understanding tend to become difficult and are therefore avoided. It is a question whether the obvious increase of overt communication is not constantly being corrected, as it were, by the creation of new obstacles to communication. The fear of being too easily understood may, in many cases, be more aptly defined as the fear of being understood by too many—so many, indeed, as to endanger the psychological reality of the image of the enlarged self confronting the not-self.

On the whole, however, it is rather the obstacles to communication that are felt as annoying or ominous. The most important of these obstacles in the modern world is undoubtedly the great diversity of languages. The enormous amount of energy put into the task of translation implies a passionate desire to make as light of the language difficulty as possible. In the long run it seems almost unavoidable that the civilized world will adopt some one language of intercommunication, say English or Esperanto, which can be set aside for denotive purposes pure and simple.

EDWARD SAPIR

See: SOCIETY; SOCIAL PROCESS; CULTURE; TRADITION;

SYMBOLISM; COLLECTIVE BEHAVIOR; IMITATION; CONTINUITY, SOCIAL; LANGUAGE; WRITING; PRESS; PUBLIC OPINION.

COMMUNISM. The term communism, which is derived from the Latin word *communis*, does not occur before 1840, although the concept it embraces is as old as civilization itself. It was coined in the secret revolutionary societies of Paris between 1834 and 1839 and in a short time replaced such terms as community of goods, agrarian laws or *communauté*. Its general use is to describe the practise of or belief in the desirability of the social control of economic life, including the social ownership of property. It is distinguished in a technical sense from socialism, which means the social ownership of productive goods, in that it generally includes ownership of some or all forms of consumers' goods as well. In addition to this historical and general meaning the term communism in the years 1840–72 came to imply revolutionary action for the violent overthrow of capitalist society. Socialism, on the other hand, was the term used to describe constitutional activities for the reform of the economic system in the direction of national control of the means of production. Between 1872 and 1917 the two terms were looked upon as synonymous, or rather the term communism disappeared. With the rise to power in 1917 of Bolshevism in Russia the old distinction between the two terms was revived and sharply accentuated.

Underlying the general concept of communism are three basic doctrines. The first is that of the state of nature, or *jus naturale*, which in varying forms dominated the thought of antiquity and of the modern world from the Renaissance to the mid-nineteenth century. This doctrine is essentially utopian, rationalist and pacific. The second doctrine is Manichaeism, which considered human history as a ceaseless contest between two sovereign powers —good and evil, spirit and matter, light and darkness. Since private property riveted man to worldliness and materialism, he could overcome evil only through its renunciation and asceticism. The Manichaean doctrine, an Iranian offspring of Hellenic gnosticism, has points of similarity with primitive Christianity, which likewise regarded material possessions as an obstacle to salvation. All movements against private property and ecclesiastic officialism from the third century through the Middle Ages were more or less Manichaean; they were essentially ethical, antinomian, peacefully anarchic. The third doctrine is Marxism, or the economic theory concerning the rise and development of the productive forces of capitalist society, its inherent collectivist tendencies and antagonistic interests, with the class war as the human dynamic power of civilization. Philosophically Marxism rests on an inversion of the Hegelian dialectic evolution of the universe. Since the latter half of the nineteenth century it has been more or less the working hypothesis of international social democracy and since 1903 the orthodox doctrine and living faith of Bolshevik Russia.

Communism formed an integral part of the ancient myth of the golden age, the idealization by civilized man of the primitive, "natural" or tribal stage of human history. It was a reaction from the growing complications of ages of transition from nature bound existence to cultural exertions characterized by a more settled agricultural life, more intensive tilling of the soil, use of metals, rise of towns, growth of arts, crafts, trade and commerce, differentiation of society into various ranks with discordant interests and with wars against neighboring groups. Classical literature abounds in sentiments favoring the primitive and in longings for the simplicity of the golden age.

Beginning in the fifth century B.C. the Greeks set up as an ideal the laws of the legendary Lycurgus, who was supposed to have restored economic equality and healed the distempers of the Spartan state—poverty and riches. Plato, seeking to discover the causes of the disastrous Peloponnesian War, the decline of his country and the deadly class conflicts and feuds of Hellas, looked back and saw the past of Greece bathed in the golden rays of the harmonious state of nature, in which there was neither riches nor poverty, injustice nor strife. He became the age's foremost protagonist of communism. Plato argued that political democracy, which Pericles had glorified as affording to each citizen a share in the commonwealth, had failed to create harmony and civic virtue. The healing of the state must start with the restoration of harmony, and this could be effected only by establishing community of goods so as to afford to each citizen a real share, a stake in the lands of the commonwealth. In addition, Plato maintained in his *Republic* that the state needed a governing class of the highest quality of men and women. This was to be produced by a conscious selection for breeding and by thorough physical, moral and intellectual training. The selected

ruling class should own all things in common and all personal interests were to be subordinated to the welfare of the state. When the inhabitants of the state felt and thought as a unit, when the rulers were philosophers, then the state would flourish. In a later work, *Laws*, he expressed doubt as to whether community of goods and women had ever existed or would ever exist but advocated an approach to the ideal. Lands and houses were to be redistributed, but citizens should not cultivate their fields in common since the latter demanded a moral standard hitherto unattainable. Nevertheless, each recipient of an allotment was to think of his land as a portion of the common property.

The writers and philosophers of fourth century Greece seem to have been greatly preoccupied with the problem of the communal form of life. The notion had two formidable opponents in Aristophanes, whose *Ecclesiazusae* is an outspoken, spicy satire on community of love; and Aristotle, whose arguments in his *Politics* against his teacher's *Republic* constituted the most complete attack up to that time on what is now known as communism. On the other hand, the foundations of the doctrine of the state of nature were first laid in the same century. Aristotle relates with astonishment that opinions were spreading that "the rule of a master over slaves is contrary to nature and that the distinction between slave and free man exists by law only and not by nature; and being an interference with nature is therefore unjust" (*Politics*, I: 3; English translation by B. Jowett, 2 vols., Oxford 1885, vol. i, p. 5–6). This was the beginning of the revolutionary theory that not only had men been free in the golden age but that they were in fact free, servitude being the violation of a law superior to all constitutions and civil laws. While there had always been a higher or holy law it was conceived as originating in some divinity and subject to interpretation by priests. The new view traced such a law back to nature, if a divinely inspired nature, and made it subject only to the interpretation of philosophers. An important distinction is involved. The new views of nature as social legislator were coordinated at the beginning of the third century by Zeno, the master of the Stoa, who embodied them as a social science theory in a system which, as stoicism, influenced Roman and later European thought to a degree that can hardly be overestimated. It spread the doctrine that all men issued from the hand of nature peaceful and good, free and equal; that private property was not known in the state of nature; that the remedy for all moral and social ills was to live in harmony with nature, to return to nature. Zeno outlined an ideal world state, in which mankind lived in liberty and equality, without state laws and, as far as may be inferred from literary fragments, which mention no provision for a medium of exchange, probably also with community of goods. A disciple of Zeno, Sphaerus the Borystenite, roused the Spartan king Cleomenes to his egalitarian land reform; another stoic, Blossius of Cumae, tutored Tiberius Gracchus and encouraged him in his agrarian agitation.

The Romans, among them Vergil, Horace and Ovid, made frequent use of the doctrine of the golden age. Roman statesmen and historians viewed the German tribes beyond the Rhine as enveloped in the luster of moral superiority shed by the state of nature. Julius Caesar related that the Suevi had "no private or separate holding of land," and of the Germans in general that "no man has a definite quantity of land or estate of his own," and that partly to prevent inequalities and to keep down the passion for gain they changed their habitations annually (*Gallic War*, IV: 1; VI: 22). In practise, however, stoics and those influenced by them were anything but hostile to private property and the accumulation of riches. Even those who glorified the golden age did not follow Horace's advice to throw their "jewels, gems and gold into the nearest sea" (*Odes*, III: 24, 45–50).

A broad current of *jus naturale* sentiment flowed from Rome through the empire at a time when old religious and ethical principles were being recast. It penetrated the movements which created the primitive church. What was with most Romans a poetic adornment became with many salvation seeking Jews a principle for the arrangement of daily life. The Jewish sage Philo of Alexandria wrote with admiration of the Essene practise of benevolence, equity and community in goods. Josephus Flavius shared his opinion and stigmatized Cain as the seeker of possessions, the Hebrew root *kn* signifying to acquire, to buy. The general effect of the Sermon on the Mount was that accumulated wealth shut its possessor out of the kingdom of God, while voluntary poverty was blessed and had a quasi-sacramental character. Under the personal influence of Jesus and His apostles many wealthy Jerusalemites shared their goods with the poor and all were "of one heart and of one soul . . . they had all things common" (*Acts* IV:

32). While Roman jurists eliminated "community of goods" from the definition of *jus naturale*, the fathers and doctors of the church were of opinion that in the original state of man the earth and the fulness thereof were held in common. The definition of *jus naturale*, as given by Saint Isidore of Seville, contains in addition to other specifications these two: *communis omnium possessio* and *omnium una libertas* (*Etymologiarum*, v: 4, 1). Gratian, the first compiler of canon law, brought together with delight the views of Christian writers in favor of community of goods (*Decretum Gratiani*, I: Dist. 8, Dist. 88; II: Causa 12, qu. 1, c. 2, *a*). Of the great fathers Saint Ambrosius declared that " . . . nature has poured forth all things for all men for common use. God has ordered all things to be produced, so that there should be food in common to all and that the earth should be a common possession for all. Nature therefore has produced a common right for all, but greed has made it a right for a few" (*De officiis ministrorum*, I: 28, 132). Saint Jerome even accepted the widely current saying that the rich man is either unjust himself or the heir of an unjust parent. Statements of this type are frequent, but as a whole they do not prove that the primitive Christians, church fathers, doctors and canon lawyers strove for any sort of a communist rearrangement of society. Even the primitive Jerusalem communities had only a communism of consumption and not of production; each member worked as a private individual, sharing his produce or earnings with his fellows. Adverse pronouncements against private property amounted only to an admonition to Christians not to be addicted to worldly pursuits but to subdue avarice and share surplus wealth with the needy. They relegated community of goods to the region of the ideal, sanctioning private property on the theory that since the fall from grace avarice has created separate dominions and laws are necessary to regulate the division of possessions and to protect the weak against violence which would prevail were a return to the system of community of goods attempted. This admittedly led to a division of society into rich and poor, but the church view was that divine and natural law made it incumbent on the rich to relieve the poor from destitution.

The movement toward justification of private property began early. Tertullian and Saint Ambrose refer to the fall of man, to original sin, as the cause of his sinking to a lower moral level. Saint Augustine, while accepting community of goods as a part of the state of nature, condemned the antiproperty doctrines of Pelagius and the Manichaeans and sternly reproved the revolutionary rising of the agricultural laborers (*circumcelliones*) in north Africa. These tendencies grew in strength as town civilization revived. Aristotle's philosophy prevailed over that of Plato. It found expression in the *Summa universae theologiae* of the English schoolman Alexander of Hales (d. 1245) and was adjusted to the economic and political conditions of the day by his younger contemporary, the Aristotelian Saint Thomas Aquinas, who set the economic doctrines followed by the Catholic church to this day.

Not all Christians, however, could adjust the teachings of Jesus or their own communist sentiments to the exigencies of civilization. The communist influence persisted in the East and in Egypt. Oriental mystics, given to a contemplative life, looked upon the renunciation of property as an indispensable condition of subduing evil. The mass of the dissatisfied Christians branched off into two movements, one heretical, the other monastic. The former took up a hostile attitude toward the church, charging it with worldliness and mechanical legalism. Among their sects, branded by the fathers as heretical, were those of Basilides, Valentinus, Carpocrates and his son Epiphanes, the gnostics and later the Manichaeans, some of whom not only demanded the renunciation of property but set up as a positive aim the establishment of communism. Similar views were held by non-Christians. In the age of Christ the neo-Pythagoreans formed settlements in southern Italy, where ascetic communism was practised. Among the neo-Platonists communistic tendencies were rife; and one of their foremost teachers, Plotinus, the fellow student of Origen, used his influence with the emperor Gallienus in favor of the establishment of a communist colony to be named Platonopolis. Toward the end of the fifth century a mass movement against the landed nobility, led by the communist Mazdak, occurred in Persia.

Heretical sects, antinomian and antiproprietarian, became rather large in the first centuries of this era. With the spread of monasteries, however, mass heretical movements disappeared from view. The monasteries or cenobia (from the Greek *koinos bios*, community life), cloistered from the temptations of the world, sheltered all Christians who withdrew from material

pursuits to spend their life in ascetic self-discipline and community work. They must have also absorbed all those elements which in the absence of such a place of refuge would have turned heretical.

The situation changed in the eleventh and twelfth centuries. The church had become a world power and popes were statesmen engaged with emperors in a contest for supremacy. As the monasteries lost their fervor and were drawn into world affairs, heresy reappeared. At the turn of the twelfth century numerous sects known by the generic term Cathari (from the Greek *katharoi*, pure) had gained a footing in the trading centers of western, central and southeastern Europe and their doctrines were spread in part by the mass movements of the crusades. They sought to reorganize their religious, ethical and social life on a primitive Christian basis. Among them were the Patarins, the Poor of Lombardy, the Poor of Lyons, Waldenses, Albigenses, Bogomoli, Arnoldists, Humiliati, Communiati, Textores. Most of the Catharist sects lived austere lives, accepting gnostic-Manichaean doctrines and probably also the teaching of Joachim de Floris. Common to practically all were evangelical poverty, resistance to the worldliness of the church and monasticism and the rejection of official Christian sacraments, dogmas and authority. That many strove for communism may be seen from the statements of their persecutors. Of the Cathari of Montforte, near Turin, who were persecuted in 1030 on account of their rejection of the ecclesiastical mode of life, it is related that they declared *omnem nostram possessionem cum omnibus hominibus communem habemus* (*Monumenta Germaniae historica, scriptorum*, vol. viii, 1848, p. 65, line 44). The French theologian Alanus, in his *De fide catholica contra haereticos*, charges the Cathari with having appealed to the law of nature which dictates that "all should be in common" (Migne's *Patrologiae latinae*, vol. ccx, p. 366). The English prelate Walter Map reported of the Waldenses *hii certa nusquam habent domicilia, . . . omnia sibi communia* (*De nugis curialium*, ed. by M. R. James, Oxford 1914, p. 61). The Inquisition and special crusades, the German emperors of the twelfth and thirteenth centuries, the popes and the Dominicans, combined to exterminate these sects with fire and sword. Particularly thorough was the work performed by the Inquisition in France, and for centuries to come no social heresy could strike root there.

Thus when Europe was rent by a series of peasant wars the heresy of the *Jacquerie* in France was practically the only one which raised no demands for social reform. In the English Peasant War Wycliffites preached of Plato and proved by Seneca that "all things under heaven ought to be in common" (William Langland, *Piers Plowman*, Early English Text Society, Publications, original series, vol. xxxviii, 1869, ch. xx, line 274). In the Hussite wars in Bohemia the Taborites preached communism, and in the German Peasant War Thomas Münzer and the Anabaptists did likewise; the war had an epilogue in a communist rising at Münster.

The Renaissance and the age of the discoveries reconnected European social speculations with those of antiquity. Cosimo de' Medici established a Platonic academy, in which Marsilio Ficino taught Platonism and neo-Platonism to scholars from northern Europe, among them John Colet, who introduced Sir Thomas More into the study of the *Republic*. In humanist circles there was much sympathy with community arrangement of life. Erasmus, one of the most influential scholars of his time, declared that the true Christian should consider all his earthly goods as community goods. More's *Utopia* greatly heartened the humanists, who thought that societies could be constructed on a model invented by right reason and according to the tenets of *jus naturale*. The communist influence of Platonism was fortified by the effects of the discovery of America and the Atlantic islands. The tribes found in those regions appeared to live in a state of nature. To many travelers, writers and jurists the American tribes were a visual demonstration of the truth of *jus naturale*. Vespucci reported in his little tract *Mundus novus* that in the Canary Islands the people lived "according to nature; property they have none, but all things are in common."

The humanists did not see that western European society was moving in swift currents in the direction of individualism rather than of communism. More's *Utopia*, in fact, closed a period in which the doctrine of community of goods was still invested with some authority. In 1536, the year after Sir Thomas More's execution, Thomas Cromwell issued an injunction against teaching scholasticism and canon law. Henceforth the law of nature came increasingly to mean a protest against state interference with the course of trade and commerce, which were supposed to be governed by their inherent laws.

To the French physiocrats the law of nature meant freedom from state regulations, equality before the law, security of property. Even where the state of nature doctrine was used in the old sense it was bound up with the social contract and was directed not against property but by the representatives of property against feudal privileges and personal monarchy, as in the English civil war and on the eve of the French Revolution. From More's day until the middle of the nineteenth century communism meant only utopian writing or romantic experiments, generally by emigrant groups in overseas lands. Among those who produced literary utopias in those centuries were Andreae, Bacon and Harrington in England, Campanella in Italy and Morelly, Fourier and Cabet in France. Their later imitators have generally been regarded as little more than romancers. Jesuit settlements of Indians in Paraguay from 1610 to 1758 were the first of the long series of communist experiments in America which were to fill the history of pre-Marxian communism. They were inspired by a combination of missionary zeal and *jus naturale* views derived from the schoolmen and canon law. Other attempts to found communist colonies, such as those of the Fourierists, Owenites, Icarians, anarchists and other groups, although some were economically and socially successful for as long as a century, have generally proved impracticable in a world where the surrounding masses of population live in a totally different fashion. Nevertheless, this strain of communist thought continues to be the basis of some small settlements today, especially in the United States, and among Zionist settlers in Palestine.

On the extreme wings of both the English and the French revolutions were, however, small minorities who clung to the old notion of *jus naturale* and communism. These were Gerrard Winstanley and the Diggers in England, peaceful and mystical, and Gracchus Babeuf and his fellow conspirators in France, revolutionary, atheistic and the originators of the idea of a revolutionary dictatorship as the most effective instrument in the policy of abolishing private property and the building of a communist democratic state. The ideas of that conspiracy were transmitted by one of its principal authors, Filippo Buonarroti, to the young generation of Frenchmen who in the thirties of the last century worked in the Paris secret organizations either for a republic or for communism. The idea of the revolutionary communist dictatorship was spread by Auguste Blanqui, leader of the Paris secret organizations after 1836, and later it inspired Karl Marx, on whose teachings modern communism is largely based.

During the nineteenth century rising socialist and land reform movements referred to the works of scholars such as Georg Hanssen, J. M. Kemble, August Haxthausen and Georg L. von Maurer to prove the existence in earlier ages of agrarian communism as a form of social organization, seeking therefrom further justification for their positions. Furthermore, as a result of Friedrich Engels' study of Lewis H. Morgan's work, Marxian views of the development of property were connected with the history of primitive communism. Ethnologists and economic historians began after 1875 to reexamine the origins of property in land. Primitive agrarian communism, hitherto generally accepted as a fact, came to be one of the most debatable problems of economic history and ethnology. Among those who have defended the notion that primitive agrarian communism was a reality are, in addition to those mentioned, such great scholars as Erwin Nasse, Sir Henry Maine, Émile de Laveleye, William Stubbs, Lewis H. Morgan, Otto von Gierke and Maxim Kovalevsky. They believed that they found corroboration of their opinions in the statements of Caesar and Tacitus concerning the Germanic tribes, in travelers' reports of social conditions among primitive populations and finally in the Russian *obshchina*, the south Slav *zadruga*, in some remnants of the *Mark* system in southwest Germany, in the Swiss *allmende* and in the Chinese well-field-system (*Seïds*, or *Tsing-Tien*).

The opposing school, led by Fustel de Coulanges, attempts to prove either that from the beginning of human history there existed private property and no other form or that where collective agricultural associations existed they were a late creation arising from external pressure, e.g. in the case of the *obshchina* and *zadruga* from the desire of governments or feudal authorities to impose upon the whole village or a number of families collective liability for taxes or rent. The most scholarly part of the controversy turns upon the original conditions of the Germanic tribes, and closely connected with it is the question of whether the Anglo-Saxon settlement in pre-Norman England proceeded on Roman or Germanic lines. Max Weber, with his encyclopaedic knowledge of the social sciences, declared in his last work that the theory of primitive agrarian communism could neither be proved nor disproved (*Wirtschaftsgeschichte*,

Munich 1923; tr. by F. H. Knight as *General Economic History*, New York 1927, p. 24–25). The effect of the controversy has not been barren of results, however, since it has made the adherents of the theory less dogmatic.

Whatever the truth of the theory may be, Marxian communism does not depend on it for justification. Nevertheless, Marxian communism reflects the same sentiments which underlay earlier communist movements based on a theory of primitive communism or the reign of *jus naturale*. With such movements modern communism shares a position consisting chiefly in the repudiation of private property in production and consumption goods and a demand for a fundamental, radical reconstruction of society as the only means of achieving harmonious and ordered social existence. The particular turn which communist thought and practise have since taken was dictated by communist views of capitalist industrial society. Modern communism has become instead of a myth or the subject of literary romance a practical goal and program in the form of Marxian socialism agitated by international socialist groups and regarded by them as the inevitable next step in social development, to be brought about by a class whose self-interest drives it to such a type of economic and social organization.

MAX BEER

See: SOCIALISM; BOLSHEVISM; COMMUNIST PARTIES; COMMUNISTIC SETTLEMENTS; UTOPIAS; NATURAL LAW; STOICISM; CHRISTIANITY; FRANCISCANS; SECTS; RELIGIOUS ORDERS; MONASTICISM; POVERTY; EQUALITY; PROPERTY; VILLAGE COMMUNITY.

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COMMUNIST PARTIES are the political organizations of the communist movement and aim to realize the ideal of communism by means of revolutionary action culminating in the dictatorship of the proletariat. Their character is shaped by the ideology of modern communism which, like socialism, has its basis in the Marxian philosophy of history and theory of class struggle. From Marx modern communism derives its striving for a monism of theory and practise; the dialectic method of viewing all phenomena as moving from thesis through antithesis to synthesis; and the conception of history as a dynamic process of class struggles which is determined by the system of relationships in production, and which in its present stage of evolution is leading to a collision of the bourgeoisie and the proletariat eventuating in the overthrow of capitalism and in the rebuilding of society on the principles of common property, economic equality and social harmony. In so far as modern communism has modified Marx it has done so chiefly by elaborating the analysis of the latest phase of capitalism or imperialism and by formulating more clearly the dynamics of social revolution. This was the work of Lenin, and the communists regard it as of equal significance with that of Marx and justifying the designation of present day communist theory as Leninism-Marxism. In this modified form communism is a distinctive social synthesis. Communists regard this synthesis as a completion of Marxism; socialists as a deviation from Marxism. In some of its aspects modern communism is a return to Marx of the period of the Communist League from 1848 to 1851, but it also shows traces of syndicalism and Blanquism and the influence of the conditions resulting from the World War and the Russian Revolution.

Proceeding from Marxian premises modern communism views the present stage in the history of the world as the last phase of capitalism, which it designates as "finance capitalism" or "imperialism." This epoch is characterized by two main features, the growth of monopoly and the control of industry by finance. The basic ideas of communism are that imperialism is the epoch of the decay of capitalism and that this epoch began with the World War and the Russian Revolution. In this general epoch communism distinguishes three successive stages. The first stage, from 1914 to 1923, witnessed the break in the capitalist system, the first struggles for power of the proletariat, which resulted in the victory of the Bolshevik revolution in Soviet Russia and in the revolutionary uprisings of other countries. The second period, the following four or five years, was characterized by a partial stabilization, during which capitalist production recovered to pre-war levels, improved its technique and mechanisms and intensified its pressure upon the workers in the industrial countries and on the masses in the colonial and semicolonial countries. At present the world is in the third stage, a new period of general crisis and rapid decline for capitalism. The cause of this new crisis is the growing disparity between productive capacity and restricted markets, which results in industrial depression, in unemployment and in intensified conflicts both within and between countries. Within each country there is a resurgence of industrial unrest and of social struggles in the form of strikes, mass demonstrations and political upheavals. In international relations the growing conflict is manifested in three main ways: in the clashes between the imperialist powers and the colonies, in the hostility of the entire capitalist world toward the Soviet Union and in the antagonism between the United States and Europe. The new revolutionary rise, resulting from the accentuation of the external and internal contradictions of imperialism, presages the possibility of a general social revolution in the not distant future. But that does not mean that all revolutions in all countries must be at once victorious and that all conflicts between states must immediately end in war. The social revolution must be conceived not as a single act, not as one struggle on a single front, but as a whole epoch of sharpened class struggles, as a long series of battles on all fronts, as a prolonged process of economic and political upheavals, which may have some partial failures but which will end finally in the expropriation of the bourgeoisie and in the triumph of the workers.

The communists visualize the ultimate end of this revolutionary process as the establishment of a world communist society, but in the immediate future a successful revolution can be merely the first step toward such ultimate aim. In contrast to the older socialist concept modern communism, largely under the influence of the Bolshevik experience in Russia, stresses the necessity of a long process of "building socialism." The Marxian concept of a

transition period between capitalism and socialism assumes in the communist analysis new form and greater importance. The transition period becomes a fairly long historic period during which a creative process of reorganizing the economic, political and cultural life of a country is to be completed. During this transition period communism proposes to use all the centralized powers of the state and as much force as may be necessary in order to nationalize industry, to crush all resistance to the plans of revolution and to enforce those economic measures by means of which the socialist system is to be constructed. The state which is to carry through this task is conceived not as the democracies of today but as an entirely new form of political organization characterized primarily by the concentration of all authority in the hands of the proletariat, represented by the Communist party, and by the frank avowal that it is a dictatorship of the proletariat and a class rule. The prototype of this dictatorship is the political system of the Soviet Union.

Communist action thus centers around the concept of the dictatorship of the proletariat. The social revolution is a series of successive proletarian dictatorships established in one country after another until they embrace the entire world and form a world dictatorship which will begin the systematic reconstruction of world economy on a socialist basis. The main task of the communist parties is to watch developments in each country and to be ready, whenever a country reaches the breaking point, to step into the breach, seize power and establish a proletarian dictatorship. In view of the undermined condition of capitalism which characterizes the present stage of history the social revolution may blaze up not only from a new war but also as a result of some large strike or some street demonstration, hunger riot, military revolt or colonial rebellion. Any movement which upsets the equilibrium of capitalism has revolutionary possibilities and revolutionary value, and the general task of the communist parties is to carry on a theoretical and practical struggle for the dictatorship of the proletariat. The revolutionary process takes on different forms in different countries. While the direct struggle for the conquest of power can be carried on best in the advanced industrial countries, nevertheless in backward countries it is possible to unite such workers as there are with the poorer strata of the peasantry. In some countries of lesser industrial development it is necessary to fight for political rights and for agrarian changes. In colonial and semicolonial countries the struggle for national independence and against the imperialist powers is essential.

This view of historical development has important effects upon the character of communist tactics and of party organization. Following Marx the communists proceed from the assumption that the working class is the only class which has the historic mission of reorganizing society and that the Communist party is the vanguard whose function it is to assume leadership in carrying out the program of social revolution. But in the present stage of development the workers are far from being a majority, even in many advanced industrial countries, while large sections of the world are dominated by agrarian and colonial relations. This situation is met by the theory that imperialism supplies an economic basis for an alliance between the workers and the masses of the peasantry in all countries, an alliance in which the proletariat, through the Communist party, assumes political and social leadership. This theory supplies the foundation for the practical efforts of the communist parties to cooperate with agrarian elements wherever they are strong and to participate directly in the nationalist movements of India, China and colonial countries.

The communist parties of today may be traced to groups of Lefts and radicals in the pre-war socialist parties of Germany, Austria, France and Russia and in the Second International, which for a decade before 1914 fought against the socialist "revisionists" (Bernstein, Jaurès, Vollmar) and the so-called socialist "center" (Bebel, Kautsky, Plekhanov), demanding a more vigorous class and antimilitarist policy. Those groups supplied the nucleus of the rebellion against the official socialist acceptance of patriotic duties in the World War in 1914 and 1915. The insurgent elements, loosely designated as Zimmerwaldians (from the name of the Swiss village where they held their first international conference in 1915), were led by such men as N. Lenin and L. Martov of Russia, Robert Grimm of Switzerland, A. Bourderon and A. Merrheim of France, A. Hoffman and G. Ledebour of Germany. Of those the left wing met at Keinthal, Switzerland, in 1916 and under the leadership of the Bolsheviks (the Russian majority socialist group) adopted a program of working to turn the international war into a civil war or class war. The Bolshevik revolution in November, 1917, precipitated a further realign-

ment within the international socialist movement on the issue of "democracy versus dictatorship," which in practise meant being for or against Bolshevik policy in the Soviet Union. Feeling that a clear cut break in the socialist movement would help their cause the Bolsheviks, until then known as the Social Democratic party of Russia of the Bolshevik faction, at a party conference in March, 1918, changed their name to that of the Communist party of Russia, to indicate their complete separation from the socialist movement.

Until the end of the war the Russian Communist party was the only Communist party in the world. The socialist groups in different countries which were against the war and in sympathy with the Bolsheviks were known under a variety of names, such as Independents, Spartacus Bund, Socialist Minority, Left Wing Socialists and so on The German revolution led early in 1919 to the formation of the first Communist party outside Russia, namely the Communist party of Germany, which was formed by the amalgamation of the Spartacus League with the group L'Internationale and with the more radical section of the Independent Socialists. These were the only two communist parties in existence when the Russian Communists issued their invitation to an international conference in Moscow in March, 1919, which organized the Third or Communist International and which definitely inaugurated a communist movement on an international scale, distinct from and in opposition to the socialist movement.

At first the Communist International was a conglomeration of all sorts of left wing groups and parties which had in common their opposition to the war, their disgust with the old leaders of the Second International and their demand for a larger measure of recognition of socialist ideals in the making of peace. It was the conscious and systematic policy of the Third International under Bolshevik guidance to win over these dissident groups and to reorganize them into communist parties. Wherever such efforts were unsuccessful the Third International adopted the policy of splitting off major or minor sections from existing parties and of forming them into distinct communist parties. In this way communist parties were organized in 1919 and 1920 in many countries of Europe and in America with a common platform which urged action for an immediate social revolution. In 1921 in order to consolidate their gains the leaders of the Third International adopted a deliberate policy of making membership in the Third International difficult of attainment. Greater emphasis was put on the revolutionary object of communist tactics, and to drive away those unprepared to carry out such tactics at all costs a program of twenty-one points was drawn up and made a prerequisite for admission. This had the effect planned; numerous Left Socialist groups, especially those which established the Vienna Working Union of Socialist Parties (the so-called Two and One Half International), held off from the Second or Socialist International for a long time but finally abandoned all plans of joining the Third. Between 1921 and 1924 the Third International was instrumental in strengthening the parties formed before 1920 and in organizing many new ones. The communist reverses of 1923 and world stabilization, which came about after 1924, belying the forecast for an immediate revolution, threw all communist parties into a state of inner chaos which threatened to disrupt them completely. The Sixth World Congress of the Third International in 1928 succeeded in overcoming this internal crisis and restated the doctrines of communism in the manner outlined above, reemphasizing the distinctive features of communism as a world movement and giving the various communist parties a firmer basis for immediate action as well as for revolutionary propaganda.

At present communist parties exist in over fifty countries. Disregarding minor differences, they are organized more or less alike. Any individual who accepts the program and principles of communism and who pledges himself or herself to work actively on behalf of these principles and to submit to communist discipline may become a member of the party. Preference is accorded to working people; and in some countries, notably in the Soviet Union, there is a probationary period in which prospective members are candidates and have to prove that they are worthy of being admitted to the party. The unit of the Communist party is a nucleus or cell which is composed of a group of people who work in the same place—factory, farm, store or other enterprise. Every member of the Communist party of a country is inscribed in one or more cells. In addition to these industrial cells there are street cells, which unite communists living in the same neighborhood. The cells are the meeting places where all questions of the communist movement come before the rank and file of the members. There are wide differences

in different countries in the extent to which this cell organization is in operation. In some countries the communist parties are still largely organized on the basis of residential membership.

Factory and street cells are combined to form larger local and district organizations which make up the national party. With minor variations all communist parties are governed by a central executive committee elected at a national conference of delegates. The central executive committee meets only a few times during the year, and power in the interval is vested in a smaller body composed of five or seven members and known as the political bureau, *politburo*. In their internal relations the communist parties are built on the basis of "democratic centralism." Every organ of the party must carry out promptly and accurately the decisions of higher officials and every individual member of the party must submit to iron discipline. He who weakens the iron discipline of the proletariat, no matter how little, say the communists, helps the bourgeoisie against the proletariat. Before a decision has been taken by the party the members are free to discuss the issue at their cell meetings and in party circles. But once a decision has been made by the party through its directing organs, every member must submit to it unconditionally. No communists are permitted, either individually or in groups, to oppose the party, to form factions or groups.

The communist parties in the different countries are sections of the Third International. The relationship is not that of a federated association but of a united and centralized political combination. The Third International is conceived of and operates as a world party in which the separate communist parties of the different countries are not autonomous members, but subordinate parts governed by the same principles of democratic centralism which prevail within the separate sections. This form of organization has the purpose of giving the Third International that unity of purpose and of action which is one of its main desiderata and which has shaped its internal structure since its inception. The supreme organ of the Third International is a world congress which meets at call. The world congress examines all questions of theory, policy and organization and acts as the general directing body, unifying communist doctrine and tactics. It elects all the executive officers of the International and is the court of appeals to which any member or group or entire party may bring complaints. The world congress of the Third International is an assembly of delegates from the communist parties and allied organizations of the different countries. The number of delegates which every Communist party may send to the congress is fixed by the executive committee of the International while the number of votes is fixed by the congress itself on the basis of membership and of political importance. Between congresses the Third International is governed by the E. C. C. I. (Executive Committee of the Communist International). The communist parties of the different countries are arranged in groups and each group is allowed one or more delegates on this committee. In selecting these delegates each country or group of countries may put up candidates but cannot insist upon their election, which is subject to the final decision of the world congress.

In accordance with the principle of democratic centralism the E.C.C.I., which at present is composed of fifty-nine members and forty-two candidates, has the power to issue imperative instructions to its sections and to exercise control over their activities. It may annul or amend any decision adopted by the executive committee or by the national conference of any Communist party. It may issue obligatory orders and may expel individuals, groups or whole parties for alleged violation of communist principles and policies. The executive committees of the communist parties in the different countries are accountable to the E.C.C.I., must make regular and detailed reports of all their activities to it, must remit to it dues as fixed and must obtain its approval for the calling of their national conferences. No member of any executive committee of any section has the right to resign his position without the consent of the E.C.C.I.

Besides the sessions of the E.C.C.I., which take place at least once every six months, there is held twice a year an Enlarged Plenum of the executive committee. This is composed of the members of the E.C.C.I. and of delegates from the communist parties whose number is fixed by the executive committee. In the last few years these plenums have usually brought together from 100 to 200 delegates. The Enlarged Plenum has none of the powers of the world congress but its resolutions and recommendations serve as a guide to the communist parties, pending the decisions of a world congress. Between the sessions of the E.C.C.I. the affairs

of the Third International are in the hands of a Praesidium elected by the E.C.C.I. consisting of some thirty members and nine candidates, who meet in Moscow, the headquarters of the Third International, every two weeks. The Praesidium elects a political secretariat of eleven members and three candidates, who reside in Moscow and who direct the work of the Third International. The work is departmentalized. There are eleven national secretariats as well as an international woman's secretariat, a division for organization (*orgburo*), a division of information and statistics, a division of propaganda and agitation, a division of the Orient and several others.

At the Sixth World Congress of the Third International, held in Moscow from July to September, 1928, there were represented 66 parties and allied organizations, with a total membership of 4,024,159. Included in this total were 2,225,300 members of the communist youth leagues. The membership of the communist parties proper was 1,798,859. Of this total membership 1,200,000, or nearly three fourths, were in Russia, and of the remainder over 300,000 are found in Germany, Czechoslovakia and France. Communist membership in all countries is subject to a high rate of turnover and to rapid ups and downs under the influence of political conditions. For instance, in England the membership of the Communist party rose from 6000 to 9000 between 1926 and 1927 and dropped to less than 5000 in 1929. In the United States the membership of the Communist party has fluctuated from 20,000 in 1924–25 to about 11,000 or 12,000 in 1928. In Sweden the membership has risen from over 10,000 in 1926 to about 18,000 in 1930. In countries where the communist party is an illegal organization there is of course no way of estimating the total membership.

The strength of the communist parties and their activities vary from country to country in accordance with economic and political conditions. *Sui generis* is the Russian Communist party, which is the ruling party of the Soviet Union. It has an elaborate party machinery and large funds, it is the power which directs the internal and foreign policies of the Soviet Union, and it is of immense importance in world politics and economics. Outside Russia the communist parties of Germany, France and Czechoslovakia have substantial organizations, their own buildings, maintain large offices and publishing houses and edit many daily, weekly and monthly periodicals, which have fairly large circulations. In these countries too the communist parties are important factors in the political life of the country, having substantial groups of representatives in the national legislatures and in the provincial and municipal councils. In Germany the communists polled about 3,230,000 votes in the national elections of 1928 and over 4,500,000 votes in the elections of 1930. In France the communists polled over 1,000,000 votes in 1928. In Czechoslovakia the Communist party, which was at one time the strongest political party in the country, is, although much weakened, still of importance in the national parliament. Communist parties are fairly strong in Finland, Poland and Norway. In Austria, Switzerland, Denmark, Holland and Belgium the communists have been unable to make much headway against the socialist organizations and consist of small agitational groups confined largely to verbal agitation and propaganda, especially in the trade unions. The same is true of England and the United States. In Spain, Italy, Hungary, the Balkans, Poland, China, Egypt, Latin America and in some of the colonies the communist parties are illegal or semi-illegal organizations and their work is carried on underground or in disguise, resembling in some ways the work of the Russian Bolsheviks under the czar. They organize secret societies, have secret printing plants, publish leaflets and pamphlets illegally, maintain underground contacts with workers in factories and on the farms and prepare mass demonstrations and uprisings. In all countries where military institutions are strong the communists try to organize cells in the army and navy, while in the countries of Asia, Africa and Latin America they are active in organizing the extreme elements in the nationalist, agrarian and anti-imperialist movements.

The communist parties in all countries have a number of adjunct, allied and sympathizing organizations which they use either for special activities or for boring their way into the general economic and social institutions. This is made necessary by the communist idea of the party as a limited organization composed of specially selected and disciplined members who must win the support of a majority of the working people in order to carry out the socialist revolution. The communist idea of leadership lays stress on organized elements in the population; the winning of a popular majority therefore becomes in the first place an effort to win leadership within organizations already created by the masses. Of

these, communists attach prime importance to the trade unions as especially fit instruments for their purposes—as the schools of communism today and as important machinery for socialist activity during the dictatorship of the proletariat. For these reasons the communists in all countries have been especially active in their efforts to win over existing trade unions; today these tactics are applied chiefly in England, Germany, Sweden, Switzerland and Austria, where communists organize what they call "trade union oppositions" in the existing trade unions. Where that is impossible they try, as in France, Czechoslovakia, Jugoslavia, Bulgaria, Rumania, Finland, the United States, Cuba, Mexico and a number of other countries, to build up rival unions under their own leadership. Aside from the trade unions the communist parties in the different countries have under their direction unemployed councils, communist youth leagues, children's leagues, Red sports societies, Red Front leagues and a number of other organizations. They are also connected with various farmers' and peasants' societies and with such organizations as workers' defense leagues and workers' relief societies. All these subsidiary and auxiliary organizations in the different countries are combined internationally and form respectively the organizations known as the Red International of Labor Unions, or the *Profintern*, a rival to the Amsterdam International Federation of Trade Unions, the International Peasants' Council, the Communist Youth International, the International Children's Bureau, the Red Sports International, the International Workers' Relief and the International Red Aid. All these international organizations work either directly under the control of the Communist International or in cooperation with it.

The specific tactics of the communist parties in the different countries are in a state of continuous flux. While this is designated by non-communists as opportunism, the communists themselves regard it merely as evidence of their realism and of their capacity to adjust means to ends. Since 1921 communist tactics have had a unifying feature in the advocacy of the "united front." United front tactics consist in taking advantage of every economic or political situation in the daily life of a country for the purpose of putting forth concrete demands and slogans and for calling upon all workers to unite for attaining these demands. While the communists claim that the "united front from below" is a method for drawing the backward workers into the class struggle, their chief interest is to use it to undermine the non-communist leadership in trade unions, cooperatives and other labor organizations in favor of themselves. At present the general slogans of the Third International are: "united front from below" and "the organization of tactics on the basis of partial demands." As interpreted by the Praesidium of the Communist International early in 1929 and reaffirmed recently this means that the Communist party of Germany must be most active in the reformist trade unions and must consolidate the ranks of the so-called trade union opposition; that the Communist party of France must set up cells in all factories and strengthen the communist trade unions so as to reorganize the party on the basis of industrial units; that the Communist party of Great Britain must increase the influence of its daily paper, the *Daily Worker*; that the communists of the United States should strengthen the new trade unions and use them as the framework of the United States communist movement; that in those colonial countries in which they do not already exist, as for instance in India, communist parties must be set up and must assume a leading position in the national revolutionary movements, especially in the work of drawing into this movement the masses of the peasantry.

Since its inception the Third International has acted as the main cohesive force of the communist movement. It not only created the first communist parties but nursed them and watched over them throughout all the difficulties of growth. At the present time the Third International continues to play this role toward the communist parties of which it is composed. It supplies the intellectual pabulum, the practical aims and also the financial means wherever that is necessary. The headquarters of the Third International in Moscow is the scene of continuous meetings of leading communists from all countries for the purpose of maintaining contacts and of giving unity to the movement in different countries. Through its power of expulsion and of discipline the Third International can purge any Communist party of whatever elements are opposed to it and place in leading positions the men and women who are trusted by it and who are willing to follow its directions. Financially the Third International is ready to help the weaker parties in the different countries to a considerable extent; its own reports show that in 1927 it spent about $345,000, or over 50

percent of its total receipts, to subsidize communist parties in seventeen different countries for newspapers, pamphlets, organizing and cultural work.

The growth of the communist parties in all countries is hampered by three main difficulties. One follows from the nature of communist work in general. Penetrating into all economic and social institutions and playing a leading part in them is an enormous task and both the theoretical and the practical work of the communists fall far short of the aims set in any country. The attempt, essential to their tactics, to reconcile concern for practical demands with eagerness for an immediate social revolution causes serious practical contradictions, so that communists often pull too far to the left in their eagerness for revolution or fall to the right, becoming engrossed in immediate demands. The Third International itself has constant occasion to reprove member parties for one or another of these errors. The theory of the united front has been particularly difficult of correct interpretation. In some cases communists have formed election blocs with Left socialists, in others they have failed to participate in activities regarded by the International as having revolutionary importance. Another difficulty is one common to every mass movement. Despite the fact that the communists may rely in some countries on an unusual homogeneity of economic backgrounds and interests to unify the attitudes of their members and on a general conscious theoretical unity rare in large political groups, the parties do include such heterogeneous elements as workers, peasants and professionals; people of both sexes, of different ages, levels of education, social contacts and mental and moral habits. Consequently it is difficult to maintain the iron discipline which is in theory the basis of their organization and to carry out democratic centralism in a manner always conducive to the smooth working of the party machinery. Difficulty also arises out of the relations of the communist parties to the Third International and out of the close connection of the Third International itself with the Bolshevik government of the Soviet Union. The Third International is essentially concerned with the world situation and with an effort to create a world movement. But like all leaderships its executive committee often finds it difficult to muster the intellectual and material resources necessary for carrying on such a movement and at times makes erroneous decisions which it must later reverse. The Third International's power to enforce its decisions against the national parties, while it helps create unity of program, also frequently curbs independent effort and local initiative, as centralized control always tends to do. Because of its close connection with the Russian Communist party and through the latter with the government of the Soviet Union the Third International inevitably places in the center of its interests the economic development of Soviet Russia and tends to orient the communist parties of the world from this point of view.

These difficulties within the communist parties are the cause of the continuous formation of groups, factions and oppositions in the separate countries and of repeated splits and factionalism within the Third International itself. Since its inception the Third International has insisted that factionalism is the supreme crime of the communist movement, yet in the ten years of its history it has witnessed a succession of factional movements in practically every Communist party. The two greatest factors of internal friction have been the question of trade union tactics and the problems of the economic development of the Soviet Union. The factionalism created by these two factors has assumed international proportions and given rise to intense opposition movements which have caused the Third International serious trouble. The result has been a series of splits, resignations and expulsions which have lost to the party a number of active and influential leaders. At the present time the Third International claims to have overcome all factionalism, having expelled from its midst both the so-called Left Trotskyists and the so-called Rights. But current events and discussions within the Third International indicate that the elements of factionalism are still there. The Trotskyist Left, which is organized as small groups outside the Third International in Germany, the United States and several other countries, has followers and sympathizers in the regular communist parties of many countries and also within the Third International itself. The so-called Right, which assumes different forms in different countries, calls for more moderate economic and social policies; it is an especially important element in the Communist party of the Soviet Union. Judging on the basis of the experience of a decade one may say that while the readiness of the Third International to apply rigid control and the willingness of the majority of communists to submit to iron discipline, abandoning individual or local views when

they conflict with the policy of the central body, may curb or suppress factionalism, it seems certain that the principles of iron discipline and democratic centralism often make it difficult to effect changes of policy smoothly.

The future of communism is closely related to the future of the Soviet Union, and their interaction is of world wide importance. The Soviet Union in its economic and political activities continues to draw support from the existence of a communist movement throughout the world. On the other hand, the prestige of the Communist party in the Soviet Union and the success of its economic policies continue to feed the communist movements of the world. Nevertheless, were conditions in the Soviet Union to change in such a manner as to undermine this interrelationship there would still probably emerge a left wing socialist movement similar to the present communist movement.

Popular notions of communism are influenced to a great extent by local political and cultural conditions. In France familiarity with revolutionary movements in the past makes communism appear to be merely a modern edition of old revolutionary forms. The view common in the United States that the communists are either cranks or criminals is largely a reflection of a conservative outlook. To many the communists represent violent and radical change incarnate, and the usual forces of vested personal or class interests, habit, fear and authoritarian or traditionalist theories arouse an even more intense opposition to communism than is generally called up by suggested innovation. Those who attack communism frequently are ignorant of its purposes, aspirations and theories and lump together as insane, wicked or antisocial such diverse and mutually antagonistic movements and theories as communism, socialism, syndicalism, anarchism and pacifism. Anticommunist organizations spread many unfounded statements against communism and its followers, which gain a ready hearing in large portions of the population a priori opposed to any significant change in social organization. The greatest hostility toward the communists is usually found among the socialists and trade unionists, against whom the communists are carrying on their campaigns. This is an inevitable result of communist theory and tactics. Since the communists are guided by the idea of a possible social revolution in the near future and believe that such a revolution may be precipitated by one or another fact of social conflict, they are inevitably forced to be continuously agitating and magnifying every form of social strife. Since their strategy centers around the idea of winning leadership they are also inevitably compelled to attack those who already hold the leading positions in labor organizations, and the latter retaliate in kind. The communist argument against the socialist and trade union leaders is that they propose only reformism. Reforms, the communists contend, are but palliatives; at best they mitigate temporarily evils which cry for a complete change and at worst they throw a cloak over the running sores of society. The ruling class will furthermore accept only such reforms as in reality do not threaten their interests. Aside from the fact that the ruling class controls schools, churches, press, political parties, radios and every other cog in the machinery of democratic government and therefore can prevent for an incalculably long time if not forever the triumph of the proletariat by democratic means, the communists maintain that whenever the proletariat threatens to obtain a parliamentary majority or to introduce changes in any legal fashion which challenges vested interests the ruling class leaves the path of constitutionalism and democracy and to prevent such changes uses or threatens violence. Hence, communists argue, reformism is worthless and even harmful in so far as it leaves the proletariat unprepared for the final struggle which must come about.

As long as large masses in our industrial countries consider themselves exploited some form of revolutionary doctrine is inevitable. The continued development of the Soviet Union would doubtless assure the fact that communist parties will articulate the revolutionary doctrine and remain a factor of continuous agitation and of economic and political disturbance in countries dominated by capitalism.

LEWIS L. LORWIN

See: COMMUNISM; SOCIALISM; BOLSHEVISM; SOCIALIST PARTIES; RUSSIAN REVOLUTION; YOUTH MOVEMENTS; LEFT WING MOVEMENTS, LABOR; REVOLUTION; CLASS STRUGGLE; VIOLENCE; DIRECT ACTION; PROPAGANDA; PROLETARIAT; PROLETARIANISM; ANTIRADICALISM.

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COMMUNISTIC SETTLEMENTS. Communities have frequently ordered their lives communistically in one respect or another. The degree of communism practised among the German tribes as described by Tacitus and Caesar may, with the theory of the village community itself, remain obscure. There is, however, no doubt that in many primitive societies and among ancient Greeks and Hebrews some forms of communistic practise were followed. It should be realized, however, that the famous citizens' meals of Sparta were little more than a military training table and that Sparta was so far removed from true communism in principle or practise that its whole social system was based upon helot labor. The early Hebrew communal land ownership was an incident of pastoral life rather than part of a systematic collective ownership of production goods.

By the second century B.C. true communism was introduced among the Hebrews by the Essenes, a highly intellectual, largely celibate group, living in complete consumption communism, sharing houses, meals, clothing, storehouse and even a community purse. Candidates for admission to the group turned goods into the common fund; interchange among members was free, no money being used; luxury and the owning of slaves were forbidden and charity to outsiders approved. The early church at Jerusalem showed for a brief period a similar tendency in the field of consumption. Believers "had all things common . . . and parted them to all . . . as every man had need" (*Acts* II: 44–45; IV: 32). This tendency soon disappeared from the main body of the Christian church, however, to reappear later chiefly in a succession of dissident groups. It should be noted that these early communistic groups, living in a comparatively simple economic world, were able to achieve their end of "dividing up" consumption goods without rearranging in any way the ownership or control of the simple production goods or processes then available.

Beginning with the Benedictine order in the sixth century monastic life, with its vows of poverty, chastity and obedience, its probationary term and life membership, revived complete community economic control and other communist practises with highly productive results. An abbot elected for life ruled each chapter of the order. Members were required to labor at tasks economically profitable to the collectivity; all lived, ate and worked in common quarters.

Again, in the Jesuit "republics" of Paraguay a theocratically ordered collectivist life prevailed for a century and a half with mixed communist and cooperative aspects. Settling in 1602 in pairs over a vast territory from which other whites were excluded, the Jesuits gathered 100,000 or more converts into some thirty agricultural villages, each with separate family allotments and common "fields of God" for the support of the poor, the aged, etc. Using no money within the settlements and trading outside only by annual expeditions the groups lived a successfully self-contained life in which a rich culture of ritual, pageantry and music grew up, until Spain expelled the Jesuits in 1767 and reduced the natives to virtual slavery.

The thirteenth century Apostolican sect of Alzano in Italy, which later spread to France, the Beghards of northern France and Germany, the Norfolk Lollards, the Weaving Friars of Bruges, the Fraternity of Life in Common in the Netherlands in the fourteenth century, the Taborites of fifteenth century Bohemia, the Moravian Brotherhood and the Anabaptists of the sixteenth century, were mediaeval sects which attempted communistic life. Their membership was lowly in origin, their ideas closely bound up with religious notions of a heretical nature. Their communism was chiefly in the field of consumption,

though in some cases production seems also to have been regarded as a fit category for communistic organization and control. It was, however, in the nineteenth century that self-conscious communistic settlements were attempted in great numbers by both religious and non-religious groups. They centered chiefly in the United States.

Such experiments were of two main types, which occasionally are to be found combined. On the one hand, small Christian sects, especially in Lutheran Germany, making literal interpretations of the Sermon on the Mount, underwent persecutions in their homeland which induced them to remove to the United States. In some such cases there seems to have been no interest in communism per se. Where desire to preserve genuine equality between man and man did not lead them to communism, they turned to it as that form of social organization best fitted to their needs. No difficulty was experienced in finding justification for communism in the words of the New Testament. The second type, non-Christian and often antireligious, was connected through the tradition of utopianism with older movements in favor of communism as a universal social order. Its leaders were rationalist social reformers believing in the perfectibility of man. Christian and non-religious communistic settlements had a common social origin in the revolt of discontented groups from the pressures and dislocations of the evolving capitalist order, and had in the remote background common ideological roots in the ancient doctrine of natural law and the Manichaean view of the viciousness of private property. One communistic experiment cross fertilized another and there must have existed large numbers of short lived communities, most of which have left few traces. However, a number of such settlements still exist.

The Shakers (United Society of Believers), a celibate body of men and women, began community living at Mount Lebanon, New York, in 1787, their doctrines having been consolidated by Ann Lee, their English leader, some time before her departure for America. Their population reached a maximum of 5000, but now the eighteen settlements have been reduced to a handful and the membership is less than 200. Their unit was not the settlement but the "family," a group which sometimes included several score "brothers" and "sisters" housed in one building and owning all goods in common. Gardening, fruit preserving and craft work were the economic mainstays of the communities. The body was governed by a self-perpetuating ministry which appointed elders and deacons, among whom were women. There were grades of membership; entrance and standing were guarded by the confessional. Government was authoritarian, based on religious discipline. Relations between the sexes were carefully supervised: men and women worked in separate shops, ate at separate tables, stood apart at religious meetings, had confessors of their own sex. Their unique religious practises included the "march," their doctrines that of an accomplished millennium and spirit communion.

The Amana Society (Society of True Inspiration), a German separatist sect, settled first near Buffalo in 1843 and later removed to its present site in Iowa. It held that the gift of inspiration resided in its early leaders, Christian Metz and Barbara Heynemann. Its elders were selected by inspiration. Amana elects thirteen managing trustees who appoint superintendents and foremen and assign each member his task. In seven Amana villages there were in 1926 1385 persons operating flourishing farms and industries.

The Huterian Brethren, a Mennonite body, were Germans who first settled in southern Dakota in 1874. Their church dates back to Jacob Huter in the sixteenth century. They have a most thoroughgoing system of communism; it is said that not even clothing is regarded as individual property. The different settlements, however, operate independently. Their government is in the hands of a *Wirt* (business manager), who appoints assistants and apportions work to individuals, and a preacher, the spiritual head. In 1924 they had twenty-six communities in the United States and Canada.

The Doukhobors are a large Russian sect of religious communists, a portion of whom came from Russia to western Canada in 1897.

The Harmonists (1805–*c.* 1903), like Amana, came out of the German separatist movement. George Rapp had gathered his millennialist Harmonists about him in Germany and led them in the establishment of communism, including the burning of their property book in 1818, in the adoption of celibacy and through three different removals until their final settlement at Economy, Pennsylvania, in 1824. In spite of hardships and heavy losses the community built up successful industries and became prosperous. Factional disputes occurred, one of which reduced the population of 700 by a

third. The society died a natural death, and when Economy was sold to a land company only a few scattered members remained.

The Zoarites (Separatist Society of Zoar, 1817–98) came to America with the financial assistance of interested English Quakers and set up a colony at Zoar, Ohio. Faced with economic distress among the members, their religion of brotherliness made them declare for community of goods, on which basis the society worked out its articles of agreement and constitution. It had already barred ceremony and form, and practised non-resistance; now it even experimented with community care of children. These experiments and celibacy were abandoned after periods of trial. In spite of withdrawals the society kept a fairly flourishing membership until the younger generation precipitated in 1898 a property division among the remaining members, who numbered over 200.

Eric Janson led his company of Swedish separatists to America with high religious expectations. They were established at Bishop Hill, Illinois, in 1848. Although in 1850 Janson was killed, the community founded industries, cultivated lands, grew and prospered. Some of its members had become alienated early by Janson's unique religious claims and withdrew. After some years factions arose, economic affairs became involved and it was finally decided in 1862 to divide the property and discontinue what remained of community life.

Two communistic settlements were founded by Dr. Keil, a German by birth, who drew a religious following chiefly from German peasant immigrants. He settled them first at Bethel, Missouri (1844–80), and later led a majority of the body to Aurora, Oregon (1852–81). Keil's autocratic rule was consistent with his religious teaching, which asserted that man should organize community life in imitation of God's parental government, with all things in common and a father as head. He held the community property in his name until 1872, when each member was given a title deed to an equal share. Community of goods continued until the society broke up soon after Keil's death. The population of the two settlements was then (1880–81) nearly 400.

The Perfectionist movement began in Putney, Vermont, in the thirties under John Humphrey Noyes, who preached that perfect freedom from sin could be achieved here and now through personal communion with God and that thereafter communism in personal property and in personal relations, including marriage, must follow. Objections to their "complex marriage" system caused their expulsion from Putney, and the main body of the group settled at Oneida, New York (1848–81). They lived happily, developing a unique business success in hardware and other manufactures. For morale the community relied upon Noyes' device of "mutual criticism" whereby every member was expected on occasion to offer himself for criticism by a group. Propagation they claimed to conduct on scientific principles. Government and industries were administered by committees and a business board of department heads which held weekly open meetings. Women voted, held office and wore a costume adapted to their new freedom—short hair, long trousers and short skirts. Oneida provided professional and technical training for a number of its young people. Children, as soon as weaned, were cared for in nurseries. In 1879 outside antagonism to "complex marriage" became so sharp that Noyes advised its abandonment. Thereupon most of the members contracted individual marriages and soon communism in property was given up in favor of a joint stock association, Oneida Community Limited, which still exists.

The early history of Mormonism shows tendencies toward collectivism. In the early thirties, while the body still resided in the Middle West, Joseph Smith promulgated and for a time established the United Order plan. It called upon all church members to belong to the order and to "consecrate" their possessions to the church, which in turn would award them a "stewardship" (holding) for which they rendered annual account. During the attempted revival of the order a communistic community was organized at Orderville, Utah, in 1874 and operated for ten years but was finally disbanded and the property distributed to the members.

Hopedale, Massachusetts (1842–*c.* 1857), founded by Adin Ballou, a Universalist minister, resembled in organization socialist communities rather than the other religious societies and at one time negotiated with Brook Farm about joining forces. Ballou's aim was to combine individualism with socialism by way of a joint stock concern which should pay wages and permit its members to hold property outside while practising production in common. The society, at one time numbering over a hundred members, survived for nearly fifteen years in spite of financial stress but was finally absorbed into Hopedale parish.

In general the communism of the religious societies was thoroughgoing. Incoming members turned over all property to a common fund. No wages were paid—in Zoar not even to probationers. Every individual was guaranteed the necessities of life and care in sickness and old age.

While distribution was in all cases without respect to person, there was difference in management of details. The Jansonites, Huterites and Amana adopted a central dining hall system, with separate apartments or houses for families, whereas in Zoar, Bethel and Aurora each family lived and ate in a separate home. The celibate Shakers and Rappists conducted all household affairs under one roof, the latter living in very small units, and Oneida had a unitary household similar to socialist plans. Supplies were dealt out according to the number of persons cared for. Clothing was provided from the common stock as the individual had need. Amana members "purchased" from a central store, but it was only a book transaction; and each had to stay within an annual quota, which allowed for some inequality. Only the Shakers, Rappists and Huterites had prescribed costumes, but in all the settlements great simplicity characterized food and clothing. Living quarters, while comfortable, were plain.

There is said to have been no problem of idleness in spite of the many monotonous and difficult tasks. Assignments were changed frequently. Managerial positions and superintendencies and even the most petty posts were filled by appointment. Division of labor between the sexes and vocational training of children followed traditional patterns for the most part. The leaders built up a strong religious sentiment favoring obedience to constituted authority and performance of a fair share of community work. Founders generally joined in manual work and their example became a part of the community tradition. With such exceptions as Noyes and Ballou, they had all been trained to trades and had little formal education. Their followers were likewise recruited chiefly from peasant and manual labor classes and except among the Shakers and Perfectionists and at Hopedale were predominantly immigrants.

Goods were sold on the open market, Oneida and Economy achieving outstanding successes in this respect. The Shakers were noted at one time for their garden seed and Amana for wool products. On the whole, the aim was economic self-sufficiency, and diverse home industries were fostered. Only machinery, farm implements and similar products were freely bought outside.

Government showed a strong admixture of the theocratic and paternalistic, particularly while the founders lived, but even they were careful to secure community consent on important matters. A compact community life, common religious ideals, agreement on economic principles, uniformity in economic and social practises, expulsion into the outside world as a potential punishment for non-conformists—these were the bases of social order. To conform meant complete acceptance and approval. To deviate meant swift social isolation. The settlements achieved and maintained this compact community life by various means: members signed articles of association agreeing to religious principles and community of property; there was a regular routine built around work, meals and religious exercises; there were frequent meetings, chiefly religious (Amana, Oneida, the Shakers, Jansonites and Huterites had some sort of gathering every day), in which community values and tabus were invoked and community morale built up. The confessional among the Shakers and Rappists and "mutual criticism" for the Perfectionists were effective instruments of social control.

On the whole, attitudes toward family life were traditional except as communism in goods cut across customary household organization. If members married outside the society they had to leave. While most of the young people married, religious distrust of the marital state and praise of celibacy as the higher order are constantly encountered. Even Noyes advocated celibacy as preferable when complex marriage had to be abandoned. It was customary for children to remain in their family homes, but most of their waking hours were spent under school supervision.

While practically all the societies were nonresistant in principle they taught obedience to laws and payment of public taxes. At Zoar and Economy suits were brought by former members and heirs to recover wages and property, but the communities fought these cases and the courts upheld the community contracts. Besides selling their own products on the market Zoar, Bethel and Aurora had general stores where neighbors could buy for cash, and Zoar and Bishop Hill were known for their excellent hotels. Hired labor was a constant source of contact and was employed by all the colonies

when there was need. Oneida and Economy hired large forces for their industries.

Certain settlements tried definitely to propagate their beliefs by written and spoken word and by colonizing: Oneida and Hopedale had an active press, the Jansonites and Shakers sent out missionaries, especially in the early days, the Huterites and Shakers established colonies.

The leading non-religious communist settlements have been of the Owenite type (clustering about the year 1826) and the Fourierist type (*c.* 1843).

Arriving with brilliant prestige from his successes at New Lanark, Owen in 1825 bought the entire town of Harmony from the Rappists, rechristening it New Harmony, invited "the well-disposed and industrious of all nations" to join him (withdrawals to be always allowed upon one week's notice) and after a brief period of tutelage, during most of which he was absent, launched the unassorted thousand into full communism. Food, clothing and shelter were to be distributed according to need, and all labor was to be accounted equal. (The preliminary constitution had provided for individual store credits and for work credits according to output.) No provision was made for individual incentives, still less for organized criticism; praise and blame were alike contrary to Owen's philosophy. Nor was the work adequately planned in advance. Owen hired outside labor in quantities where necessary, but some of the basic industries remained undermanned and some overmanned. After two years of steady financial loss, but of interesting social and educational life and any amount of stimulating give and take with the outside world—years during which ten daughter communities had been allowed to split off and settle upon outlying portions of the estate—Owen in 1828 was forced to declare the experiment closed.

Between 1820 and 1828 at least nine smaller Owenite settlements sprang up and died, chiefly in Indiana, New York and Ohio. The best known of them was Frances Wright's colony at Nashoba, Tennessee, intended for the gradual emancipation of Negro slaves by setting them to work at wages for a white communistic group. In Great Britain Owen's followers established large scale but short lived settlements at Orbiston, Scotland (1826–27), and Queenwood, Hampshire (1839–45). Both attempted communal living and equal rewards. The Orbiston community, however, was a purely philanthropic venture with an unselected, poverty stricken population left to evolve its own government out of a condition of benevolently intended anarchism, while the Queenwood group was made up of delegates from town working men's cooperatives, unused to rural labor and involved in absurd expenditures by Owen and other leaders, yet holding hard to their attempt.

The Fourierist settlements in America took their rise from the preaching of Albert Brisbane and Horace Greeley. Propaganda groups rapidly formed in New York, Albany, Rochester and other cities. Within a decade at least thirty-three "phalanxes" were founded throughout the Middle West and Middle Atlantic regions. The longest lived were the Wisconsin Phalanx (1844–50) and the North American (near Red Bank, New Jersey, 1843–56), each numbering something over one hundred members. Both were substantially self-supporting and appear finally to have dissolved chiefly from a lack of internal conviction and a desire for greater profits on the part of their stockholders. Dissolution was precipitated in the North American by an expensive fire, in the Wisconsin Phalanx (where stock paid 12 percent the first year and 8 percent at dissolution) by a series of disagreements over the question of unitary versus separate dwellings. Meanwhile in 1855 some of the members of the North American had gone to join a short lived but costly colony founded, largely with French money, by Fourier's leading disciple, Victor Considérant, in San Antonio, Texas.

Fourier's principle had been attractive labor and combined living but individualized reward —not really communism but joint-stockism, capital receiving interest and each man his own wage, including a differential for talent or for disagreeableness of task. The *phalanstère*, always in his conception a large unitary building, was to provide different grades of accommodation for different purses. In America these distinctions were not generally maintained, but the principles of joint stock, unitary building, wage labor and freedom of occupation were usually followed. Both the Wisconsin and the North American phalanxes allowed one fourth of net profits to capital and three fourths to labor, and both attempted to grade work and rewards into three classes: "necessary," "useful" and "agreeable." The North American rented rooms at different prices and in its later years served meals à la carte. Both hired outside labor and allowed members to invest outside and to work

outside when opportunities in their own line were lacking within the colony.

Brook Farm (1841–46) went through a Fourierist phase. Essentially it was a group of intellectuals seeking the simple life and touched with the same transcendentalism as that of Bronson Alcott in his Fruitlands of 1843, a group whose members had at first no social dogma. They assigned a flat 5 percent interest on investment, paid equal wages to all and guaranteed to all support during disability. In 1844 the farm became a phalanx. It never paid for itself and dissolved in 1846 after the destruction of its new unitary building by fire. In France abortive attempts at phalanxes were made at Condé-sur-Vesgres in 1833 and at Citeaux in 1841. Godin's famous profit sharing establishment at Guise, the *Familistère* (incorporated in 1880), had Fourieristic features.

The longest lived of the nineteenth century non-religious communities, Icaria, was neither Owenistic nor Fourieristic. It was founded by Cabet in 1848 and survived various removals and vicissitudes until 1898. Its membership was homogeneously French, chiefly of the town artisan class. The Icarians were sturdy, thrifty and devoted to a cult of humanity. Landing in Texas with insufficient funds and false hopes upon an enormous tract of unsuitable land, they were promptly forced, almost bankrupt, to remove to Nauvoo, Illinois (1849–60), newly vacated by the Mormons. Here they painfully worked themselves out of debt, aided in part by the parent Icarian bureau in Paris. Factional strife, centering first in Cabet's dictatorial leadership and after his death in divergencies of policy between the older and younger generations, resulted in repeated splits with further removals, loss of membership and continuing impoverishment. The communities, however, remained self-supporting: Cheltenham, Missouri (1858–64), Corning, Iowa (1860–78), two groups in other parts of Corning (1878–87 and 1878–98) and a little group in Icaria Speranza, California (1883–86), who became rich ranchers and after five years gave up their communistic constitution. Throughout their career the Icarians maintained a combination of individual dwellings, strict family life (marriage being held obligatory and binding) and absolute communism of goods. Very little outside labor was used, but at Corning the members successfully maintained small workshops in the village. Education was cherished, good public schools maintained and American citizenship sought. Close connections with the mother country were kept up, however, at first through the Icarian bureau in Paris and always by fresh accessions to membership. Much propaganda literature was printed in French and German. French was always spoken in the home.

By way of reaction to the Owenite communities a series of anarchistic "villages" were founded by Josiah Warren: Equity, Ohio (1830–32), Utopia, Ohio (1847–*c.* 51), Modern Times, Long Island (1851–*c.* 60). Returning disappointed from New Harmony, Warren had determined to found groups of his own in which "the sovereignty of the individual" should be demonstrated, each man's activities being carried on exclusively at his own cost. Outside capital was to be dispensed with. In each of his villages Warren actually succeeded in having labor exchanged for labor and in building up, temporarily at least, homes and small industries without partnerships or merging of individual interests.

In recent times in addition to ephemeral colonies in France, England and Brazil, such as Vaux and Aiglemont (1903–05), Clousden Hill (1891–98), Cecilia, Brazil (1890–?), there have been several small anarchist settlements in America with communism as the basis of organization. One, Ferrer Colony, at Stelton, New Jersey, founded in 1915 and centering in a school, is still in existence.

A semi-anarchistic settlement was Ruskin Commonwealth (1894–1901), situated first in Tennessee and then in Georgia. Founded by the editor of the *Appeal to Reason*, its membership, numbering at one time over 250, comprised both socialists and anarchists, and successive constitutions showed the influence of both. In the community's last phase work credits were the same for all, but government was exercised on ordinary political lines.

A present day group combining communism with producers' cooperation is that of New Llano, founded in 1914 in California and removed in 1917 to Louisiana. Financed by shares and providing individual housing the community conducts all its work in common and pools most of its consumption goods.

What was essentially a land reform colony with collectivist features was started on an enormous scale by one A. K. Owen, an American civil engineer, at Topolobampo, Mexico, in 1886. Lands and house lots were to be held by lease only, while improvements remained private property. Industries were to be owned

collectively. Services were to be paid for in scrip. In spite of the unsuitable human material available an entire city was laid out and much construction work was done by the colonists. The Mexican government withdrew its concession in 1895 and the whole project lapsed.

A successful single tax colony is that of Fairhope, Alabama, founded in 1895. Here living is individualistic and improvements privately owned, but land is held by the corporation and leased on ninety-nine-year leases annually revised, the corporation paying out of these receipts all taxes on personal property and improvements. Various public utilities are also collectively owned.

In Palestine today some of the newer Jewish settlements have been organized into *kvutsoth*, or agricultural collectives, practising not only production but consumption in common. Dwellings are congregate, meals are eaten together, children are cared for in day nurseries, clothing and implements are often provided by ticket. Dealings with the outside world consist chiefly of communal book credits on the roll of the Hamashbir, the consumers' cooperative society of Palestine. None of these colonies is economically self-supporting, deficits being made up by the World Zionist Organization.

On the whole, the non-religious groups, with the exception of Icaria, have been more ephemeral than the religious. Among the former, taking Icaria, the phalanxes and the Owenite communities as the most important examples, the most general economic weakness was a lack of balance; almost all were overstocked with land, and understocked with industries. In the case of New Harmony, plants were available, but were allowed to produce without proper regard to demand. Most of the sectarian settlements began life with a better balance of craft and agricultural elements. The poverty accompanying the initial period of economic trial and error was met by them with religious perseverance and closer communal unity. Thus they endured long enough to become established, to feed themselves and at the same time to produce goods for exchange at prices that could compete in the market. For a time, the Icarian handicraftsmen, and to some extent the millers and market gardeners of the North American Phalanx, were equally successful. The religious groups and the Icarians which rigidly ruled out any private remuneration lasted longer than those communities which relied on wage payments as an incentive.

Where the machinery of government was most democratic, policies were constantly in dispute and no leadership proved permanently acceptable. Among the more authoritarian groups, on the other hand, the tenure of office of leaders was often long, and power, once granted, was rarely questioned. While their system involved suppression of individual "rights," whatever of conflict existed between individual and group was much less than the constant friction in the non-religious societies which attempted to reconcile notions of extreme individualism with communistic life.

All communities sought by frequent meetings to maintain group morale. Even the non-religious usually had some degree of ritual observance—readings from the works of Cabet, Fourier, Owen; music, poems of communism and so on; at the same time they reached out for support to the like-minded of other settlements —propaganda literature was widely read and printed, pilgrims from distant and apparently divergent groups were warmly welcomed.

The fact that the non-religious groups ranked high culturally seems not to have been a bulwark against failure. Most of them welcomed all forms of education and sacrificed to achieve them for their children. The New Harmony schools were famous. Most also favored greater liberties for women, and some of the phalanxes attempted to pay them nearly on an equality with men.

The actual cessation of community life resulted from a complex of causes. Disasters like the death of a founder or a fire that swept away valuable property or the mishandling of finances were in some instances followed by dissolution. There were, moreover, always present elements of dissatisfaction. All the communities wrestled with the problem of their human material, even where a long probationary period and a religious test sifted out those least in harmony with the settled aims of the society; and it proved a major difficulty for those who welcomed any and all disposed to join. Nor did two or three generations of existence guarantee continued life, for the willing adherence to community ideals of the old was not easily passed on in its full strength to the young. Surrounding them there was always the competitive social order with the pressure of its size and accepted practises. Communal living sometimes inspired individuals to inventions, to new labor techniques and the like, and many groups made good use of the advantages incident to centralized planning and pro-

duction. Yet these little communities had of necessity to participate in methods of taxation, of exchange, of investment, and, where outside labor was hired, of remuneration, which were current in that larger society and which were in many particulars diametrically opposed to their own. It is not surprising, therefore, that it took a unique combination of factors to permit any one of them to exist for long, and that communistic settlements have remained separatist in nature and circumscribed in influence.

DOROTHY W. DOUGLAS
KATHARINE DU PRE LUMPKIN

See: COMMUNISM; SOCIALISM; ANARCHISM; UTOPIAS; OWEN AND OWENISM; FOURIER AND FOURIERISM; BROOK FARM; MENNONITES; MORMONISM; RELIGIOUS ORDERS.

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MODERN NON-RELIGIOUS SETTLEMENTS: McIntosh, M. E., "Co-operative Communities in Wisconsin" in Wisconsin State Historical Society, *Proceedings*, vol. li (1904) 99–117; Estlake, Allan, *The Oneida Community* (London 1900); Braam, J. W., "The Ruskin Co-operative Colony" in *American Journal of Sociology*, vol. viii (1903) 667–80; Lockwood, G. B., *The New Harmony Movement* (New York 1905); *Bronson Alcott's Fruitlands*, compiled by C. E. Sears (Boston 1915); Bonnaud, Félix, *Cabet et son oeuvre* (Paris 1901); Honegger, Hans, *Godin und das Familistère von Guise*, Züricher volkswirtschaftliche Studien, n.s., vol. vi (Zurich 1919); Baillet, F., "Deux exemples d'association communale en France" in Société Académique de Laon, *Bulletin*, vol. xxx (1899); Elazari-Volkani, I., *The Communistic Settlements in the Jewish Colonization in Palestine* (Tel-Aviv 1927); Adams, Frank, "Summary of Economic Data Relating to Jewish Agricultural Colonies" in Joint Palestine Survey Commission, *Reports of the Experts* (Boston 1928) ch. ii.

COMMUNITY. Historically considered the interpretation of the term community has evolved from a simple to a complex conception. As originally used in the literature of the social sciences community designated a geographical area with definite legal boundaries, occupied by residents engaged in interrelated economic activities and constituting a politically self-governing unit. Thus hamlets, villages, boroughs, towns and cities were considered to be communities; and such communities, in turn, were thought of as being parts or fragments of larger societal units such as counties, states, nations. It will be seen that this conception of community was derived primarily from ideas of structure: a geographical area, a system of interrelated economic institutions and an independent framework of government. The newer conception of community, on the other hand, is derived principally from ideas of process. This conceptual evolution came as a consequence of general social change by which communities were significantly influenced and as a result of the introduction of newer disciplines, especially those derived from psychology, into the thought of social scientists.

Certain social trends operative for some time may be said to have become specific in direction during the last half of the nineteenth century. The factory system became corporate and projected itself beyond community boundaries:

manufacturing establishments were located in definite geographical areas but were owned by many stockholders living in other communities. Commodities were no longer produced for local consumption. Craftsmanship on the part of workers became less and less essential as machines and mass production methods increased; consequently laborers became more mobile: they moved more readily from one community to another. At the same time means of communication—railways, street cars, highways, automobiles, telephone, telegraph, etc.—improved rapidly, tending to make the local community more flexible and less self-contained. Just as observers were beginning to recognize the emergence of a new type of local community, due to those and other economic, technological and social changes, social scientists were at work revising their concepts. They began to interpret social processes in terms of human nature; the dynamics of society were seen to reside not in its structure but rather in the interests, wishes, desires and purposes of individual human beings interacting with other human beings in varieties of social groupings. The local community therefore came to be viewed as one of the types of social grouping in which human nature and its impulsions were expressed, while the origin of these impulsions and the principal conditioning factors in their expression were thought to be psychological.

As a consequence of the two trends mentioned above, new meanings and shades of interpretation were added to the concept of community. If, for example, community is to be regarded as a process term describing how human beings interact, why is it not synonomous with the concept of society? Some theorists, accepting this point of view, have come to use the term community in this societal sense. Others, influenced by the rise of social psychology, wish to reserve the term for the more positive aspects of social interaction; they designate all forms of association in which wasteful conflict has been eliminated and in which the associational processes appear to produce plus values, in so far as human nature is concerned, as communities. Political scientists still view the community, both as structure and as process, in terms of the ways in which governmental forces arise from social interactions. Social workers continue to regard the community from two points of view: as a configuration of families and as a system of institutions designed to exercise social control and assume social responsibilities.

A sound definition of any term will of course include both structural and functional elements. A combination of the two following definitions might make the concept entirely clear. A community, if we define its explicit elements, is any consciously organized aggregation of individuals residing in a specified area or locality, endowed with limited political autonomy, supporting such primary institutions as schools and churches and among whom certain degrees of interdependency are recognized. This definition will include hamlets, villages, towns and cities. A community, if we define its implicit elements, is any process of social interaction which gives rise to a more intensive or more extensive attitude and practise of interdependence, cooperation, collaboration and unification. This latter conception omits all consideration of locality or other spatial terms and directs attention to the processes by which socialization takes place, processes which are in essence psychological. In a logical sense these two definitions cannot be conjoined, since one points toward structure and the other toward function; we may, however, think of these two attributes of reality together, that is, as structure-function. Perhaps most ordinary thinking about communities includes both concepts, and for this reason the logical difficulty is not important.

The margins or boundaries of a local community can never be precisely designated since more than one center invariably exists. Some sociologists have attempted to utilize the category of economic interest as the significant center: calculating from the premise that all persons who produce, sell and buy goods within a given area are by that token members of a given community they have endeavored to draw the boundary lines in such manner as to include all such persons. Others have essayed the task of describing the local community in terms of other interests, such as religion, education and recreation. Still other investigations have proceeded upon the theory that membership in a community derives from a conscious sense of "belonging"; if, for example, people state that they belong to this or that community, it should be taken for granted that they may then be included within this or that community's boundaries.

None of the above attempts to describe the local community in accurate spatial terms is likely to prove satisfactory; the fact that experience and interests flow from more than one center, that our economic and social processes become increasingly flexible and that improved

modes of communication tend to multiply and expand the possibilities of interaction combine to make community boundaries fluid and indefinite. But in spite of these difficulties the local community as the nexus of functional interaction remains an important category for the social sciences.

Within the local community and functioning primarily in relation to the community as a whole one discovers the most significant forms of human association. First among these is the family, the propagating unit of society; marriage, family rearing and home making represent processes which may fairly be said to condition the total quality of social experience. Then there is the neighborhood, which may be considered as a cluster of families together with a few institutions; within the neighborhood unit children secure their first generalized social expression and adults carry on most of their sociable activities. In metropolitan communities neighborhoods tend to disintegrate, but most communities may still be described as patterns of interrelated neighborhoods, each representing a different quality of social life and each consisting of interrelated families. And as an antisocial index it is worth noting that so-called "gangs," or criminal groups, evolve on a neighborhood basis. The established institutions of a given society also function community-wise; thus churches, schools and secret societies exist as local units; those primary adjustments which all persons make to the institutional controls of society are therefore a part of that sphere of experience which belongs to the community. And, finally, in all modern communities one discovers the rise of new social forms which may be called functional groups. These so-called functional organizations are voluntary associations; each is based upon some distinct human interest or group of interests. Thus there are chambers of commerce and manufacturers' associations organized to enhance the interests of their members; likewise there are trade unions designed to advance the interests of the workers; these two are simple forms of functional groups, but numerous other types exist and new ones are continually arising. The real community process, that is, that sphere of interactions which results in effective social control, may be said to reside in these functional groups; they are already more powerful in essence than combinations of families, neighborhoods and institutions.

The status of an individual in a modern community derives from his relationship to functional groups. His personality and his interests are effective in so far as represented in organized forms; the unassociated individual loses both status and functional capacity. Indeed, it may be said that a modern urban community progressively becomes a web of organized interests; the community process, in turn, comes to be that complex of interactions which proceeds from organized interests. It is to be noted that in rural areas, villages and smaller cities the community process is still more closely related to family, neighborhood and institutional factors. From the point of view of social control, or of "social engineering," it becomes increasingly obvious that attention needs to be directed toward those skills, techniques, procedures and methods according to which these functional groups arrive at decisions, prosecute their respective projects and interact with each other. It is at this point that the two concepts of community, the structural and the functional, converge: the community is an aggregation of individual human beings living within numerous types of groupings; the level of community experience depends upon the quality of social interaction which characterizes each of these groupings, and their consequent interrelationships.

It should be noted at this point that these various functional groups which now exercise so much influence upon local community affairs all tend toward extracommunity expansion. They furnish opportunities for primary social experience within the community setting, but they also tend to project this experience outward. This fact does not diminish the significance of these groupings—the manner in which they give the meaningful clues concerning specific communities—but it does indicate that even here the local community tends toward dispersal and not toward intensification.

Some of the trends which appear to characterize contemporary community development need to be noted, since communities and their processes are in perpetual flux; comprehension of the concept of community depends upon insights concerning the ways in which communities change and evolve. These changes may be most briefly expressed in a series of categorical statements. Modern communities, especially urban, tend toward occupational rather than neighborhood development; each section of the community is coming to be used for a special economic purpose. The distances between residence, place of work and place of recreational

and sociable activity tend to increase as means of transportation are improved. Functional groups are coming to represent all vital interests and their variety, number and influence are increasing steadily. Secondary means of communication are reducing social relationships to more impersonal levels. Community populations tend toward greater mobility. Finally, experience within a community, due to separation of residence from work and to multiple functional organizations, tends to become fractional; that is, the total personality is less known to any group and has less opportunity for expression. These trends are of course characteristic of cultural evolution in the whole of so-called western civilization. Communities are in one sense initiators of cultural change and in another sense they become merely the reflections of deep seated, changing forces in cultural systems. The degree to which changing communities may be regulated and guided with respect to desirable goals remains the problem of the social sciences.

E. C. LINDEMAN

See: SOCIETY; SOCIAL PROCESS; GROUP; NEIGHBORHOOD; FAMILY; VOLUNTARY ASSOCIATIONS; ECOLOGY, HUMAN; COMMUNITY ORGANIZATION; COMMUNITY CENTERS.

Consult: MacIver, R. M., *Community* (3rd ed. London 1924); Tönnies, F., *Gemeinschaft und Gesellschaft* (7th ed. Berlin 1926); Lindeman, E. C., *The Community* (New York 1921), and *Community Conflict* (New York 1929); Follett, M. P., *The New State* (Boston 1920); Steiner, J. F., *The American Community in Action* (New York 1928); Anderson, Nels, and Lindeman, E. C., *Urban Sociology* (New York 1928); Lynd, R. and H., *Middletown* (New York 1929); Wood, Arthur E., *Community Problems* (New York 1928); Daniels, John, *America via the Neighborhood* (New York 1920); Burr, Walter, *Small Towns* (New York 1929); Brunner, Edmund de S., *Village Communities* (New York 1927); Sanderson, Dwight, *The Farmer and His Community* (New York 1922); Brunner, Edmund de S., Hughes, G. S., and Patten, M., *American Agricultural Villages* (New York 1927); Douglass, H. P., *The Little Town* (new ed. New York 1927); Hinds, W. A., *American Communities and Co-operative Colonies* (rev. ed. Chicago 1908).

COMMUNITY CENTERS. The community center may be defined as a meeting place where people living near by come together to participate in social, recreational and cultural activities and build up a democratic organization that will minister to the needs of the community. The social philosophy out of which it grew has been concerned with the promotion of community solidarity and the development of a sound community life.

The term community center began to come into general use about 1915 as a new name for the social center, which had attained considerable popularity during the decade prior to the World War. The modern emphasis upon social centers arose in connection with the work of social settlements and institutional churches. But there was no widespread interest in the movement until the opening of the present century, when school buildings in New York and a few other cities began to be utilized by people living in their vicinity for adult education classes and recreational programs. Impetus was given to these experiments by the establishment in Rochester, New York, in 1907 of school social centers with an elaborate program of community activities, which included discussion of civic problems, the organization of clubs of different kinds and provision for recreational features. Similar centers were organized in other cities, and in 1911 the movement had gained sufficient support to make possible a national conference on social centers and the completion of a national organization known as the Social Center Association of America.

During the next few years the term community began to gain wider currency, and as a result of the growing interest in the community as a social unit the National Community Center Association was organized in 1916 by those most actively concerned with the promotion of school centers. Under the influence of the rapidly expanding community movement social centers were renamed community centers, although this did not involve any essential modifications of their activities. This community use of the school plant was given great popularity during the World War through the efforts of the Council of National Defense to make the school the headquarters for the promotion of war work. A popular slogan at that time was, "Every school house a community capital and every community a little democracy." Thousands of local community councils of national defense were established and these for the most part carried on their activities in school buildings.

Since the war schoolhouses have in general been readily available for community activities, but only in a small minority of schools are community center programs operating as a regular feature of community life. The most recent survey of school community centers in 1924 revealed that there were 1569 centers open as often as once a week for two or more activities other than night school, or open for one activity other

than night school as often as twice a week. These were located in 722 cities, townships and villages, 240 of which were cities of more than 5000 population. Infrequency of operation of the school community centers is one of the striking facts brought out in this survey. Only 25 percent were open during nine months of the year and 44 percent operated only one or two nights a week.

Nevertheless, the community center has had a popular appeal, due largely to its emphasis upon recreational activities. It has provided facilities for games, athletic contests, gymnastic training, dancing and social gatherings of various kinds. At the same time it has carried on adult education work, while Americanization classes have been conducted for the foreign born and vocational instruction has been offered in centers equipped for work of this kind.

The financial support of school community centers has come largely from public funds. In cases where official appropriations are not available or are inadequate a local association may assume financial responsibility. No uniform plan of administration and control has been adopted. In 1924, 61 percent of the school centers were administered by school boards, 12 percent by recreation commissions and park boards, 16 percent by school boards in cooperation with private organizations and 11 percent by private organizations. The marked trend toward official control is deplored by those who look upon the community center as a training ground for democracy.

While the movement was developed largely in connection with the effort to make the school the headquarters for community activities, it is now generally recognized that the school is only one of the possible centers of community life. Community churches, community houses, playgrounds and other institutions and facilities with a wide local appeal have in many cases either supplanted the school centers or decreased the demand for their establishment. Moreover, the former emphasis upon the community center as a common meeting ground for the discussion and solution of local civic problems has been forced into the background by the rapidly growing demand for better recreational facilities. The earlier types of community center programs find it increasingly difficult to compete with the elaborate provisions for recreation developed under the auspices of municipalities, private groups and commercial interests. Furthermore, the vast improvement in transportation has greatly increased mobility, and as a consequence people are less inclined to unite in support of local centers because of community loyalty.

Nevertheless, community centers are still playing an important role in American life. The architecture of schools and churches has been changed to meet the requirements of the community center movement. A majority of the states have in force laws authorizing the community use of school buildings. Specially designed community houses have been built in many small communities. The present trend seems to be away from the single, inclusive type of center, as it was first developed, and toward the operation of a variety of centers under different auspices and offering specialized programs mainly of a recreational nature. Just as social centers were supplanted by community centers, the latter are now giving way to recreational centers and apparently are being merged into the wider recreational movement.

JESSE FREDERICK STEINER

See: COMMUNITY; COMMUNITY ORGANIZATION; SOCIAL SETTLEMENTS; RECREATION; EDUCATION; CIVIC CENTERS.

Consult: Dewey, Evelyn, *New Schools for Old* (New York 1919); Glueck, Eleanor T., *The Community Use of Schools* (Baltimore 1927); Hanifan, L. J., *The Community Center* (New York 1920); Jackson, H. E., *A Community Center* (New York 1918); Perry, C. A., *Wider Use of the School Plant* (New York 1910); Steiner, J. F., *Community Organization* (rev. ed. New York 1930); *The Social Center*, ed. by E. J. Ward (New York 1913).

COMMUNITY ORGANIZATION is a term that has recently come into common use to designate the various activities and programs of social reconstruction that are built around the community as a social and ecological unit. Interest in the community as a means of approach to social problems received its first great impetus from the work of the social settlements, and it was largely through their influence that various types of community programs were developed which constitute what is now known as the community movement.

The problem of organizing the community, which was at first neglected, has recently been approached from two different points of view. The first, the direct approach, seeks to organize the community by reconstructing the neighborhood through activities and programs in which all the people are to participate. An instance of this type is the school community center, in which the school becomes the headquarters for

a local association comprising different groups interested in recreation, adult education or other civic affairs. While the program of such a center does not include all the interests of the people, its justification as a community organization is found in its efforts to enlist the support of all the people of the immediate neighborhood in behalf of its activities. Leaders in the playground movement have also helped to build up this type of community organization through their attempts to secure community wide support of a recreational program and thus develop the cooperative spirit essential for community action. In rural sociology also there has been an attempt to revive in the somewhat sterile life of the American village today something of the community of interest which is still found in foreign rural life. The distinctive characteristic of this first type of community organization is its direct concern with the people themselves rather than with the agencies that are working in their behalf.

The second approach to community organization is through the conscious correlation of social agencies at work within the community in order to avoid the confusion and waste of a multiplicity of specialized organizations. This first took the form of central councils made up of official delegates from the various social agencies and functioning largely through committees that had only advisory powers. Later, financial federations known as community chests were established and have become a widely accepted means of unifying the social service activities of a city. The community chest was at first looked upon as a dangerous innovation that might centralize control in the hands of a few people or enable financial interests to dominate social service policies. Present experience indicates that these fears were unfounded. While the extent to which community chests have influenced the development of professional social work is a moot point, it is clear that because of their financial efficiency they have more securely entrenched private philanthropy. They have not, however, entirely accomplished the needed integration of its various activities.

The limitations inherent in federation have led to the belief that the problem of correlation cannot be solved until the various specialized agencies relinquish their independent existence and amalgamate into a centralized organization, forming bureaus or divisions within it. Social workers generally look unfavorably upon efforts to unite independent agencies and claim that all the advantages of such a union can be gained through federation. But with the increase of specialized agencies in the field of social work the interests of the community seem to demand a more thoroughgoing merging of their activities and programs than is feasible under any form of federation. An important step in this direction is seen in the establishment in several states of county departments of public welfare which administer all the social welfare activities provided for by law. Amalgamation of this kind means centralized but not necessarily arbitrary control. To a limited extent amalgamation has been tried by the private social agencies through the formation of a social service league in which the agencies of a community are united and become subject to its direction. Another experiment has been attempted in the so-called Iowa Plan, which provides a central organization for the administration of the private charities of the community and the public poor fund. This, however, is limited to only one type of agency and has not yet given promise of wide acceptance.

The attempt of the Cincinnati Social Unit to build up in the community an entirely new organization for the administration of its health and social welfare activities stands out as a significant contribution to the theory of community organization, although it has not yet affected current practise. In the combination of its Citizens' Council based on the block system of representation and its Occupational Council made up of delegates chosen by the various occupational groups this plan of organization gave the public ample control and at the same time utilized the skilled services of community leaders. Since the Social Unit provided a single organization democratically constituted and capable of directing all the social welfare activities of a community, it seemed peculiarly well adapted to deal with the problem of the multiplicity of agencies without incurring the danger of arbitrary control.

Among the recent trends in community organization is the effort to define the community in terms of natural areas that have been built up by the operation of such forces as land values, physical barriers and cultural factors. No less important is the increasing recognition of the difficulties involved in developing programs of social reconstruction around neighborhoods and small communities. The back to the neighborhood philosophy of community organization is becoming impracticable because of the forces

which are disintegrating small communities that were formerly social units of real importance. This fact is leading to a greater emphasis upon the interrelationships between communities as well as the solidarity of any single community. Community organization of the future must adjust itself to changing conditions, which involves the conception of a wider and more flexible unit inseparably interrelated with surrounding areas. The new interest in regional studies indicates a changing point of view that may ultimately bring about a conception of community organization which will be adapted to an era of great mobility and rapid transportation.

JESSE FREDERICK STEINER

See: COMMUNITY; COMMUNITY CENTERS; SOCIAL SETTLEMENTS; PLAYGROUNDS; RECREATION; SOCIAL WORK; COUNTRY LIFE MOVEMENT; DRIVES.

Consult: Hayes, A. W., *Rural Community Organization* (Chicago 1921); Lindeman, E. C., *Community* (New York 1921); McClenahan, B. A., *Organizing the Community* (New York 1922); Norton, W. J., *The Cooperative Movement in Social Work* (New York 1927); Pettit, W. W., *Case Studies in Community Organization* (New York 1928); Steiner, J. F., *Community Organization* (rev. ed. New York 1930), and *The American Community in Action* (New York 1928).

COMMUNITY PROPERTY. *See* MARITAL PROPERTY.

COMMUTATION OF SENTENCE. This term denotes, first, a form of pardon (*q. v.*); second and more commonly, a method whereby a person serving a term of imprisonment may, by fulfilling certain conditions specified by statute, earn his unconditional discharge from prison before the expiration of the term fixed by the court. This form of commutation, first used on any scale during the nineteenth century, has reached its greatest development in the United States.

The imprisonment of civil law offenders with the avowed purpose of reforming them is a penal method hardly four centuries old. Its protagonists sooner or later realized that its complete development involved a use of the prisoner's desire for liberty as an incentive to reformation. The problem was to find a means of rendering the fixed penalties of the criminal law sufficiently elastic so that the prisoner's conduct in the institution could be made to some degree a condition for his release.

As early as 1599–1603 prisoners distinguished for good conduct in the Amsterdam Tuchthuys were rewarded by a reduction of their term when the court conducted at the institution its annual review of sentences. But this practise apparently had no imitators, and not until a century and a half later did prison reformers become more generally conscious of the need for flexible prison sentences. Paley, whose contribution to penology has received no recognition, proposed in his lectures at Cambridge, later published in 1785, that definite time sentences be abolished in favor of those "measured by quantity of work, in order both to excite industry and to render it more voluntary." His suggestion was elaborated in 1829 by Whately, who seems, however, to have been ignorant of its source. The scheme was later modified and developed into practical penal systems by the English prison reformers, Maconochie and Crofton in particular.

In France Mirabeau in 1790 suggested release from imprisonment as a reward for good behavior, and in 1827 Lucas proposed an elaborate plan of grading and promoting prisoners with the same end in view. In 1832 the French ministry of the interior first experimented with conditional release of juvenile delinquents.

Still another plan was proposed by Viscount Vilain XIII of Flanders in 1775. He favored the exercise of the pardoning power with regulation by law of the conditions under which the prison administrators were to recommend the pardon. This plan found application, it is interesting to note, in the United States in the Tennessee Act of 1836.

The most generally known form of the commutation, or "good time," system was, however, developed in Spain and in the United States. The *Reglamento* for the *presidio* of Cadiz in 1805 provided for commutation for good conduct and the *Reglamento general* of 1807 ordered the reduction of the terms of certain prisoners by two or four months per year. But the experiment was short lived and the code of 1822 adopted a plan similar to that of Vilain XIII. In the United States the New York statute of 1817 seems to have been the first to introduce a good time law. It provided for a reduction by one fourth of the terms of prisoners sentenced to five years or longer and contained certain other provisions rarely found in later legislation. The law was honored in its breach and was apparently unknown to the sponsors of the more important Ohio law of 1856, which was widely imitated by other states. The Ohio statute contained the essential provisions of a good time law: the keeping of a record of the prisoner's conduct, a list of the requirements for earning time reductions, a specific

scale of such reductions and penalties of forfeiture for misbehavior.

Since the passage of the Ohio act most states and territories of the United States and the federal government have enacted commutation laws. They are by no means uniform: the scale of time reductions and the conditions for earning them vary; under some of them all prisoners may benefit, while under others certain classes are excluded. Misconduct ordinarily may result in the forfeiture of all or part of the time earned, but not so in all states. One feature practically all of these laws have in common: once having earned his good time a prisoner has paid his debt to society and is unconditionally discharged. Here lies the significant difference between good time laws and other devices with similar aims, for usually release under the latter is conditioned on subsequent behavior in liberty as well as on past conduct in the institution.

The greatest benefits of the commutation, or good time, laws have been reaped by the prison administrator, who has frequently found in them an economical substitute for a money wage and a means of maintaining discipline. They have been of little or no value as reformative agencies, for they have tended to become mechanical in their application and have usually failed to discriminate between the professional criminal and the first offender. Emphasis on obedience to rules has encouraged lip service and external conformity instead of moral or civic regeneration on the part of the prisoner. As soon as more effective incentives were found these laws were doomed to a gradual decline. The introduction of the indeterminate sentence (*q.v.*), in particular, has tended to displace them, although the two systems have not consistently been held by courts or legislatures to be mutually exclusive.

Outside the United States and its possessions good time laws have been applied nowhere except in Canada, which in 1906 adopted a "remission" law, and in the Ukraine, where since 1928 certain convicts are given one day of good time for each two days of labor, a form of commutation not unknown in the United States. Other countries have preferred a system of conditional release, which grew out of the ticket of leave system of the Australian penal colonies.

THORSTEN SELLIN

See: PENAL INSTITUTIONS; INDETERMINATE SENTENCE; PAROLE; PARDON; RECIDIVISM; CRIME; CRIMINOLOGY; CRIMINAL LAW; PUNISHMENT.

Consult: Dapper, O., *Historische beschrijving der stadt Amsterdam* (Amsterdam 1663); Wagenaar, J., *Amsterdam*, 5 vols. (Amsterdam 1760–67) vol. ii; Vilain XIII, J. J. P., Viscount, *Mémoire sur les moyens de corriger les malfaiteurs* (Ghent 1775); Hippel, R. von, "Beiträge zur Geschichte der Freiheitsstrafe" in *Zeitschrift für die gesamte Strafrechtswissenschaft*, vol. xviii (1898) 419–94 and 608–66; Paley, W., *The Principles of Moral and Political Philosophy* (new ed. London 1841); Whately, R., "Transportation to New South Wales" in *London Review*, vol. i (1829) 112–39; Begouen, H., "Un rapport inédit de Mirabeau sur le régime des prisons" in *Revue d'économie politique*, vol. i (1887) 491–512, containing the exact text of the report published here for the first time; Lucas, C. J. M., *Du système pénal et du système répressif* (Paris 1827); Cuche, P., *Traité de science et de législation pénitentiaires* (Paris 1905); Cadalso y Manzano, F., *Instituciones penitenciarias y similares en España* (Madrid 1922); Wines, E. C., "Commutation Laws" in Prison Association of New York, *Twenty-fourth Annual Report (1868)* (Albany 1869) p. 154–70; Topping, C. W., *Canadian Penal Institutions* (Toronto 1929); Pasche-Oserski, N., *Strafe und Strafvollzug in der Sowjet-Union* (Berlin 1929).

COMPACTS, INTERSTATE. The interstate compact is one of the forms that federalism gives to the endlessly flexible, increasingly significant uses of the contract as an instrument of government. In the United States the term is derived from section 10 of article I of the constitution, which, after declaring that "no State shall enter into any Treaty, Alliance, or Confederation," provides that "no State shall, without the Consent of Congress, . . . enter into any Agreement or Compact with another State, or with a foreign Power." This, although in form a prohibition, is important practically as an authorization with congressional consent. Of the other federal constitutions that of Switzerland contains the most comprehensive authorization, allowing the cantons "to make conventions among themselves upon legislative, administrative, or judicial subjects" (art. 7) and "treaties with foreign powers, respecting the administration of public property, and border and police intercourse" (art. 9). The express provision in Germany is confined to foreign treaties by the Länder on matters within their legislative competence (art. 78); in Austria, on the other hand, to merely internal arrangements (art. 107). The constitutional stipulations in the federal systems of Latin America also lack the scope given in the United States. In Brazil provision is made for "mutual agreements and conventions of a non-political character" (art. 65); in Argentina, for "partial treaties for the purposes of the administration of justice, the regulation of financial interests, and the execution of public works of

common utility" (art. 107); in Mexico, for "friendly agreements" regarding boundaries (art. 116). The constitutions of Canada and Australia are silent on the point. Agreements in those countries are frequent, however, both among the provinces or states and between them and the central authorities. In all governments, whether federal or unitary, conference and contract arise inevitably on bases more natural and universal than the phraseology of constitutions. Even where explicit permission exists, as in the United States, the bulk of contractual understandings are reached in practise without reference to it.

The constitutional terms themselves have acquired no precision of meaning. Alluding to the words "agreement or compact" the Supreme Court remarked: " . . . we do not perceive any difference in the meaning, except that the word 'compact' is generally used with reference to more formal and serious engagements than is usually implied in the term 'agreement' " [Virginia *v.* Tennessee, 148 U. S. 503, 520 (1893)]. Congress, uncertain, has tended to couple them. The vital consideration is that, regardless of terminology or form, their contractual character has been established. In an early case the Supreme Court declared that "the terms compact and contract are synonomous" [Green *v.* Biddle, 21 U. S. 1, 92 (1823)].

The question of how the consent of Congress may be given and the more important question of when it may be dispensed with altogether remain full of doubt. The Swiss constitution invites less ambiguity by requiring action by the federal assembly "only in case the Federal Council or another Canton protests" (art. 85). In the United States, Congress has sometimes assented in advance; oftener it has acted after the conclusion of the agreement. Its consent may be implied, as was illustrated in the already cited case of Virginia *v.* Tennessee, holding that a compact made ninety years before had been approved because the boundary it involved had been recognized by Congress in connection with judicial and congressional districts and otherwise. Not all interstate agreements, moreover, require even the shadow of consent. This is the emphatic pronouncement of practise and is supported by unquestioned dicta. Where is the line between those that require the assent of Congress and those that do not? "We can only reply," it was said in Virginia *v.* Tennessee, "by looking at the object of the constitutional provision and construing the terms 'agreement' and 'compact' by reference to it . . . it is evident that the prohibition is directed to the formation of any combination tending to the increase of political power in the States, which may encroach upon or interfere with the just supremacy of the United States." With the receding risk of sectional intrigue or military opposition this doctrine would lead to an extremely narrow construction of the requirement of congressional consent, if it were not for the multiplication of the points at which a national interest is involved in problems which can be matters neither wholly of central nor local concern.

It is significant in this connection to note the extent to which the national government has recently participated in the negotiation of compacts. Before 1921 all interstate agreements formally approved by Congress were drafted without previous permission by it, leaving out of account a few to which it consented in advance. In the case of the Colorado River Compact, concluded in 1922, finally approved in 1928 (45 Stat. 1057, 1064) contingently on its acceptance by six instead of seven states and proclaimed as effective on June 25, 1929, the delegates originally chosen under state laws requested in 1921 that the national government designate a representative to sit with them. The statute they evoked (42 Stat. 171), permitting the formulation of a compact on the condition that a national agent be allowed to participate, has set a pattern for procedure in proposed agreements regarding water rights in the public land states. It has been copied in the following authorizations: Columbia River (Washington, Idaho, Oregon, Montana, 1925, 43 Stat. 1268, the time limit having been subsequently twice extended); Snake River (Idaho, Wyoming, Washington, Oregon, 1926, 44 Stat. 831); Belle Fourche and Cheyenne rivers and "other streams in which such states are jointly interested" (South Dakota and Wyoming, 1927, 44 Stat. 1247); Rio Grande, San Juan, Las Animas rivers, etc. (Colorado and New Mexico), Rio Grande, Pecos, Canadian rivers, etc. (Oklahoma, New Mexico, Texas), Cimarron River, etc. (New Mexico and Oklahoma), Gila and San Francisco rivers, etc. (New Mexico and Arizona) and Arkansas River, etc. (Colorado, Oklahoma, Kansas)—all by separate acts on March 2, 1929 (45 Stat. 1502–3, 1517); and supplementary agreements regarding the Colorado River (1928, 45 Stat. 1059, 1065). The force of these examples is only slightly weakened by the fact that the La Plata River Compact

between Colorado and New Mexico (concluded 1922, approved 1925, 43 Stat. 796) and one between Colorado and Nebraska regarding the South Platte River (concluded 1923, approved 1926, 44 Stat. 195) were arranged without the previous permission of Congress. The bilateral character of many of the foregoing proposals elicited repeated warnings from the secretary of the interior against agreements that fail to consider whole drainage systems. Aside from a boundary settlement between New York and Connecticut in 1911–12, belatedly "consented" to by Congress in 1925 (43 Stat. 731), the other compacts that have received the formal assent of Congress since 1921 have concerned bridges (Lake Champlain Bridge, New York and Vermont, 1928, 45 Stat. 120; Menominee River Bridge, Wisconsin and Michigan, 1928, 45 Stat. 300; Red River bridges, Oklahoma and Texas, 1930, 46 Stat. 154). The last of these is an instance of pre-approval. Such projects, however, are subject to control—at present, congressional consent subject to supervision by the Department of War—under the commerce clause of the constitution.

The fact just noted explains in part why it is difficult, almost impossible, to identify all of the virtual compacts to which Congress has in some way assented. Frequently Congress authorizes the private construction of a bridge over a boundary river with the stipulation that either or both of the states may take it over. Sometimes one state is authorized to build it, subject to the other's right to acquire a half interest; an arrangement of this kind gave rise to the contract enforced in Kentucky *v.* Indiana, discussed below. Sometimes authority is given without particularization to two or even three states [see for example Mississippi and Ohio River bridges, Missouri, Illinois, Kentucky, 43 Stat. 999 (1925)]. A growing number of instances of bridge legislation not treated as compacts recognize joint agencies of various kinds, although none of these is as complete as the Port of New York Authority or, on a much smaller scale, the Lake Champlain Bridge Commission. A single example serves to point the important lesson of the utility of a carefully considered formal agreement instead of reliance merely on concert effected through concurrent legislation. The Delaware River bridge at Philadelphia was built by a joint commission on the basis of laws passed by Pennsylvania and New Jersey in 1919. Congress sanctioned it as a bridge project (1921, 41 Stat. 1101); it was financed by the states separately. In 1925, shortly before its completion, Pennsylvania declared by law that it should be free. New Jersey, alleging that its bonds had assumed tolls, countered by attempting to stop construction. Pennsylvania began a suit but early in the following year paved the way for an agreement by repealing its declaration against tolls.

Interstate compacts have been extolled as a method of dealing with problems beyond the limited powers of the nation and the incongruous physical limits of the states. They have been urged not merely as an expedient but as a desirable substitute for national action. Speaking from the other side Edward S. Corwin has said: "The compact clause can undoubtedly be utilized to good effect in those situations in which the national government is in position to force action under it as the alternative to direct national control. As a means of solving problems created by an untethered state selfishness it is probably of very limited value" ("The Lessons of the Colorado River Compact," *National Municipal Review*, vol. xvi, 1927, p. 461). The device of the compact is scarcely a substitute for national action. It is likely that the long time view will see both forms of action take their places with other elements as parts of the process which is crisscrossing all political boundaries with the lines of functional union.

On the administrative even more than on the judicial side compacts are likely to draw strength from national infusions. This will be true even if interstate agreements go further than in the past in creating genuinely cohesive, autonomous agencies of regional jurisdiction. Pregnant possibilities of course exist. The water compacts thus far approved, however, have been little more than guaranties regarding stream flow to guide the states in their separate action. The Rio Grande Compact approved by Congress on June 17, 1930, is in part an exhortation to the national government to augment the river by vast engineering works; the interstate committee that it sets up is confined to investigations, with the proviso that its findings of fact shall not be conclusive in any court. Embryonic regional organs are many, but the only well developed examples achieved through compact have been the brilliant accomplishment embodied in the Port of New York Authority (approved 1921–22, 42 Stat. 174, 822) and the application of the same idea for a very restricted purpose in the Lake Champlain Bridge Commission.

To say this does not belittle the usefulness of compacts, among their other advantages, in facilitating various kinds of exterritoriality and thus in releasing the energies of the states individually. Numerous agreements, some of which are in the form of reciprocal legislation without consent by Congress, have made possible concurrent jurisdiction over boundary waters. An example of a different type is a provision in the South Platte River Compact, whereby Colorado and Nebraska enjoy the right to construct ditches in each other's territory. A compact approved in 1922 (42 Stat. 1058) guarantees that waterworks owned by Kansas City, Missouri, and located in Kansas, will be free from taxes there, while the same exemption is extended to waterworks owned by Kansas City, Kansas, and located in Missouri.

It has not been demonstrated that compacts in themselves will make possible more effective regulation of privately owned utilities. One suggestion of this sort concerned the marketing of anthracite coal in 1925–26 during the large anthracite strike, but it had no results. Another suggestion had to do with the stabilization of oil production, but a regional conference in June, 1929, failed to crystallize the movement for a compact, although it was evident that drastic restriction by the states separately would meet the stumbling block of interfield competition. The most important suggestions have dealt with the interstate phases of electric power. The impetus given directly by the Giant Power Board of Pennsylvania, which was constituted as an investigative body under a statute of 1923 and continued in 1925 by executive action of the governor after his legislative recommendations had been disregarded, led in the latter year to a conference of representatives of Pennsylvania, New York and New Jersey, attended also by official observers from seven adjoining states. Attempting to assume the desirability of a tri-state compact while discussing its terms, the conferees were unable to agree upon either subject matter or scope. Driven back to the main question they met the emphatic skepticism of the members of the New York Public Service Commission who represented that state. Following the withdrawal of the New York delegates the attempt to conclude a compact lapsed altogether. Subsequent criticism has noted other obstacles besides the aloofness of the state utility commissioners. Certain crucial factors like the holding companies are hardly regional at all. Legally considered, where interstate commerce is involved, the level of regional control can hardly rise above that possible for each state individually. To answer that such objections can be met by some kind of devolution under national legislation is an admission that compacts must find their role in the complicated movement toward a more cooperative type of federalism.

Another major use of compacts remains untried in the United States, although partial examples are available in the so-called concordats of the Swiss cantons. In its report of 1921 the Committee on Interstate Compacts of the Conference of Commissioners on Uniform State Laws stressed (in addition to state cooperation in the control of commerce and in penal and police matters, such as the much needed arrangement for the extradition of witnesses) two important phases of the relation of compacts to uniformity in commercial law. Neither was then a strictly new suggestion (see American Bar Association, *Reports*, vol. xxxiv, 1909, p. 1029; also, J. H. Wigmore in *Illinois Law Journal*, vol. x, 1916, p. 385, vol. xxiii, 1929, p. 734). One phase is the proposal that in adopting uniform state laws compacts should be used to restrain states from amending them except in unison. The other phase recognizes the need for international uniformity and the embarrassment of the federal system of the United States in meeting it. On this point the committee declared: "It is therefore absolutely necessary for the future international self-respect of this country that this power (of the states to make compacts with foreign powers) should be promptly exercised by the leading commercial States of the United States." It was urged that the national authorities should arrange for state representation at future international conferences affecting commercial matters.

The difficulties of adjudication as a means of interstate adjustment are conceded. It is true that in dealing with suits between states the court has rid itself of most of the benumbing analogies drawn from international relations and has broadened its conception of the interest of the states in the affairs of their citizens. The judicial basis of adjustment is wider than the delegated legislative power. "Through these successive disputes and decisions," it was said in Kansas *v.* Colorado [206 U. S. 46, 98 (1907)], "this court is practically building up what may not improperly be called interstate common law." Special masters lighten the court's task. The court is not wholly without administrative

resources. Repeatedly it has appointed and supervised boundary commissioners, assessing the costs on the states involved. In the case of Kentucky *v.* Indiana [281 U. S. 163, 700 (1930)], noteworthy because it enjoined specific performance of a contract between states, the highway department of Indiana was ordered to file semi-annually "a report to this court adequately setting forth the progress made." Interstate common law, however, cannot be a substitute for the creative force of legislation. The capacity of the court for continuous administration is narrowly limited. Even a successful decision can do little more than fix a starting point for the real settlement. A cogent illustration was the resolution of Congress in 1929 (45 Stat. 1444) requesting the president to confer with the governors of Texas, Oklahoma and New Mexico in order to arrange compacts for the complicated transfer of property made necessary by recent decisions of the Supreme Court in two interstate boundary suits which had been before the court since 1919 and 1913 respectively.

Adjudication has a place—crucial, but hardly prominent—in the future use of contractual relationships in producing varying combinations of governmental units. In 1925 representatives of New York, New Jersey and Pennsylvania unanimously signed an agreement regarding the use of the Delaware River watershed, but only New York ratified it; when the city of New York proceeded with its plan to draw water from the river, New Jersey brought suit. Even compacts less grudgingly hedged with saving clauses than those already approved in the field of water rights will bring their train of litigation. Doubtless such situations are not typical of a mass of essentially administrative agreements that will be made in the future. Of the thousands of written agreements now existing between national and state authorities a negligible number have reached the courts even obliquely. Such a condition is wholesome. Nevertheless, as increasing weight is put upon compacts, interstate and national-state alike, the courts can strengthen and steady the fabric by establishing further the fact of their enforceability.

ARTHUR W. MACMAHON

See: FEDERALISM; REGIONALISM; ADMINISTRATIVE AREAS; DELEGATION OF POWERS; DECENTRALIZATION; GOVERNMENT; POWER, INDUSTRIAL; PORTS AND HARBORS; IRRIGATION; FLOODS AND FLOOD CONTROL; BOUNDARIES.

Consult: Frankfurter, Felix, and Landis, James M., "The Compact Clause of the Constitution—A Study in Interstate Adjustments" in *Yale Law Journal*, vol. xxxiv (1924–25) 685–758; "Public Agencies Employed in Interstate Cooperation: The Port of New York Authority," unsigned note in *Harvard Law Review*, vol. xxxix (1925–26) 499–502; Olson, Reuel L., *The Colorado River Compact* (Los Angeles 1926); Pennsylvania, Giant Power Board, *Report*, Dec. 7, 1926 (Harrisburg 1927) p. 19–22, 155–83; Warren, Charles, *The Supreme Court and Sovereign States* (Princeton 1924) 69–97, 121–24; Chamberlain, Joseph P., "Current Legislation" in *American Bar Association Journal*, vol. ix (1923) 207–29; Moores, Merrill, "Compacts and Agreements between States under the Constitution" in Thirteenth Conference of Governors, *Proceedings* (1921) 27–43; "Interstate Compacts as a Means of Settling Disputes between States," unsigned note in *Harvard Law Review*, vol. xxxv (1921–22) 322–26; "The Power of the States to Make Compacts," unsigned note in *Yale Law Journal*, vol. xxxi (1921–22) 635–99; Carpenter, Delph E., "Application of the Reserve Treaty Powers of the States to Interstate Water Controversies" in Colorado Bar Association, *Reports*, vol. xxiv (1921) 45–101; Bruce, Andrew A., "The Compacts and Agreements of States with One Another and with Foreign Powers" in *Minnesota Law Review*, vol. ii (1918) 500–16; Devlin, Robert T., *The Treaty Power under the Constitution of the United States* (San Francisco 1908) 36–50; Fleiner, Fritz, *Schweizerisches Bundesstaatsrecht* (Tübingen 1923) p. 76–79.

COMPAGNONNAGES. *See* JOURNEYMEN'S SOCIETIES.

COMPANIONATE MARRIAGE. Companionate marriage is a product of the industrial revolution. By that time, with the encroachment of money economy upon the older personal relationship and blood ties, the vestiges of the larger patriarchal family, consisting of several generations within a single household and discipline, had already largely disappeared from western European society. The factory system, which arose in the eighteenth and nineteenth centuries, reached into the family for individuals, drawing out men, women and children separately and rewarding them on a personal basis. Production left the home and education for the trades and professions followed. The rise of compulsory public schooling finished the cycle, depriving parents in growing urban communities of the productive services of their children outside the household. From being an economic asset children have become a heavy financial liability.

The home too has been economically transformed. Economic life is now in terms of money income. To add substantially to the money income the wife must generally work outside the home. Even what might be called "consumptive production," or the skilled preparation of pur-

chased raw materials for family consumption, has declined in importance as these processes have migrated more and more to the factory. The economic functions of the wife are reduced largely to those of a purchasing agent on an extremely small scale. If she has the financial capacity to turn these penny economies into anything even roughly equivalent to an income she is likely to rebel at spending her talents on such a job.

Companionate marriage is one answer of those whom the factory system has thus forcibly inoculated with economic individualism but whom the limits of the conventional family have prevented from exercising it. The perfecting of birth control methods and their general availability have provided a fairly reliable means of avoiding the burden of children. Salaried men and women in the trades and professions can now marry legally and even under the sanction of most churches without giving up the separate income of the woman or impairing her customary work. The "companionate," as this type of union was styled by the writer in 1924, is thus legally a "family," though it omits the central functions of the historic family institution: the bearing, rearing and education of children. Far from being the familiar sociological family unit, it is a union for companionship and mutual personal advantage.

Deliberately sterile marriages are not a new thing. They were given a distinctive name merely because they were growing so numerous in the cities that it seemed useful to contrast their peculiarly limited functions with those of the complete biological family. The companionate is not itself an institution, but merely a truncated form of a familiar institution. Sociologically, however, it is a good deal more than an arrested or rudimentary biological family. The peculiar common interests of the family with children are not only absent but have been replaced by others. Widely as writers on companionate marriage have differed about other things, all have refrained from applying the term to unions in which the woman is merely sterile.

The boundaries of the companionate are much too vague and shift too erratically to permit of classifying it entirely separately, even if it had any vital functions of its own to perform for society or the state. Some of the pairs use a common residence; some share the same family name; some earn approximately equal incomes; some pool their incomes; and some do none of these things. We might add that some companionates exist from choice and some through the necessity for two incomes. Some are temporary and some are permanent. The only general requirement seems to be that both partners to the marriage refrain from reproduction in order that both may continue to hold their competitive places in economic society. As far as society and the state are concerned, however, those unions where sterility is involuntary could be added to the category if they conform to type otherwise. On the other hand, if the desire for economic independence is to be the criterion, we should exclude marriages where the wives are companionate through economic necessity. If we use this criterion, however, we are embarrassed by another group in which husbands and wives continue their separate employments in spite of one or more children. There is, finally, no solid basis for calling the companionate union a separate institution when it may become a family by the failure of contraceptive methods or because the partners change their minds.

The controversy about companionate marriage may be clarified by disentangling three separate aspects of the companionate that have commonly been confused. There is, first, a situation, growing out of the triumph of money economy and the factory system, which has dissolved important elements in the historic family institution. Second, there is the formation by an increasing group of shrewd individualists of a companionate type of union which avoids the growing burdens of the complete biological family without departing from its legal and social framework. Finally, certain reformers have turned a descriptive label for the above group into a slogan for making over marital relationships in general in line with their ideas. The word companionate has the proper vagueness and suggestiveness for a slogan, although not created for that purpose. In fact, its coinage was quite casual and unpremeditated, its direct antecedent being a pun of the French humorist Clément Vautel on the word *compagnonnage*.

As might be expected, these reformers do not agree with one another. They have presented a fairly solid front in public to an immense and furious group of opponents who deny that change in the family institution is necessary beyond minor details. Students of the social sciences have listened more calmly to assertions that the family has not kept pace with rapid economic change and with newer ideas of human relationships which have penetrated to the less

conservative institutions. Although both have expressed themselves at length on companionate marriage Bertrand Russell and Judge Lindsey, for example, are worlds apart when they turn from demolition of the conventional family to reconstruction. Russell's view "that the state and the law should take no notice of sexual relationships apart from children, and that no marriage ceremony should be valid unless accompanied by a medical certificate of the woman's pregnancy" (quoted in Lindsey and Evans, *The Companionate Marriage*, p. 210) does not call particularly for companionate marriage but for anything from free love to unregulated companionates for the childless. It is the continental mistress system divested of its stigma and extended to all classes. Russell would like all parenthood to be voluntary. This is a good deal to expect, without legal sanctions, from human beings as they now exist—especially considering the fact that under a reign of initial free love not parenthood but non-parenthood would have to be consistently willed and flawlessly planned.

Although Lindsey and Evans in America have quoted Russell's remark as an endorsement of their own propaganda, the companionate they urge is a married one. To Judge Lindsey companionate marriage means birth control, uniform and rational divorce laws and instruction and sensible advice for the young. He would have people marry for companionship fairly young, avoid children until the unions are solidly established and divorce each other by mutual consent in case of failure. Although this is evidently marriage on probation or trial, Judge Lindsey emphatically denies that it is "trial marriage." The distinction, he insists, is one of "psychological emphasis," the term companionate being reserved for the more "confident" entrances into marriage. Close study of his argument in support of an apparent contradiction shows that he has confused two meanings of the word marriage. The same word is used to designate the ceremonial and contractual act of entering the state of lawful wedlock and also that state or institution itself. Certainly the confident approach is devoutly to be wished, whether the union itself is to be voluntarily sterile for a time or fruitful at once; but such pious hopes have little to do with a concrete discussion of institutions.

The word companionate was found useful by some sociologists as long as it merely designated the arrested form of the family which retains the historic privileges without performing the vital functions. This growing subdivision of the family institution into sterile and fertile groups raises not only questions of what is immediately good for individuals as such, or agreeable to them, but also very broad issues concerning the permanent interests of society at large. The observation of this subdivision involves the separate labeling of different things, no matter how much they may be confused in the language of the drawing room or the street. When a term used for this purpose acquires a high emotional temperature by being turned into a slogan to carry vast yearnings about the future, social science has no choice but to give it up. Henceforth it is of interest, like other organized popular propaganda, for its crude mass effects.

MELVIN M. KNIGHT

See: MARRIAGE; FAMILY; BIRTH CONTROL; WOMAN, POSITION IN SOCIETY; DIVORCE; FAMILY LAW; MARITAL PROPERTY.

Consult: Knight, M. M., "The Companionate and the Family—The Unobserved Division of an Historical Institution" in *Journal of Social Hygiene*, vol. x (1924) 257–67; Fosdick, H. E., "What Is Happening to the American Family?" in *Journal of Social Hygiene*, vol. xv (1929) 139–51; Section on the Family in *Proceedings* of the American Sociological Society, since 1925; Groves, E. R., *The Drifting Home* (Boston 1926); Lindsey, B. B., and Evans, W., *The Companionate Marriage* (New York 1927); "The Protestant View of Sex, Love and Marriage," Report of the Committee on Marriage and Home, Federated Council of Churches, in *Current History*, vol. xxix (1929) 809–21.

COMPANY HOUSING is the group of activities undertaken by industrial companies in order to house their own employees. It should be distinguished from the housing of agricultural workers on plantations and from the temporary sheltering of workers in labor camps. It had its origin in the primitive, pioneering conditions prevalent in industries which were isolated because they depended upon raw materials and power in secluded regions at a time when transportation was poorly developed. As an institution it represents a carry over from the days of agricultural feudalism, when it was the landlord's duty to provide a complete standard of living for his serfs.

In the United States company housing is as old as the industrial history of the country. It has moved with the industrial frontiers: the New England textile towns of the 1840's, the anthracite coal towns, the bituminous coal mining communities in Pennsylvania and West Virginia, the southern coal regions and Alabama iron mines, the coal mining sections of Colorado and

Wyoming, the copper mines in Michigan, the metalliferous mines of the far West and today the mill towns of the South. Company houses have constantly appeared in new regions, but those in the older sections have generally continued to exist.

Employers have embarked upon programs of housing for their workers for a great variety of reasons. The coal mine operator and the metal mine owner, for example, must supply living quarters because of the isolation of their enterprises. The other principal reasons for housing ventures have been: to maintain a permanent and stable labor force so that a nucleus of workers, particularly skilled men, would be available at all times; to reduce labor turnover in general; to control workers, particularly in time of strike, through the eviction of strikers or the housing of strike breakers; to attract married men; to facilitate part time employment; to create a collateral business; to develop popular esteem through this special phase of welfare activity; to encourage decentralization of industry; and to satisfy a humanitarian urge, which is sometimes vague and sentimental.

Employers have usually supplied the conventional type of house prevailing in a given region; the tall frame structure with one or more families on each floor in the New England region, the so-called shotgun cottage with three rooms in a line in the southern mine and mill towns, the single or double board and batten frame house of the mining region, the square hip roofed cottage of the West and the semidetached row or even apartment house in congested districts where land is expensive. The detached house still constitutes nearly half, the semidetached over a third, and the row type not quite one eighth, of all company housing types. There is a distinct tendency toward uniformity of type, and company houses generally present a dreary sight. However, during the World War the appearance and quality of company houses in the United States was improved through the influence of government architects and planners connected with the Emergency Fleet Corporation, which encouraged subsidized company housing, and with the United States Housing Corporation. Since then the better types of company house, although uniform in plan, have tended toward artistic individuality in the so-called model industrial villages.

Over half of the company houses in the United States are of four rooms or less. Five and six-room houses constitute each about one sixth. About nine tenths are frame structures. Only a small proportion of company houses have any modern conveniences; less than a third have inside toilets and only about one fifth have gas or electric light. It is in the mining regions that one finds the worst conditions in these respects. It cannot be definitely said whether these conditions are generally better or worse than those of workers who supply their own housing. Examples may be cited, however, of certain companies which had disposed of their houses to employees and were forced to buy them back because of exploitation by landlords and because the standards of housing for the whole village were lowered by poor upkeep and unsanitary conditions and the lack of individual or private care. In eastern coal fields the company houses are scarcely more than shacks, with the standards of plumbing and sewage very low. Here the miner neglects the small repairs and the company the larger ones.

Company housing does not generally apply to all of the employees of the companies which undertake housing. Governmental studies in 1916 revealed that approximately a third of all the employees of over four hundred establishments investigated actually occupied company houses. Additional government reports, which appeared between 1920 and 1925, indicated that the approximate percentages of employees living in company houses in certain major industrial areas were 71 in the southern textile region, 61 in the bituminous coal fields, 22 in the Massachusetts cotton textile manufacturing industry, 18 in iron and steel manufacturing communities and less than 10 in anthracite mining regions. In the better maintained villages, where the percentage of occupancy of company dwellings is less, it is rarely the wage earner, but the managerial and technical office staff, that is housed.

The company house is usually rented by the employee and is therefore a "tied house," in which the industrialist is both landlord and employer. This enables him to use his position as landlord for fighting labor organization and to include housing as an important unit of a program of welfare capitalism. Evictions of strikers and their families, frequently performed in the harshest manner, have for years been a notorious feature of the American industrial scene and have generally meant severe suffering for the evicted. In isolated communities where evictions have occurred it has not been unusual for union tent colonies to spring up beyond the limits of

company property to care for those dispossessed by the employer. Employers maintain that they have room in their houses only for active workers, so that when they evict their employees whom they have discharged for striking or for other reasons they are merely enforcing their property rights. Thus the loss of a job practically means the loss of a home. This right of eviction gives the employer an effective weapon for terrorizing and dominating his employees.

Although Pennsylvania statutes entitle a tenant to thirty days' written notice to leave before eviction proceedings begin, a large proportion of the leases for Pennsylvania coal company houses require the tenant to waive this right. Instead, the leases generally provide for between only five and ten days' notice to the tenant. In addition, the lessee is usually required to waive his right to a trial if ejectment proceedings are brought against him. In West Virginia the relationship between landlord and tenant in company towns has been held by the courts of that state to be one of master and servant. This ruling permits evictions without reasonable notice.

In the more built up sections of the country employers have worked out schemes for selling the houses to their employees through such methods as company revolving funds, subsidiary housing agencies, stock purchase plans and part payment plans. The majority of these houses have been purchased by the higher paid workers. In many cases houses sold under these systems have been built by employers as part of a general plan for the development of an industrial suburb.

Nearly all employers included in the government survey of 1920 were satisfied with the results of their housing. Nevertheless, opinion has been frequently expressed against the concentration of responsibility which makes the employer at once an industrialist and a community manager. In such a community "there is but one object to curse for everything—the company." The worker is dissatisfied with the system but is frequently forced to endure it, particularly in mining districts and in the newer textile regions, where the acceptance of a job generally means the acceptance of company housing. The American Federation of Labor has stood for municipal housing and housing aided by the state and federal governments without at the same time specifically condemning company housing.

In European countries the system of company housing, while on a larger scale perhaps than in the United States, is carried out more indirectly through subsidiary companies and with the intervention of the state. There is little direct company housing as such except in the more isolated coal mining regions. The employer becomes an instrument through which the state exercises in part that particular function. There is as a rule no connection between European housing schemes and welfare practises, as there is in the United States.

Company housing existed in modern form in Great Britain in coal towns and around some of the new textile mills as early as the eighteenth century but has been most prevalent in the coal mining regions. In 1925 between a quarter and a third of all British coal miners lived in company houses, of which over a third were rent free. Overcrowding, dilapidation and poor sanitary conditions were common, and many dwellings were found by government inspectors to be "unfit for human habitation." Company housing has been connected with the British coal industry in one form or another for over a century and a half and has often been taken advantage of by employers who wish to fight labor organization. The institution had been so far developed by 1844 that during the great Durham and Northumberland coal strike of that year the ruthlessness of company evictions of strikers and their families was worthy of a Pennsylvania coal operator of 1928.

Since the World War some new methods have been tried to remedy the extreme squalor of the ordinary run of company houses in Scotland, Wales and north England. A beginning was made in Yorkshire by employers associated under the philanthropic leadership of Lord Aberconway. They acquired capital through government loans and by putting up joint capital of their own. Under able management this joint enterprise has constructed 12,000 houses, which are leased to the colliery companies on thirty-year repairing leases. They have all modern improvements and attention has been given to site and community amenities.

The employers' housing enterprises at Bournville and Port Sunlight are still the outstanding examples in modern industrial villages. The part of the employer here is principally to prevent land exploitation. The housing work is done through the public utility building societies, which limit dividends and are favored with government loans and which receive governmental supervision and architectural and town

planning aid. Bournville was started in 1895 by George Cadbury as a semiphilanthropic venture, and in 1900 the property was turned over to the Bournville Village Trust, which controls the whole estate outside the Cadbury cocoa factory. It has erected more than eight hundred houses of relatively good quality. Rents are fixed so as to net a return of 4 percent on the cost of the site and construction, and profits are applied to public purposes. There are also several philanthropic enterprises which have built houses in the community; but the underlying control of the land rests with the employer's village trust. The trust has also acted as a promoter of good housing among other employers.

Although French coal mining companies and private railway companies engaged in a considerable amount of company housing prior to 1914, after the war the practise was greatly stimulated by the need for new and additional housing in devastated areas. Employers around Lens and Anzin in the northern coal mining district erected modern sanitary houses for their workers. Railway companies and textile mill owners have also contributed to the supply of company houses since the war. Firms belonging to the metal, mining, electrical and engineering industries combined to establish two organizations to aid associations of employers in these industries to build cheap houses for their workers.

German employers have engaged in housing in both the older and the newer industrial areas. The Krupp firm is among the most famous in the former field. It started in 1861 to build company houses and by 1919 housed 12,000 of its employees. It also made loans to employees who preferred to build houses of their own. Some German companies encourage collective building among their employees. State loans are extended to employers for housing purposes, subject to the usual restrictions of limited dividends, maximum rents and quality of accommodation. Laws have been passed in Prussia, Bavaria and Saxony under which employers may be forced to contribute to the housing of their employees, but numerous houses have been built by German employers without public aid or compulsion.

In Latin America company housing is being increasingly engaged in by foreign business enterprises. The practise is found in the sugar mills of Brazil, in the metal mining and nitrate companies in Chile and in the basic industrial and agricultural developments in Costa Rica, Cuba, Ecuador, Haiti, Honduras, Peru and Paraguay. Near Asunción, to cite an example, meat packing concerns have erected groups of one-story houses containing living room, two bedrooms, kitchen, bath and porch. Each house has a garden and each community a modern, well equipped playground.

In the Asiatic countries also it is the foreign concessionaire who has found it convenient to include housing as a capital cost in his enterprises. A typical instance is that of a considerable number of Bombay mill owners who during the last few years have erected an increasing number of dwellings for their employees. These enterprises have been uneconomic except in so far as they tie the workers to their jobs; but they secure no greater efficiency nor any less absenteeism. In the mining regions of Japan one finds the complete institution of houses, stores and community, all owned, managed and controlled by the operator.

Japan also has a peculiar type of company housing known as the dormitory system under which employers either shelter their workers in dormitories built near the factory or turn the second story of their factories into sleeping quarters. This system of industrial barracks has been primarily designed to shelter the great number of workers, especially young girls and unmarried women, who have been attracted by factory recruiting agents from distant villages. The system has reached its greatest development among female textile workers, although 37 percent of all Japanese wage earners in factories, mines and transport were housed in dormitories in 1926 (83 percent of these were females). Most of the dormitories are overcrowded, although conditions are better in some of the newer dormitories. In 1927 governmental regulations were promulgated to promote the health, safety and freedom of women dormitory dwellers.

LEIFUR MAGNUSSON

See: COMPANY TOWNS; HOUSING; MIGRATORY LABOR; LABOR DISPUTES; LABOR TURNOVER; PATERNALISM; CIVIL LIBERTIES; DEPORTATION AND EXPULSION OF ALIENS; COAL INDUSTRY; IRON AND STEEL INDUSTRY; MINING; TEXTILE INDUSTRY; LUMBER INDUSTRY.

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COMPANY STORES. *See* COMPANY TOWNS.

COMPANY TOWNS. A community is known as a company town when it is inhabited solely or chiefly by the employees of a single company or group of companies which also owns a substantial part of the real estate and houses. Such a community is typically unincorporated; it may, however, be part of a larger, incorporated municipality or it may be a separate, incorporated town. This article deals only with permanent or semipermanent communities, but many of the conditions herein described are characteristic also of purely temporary logging and construction camps and of certain plantations and tenant farming communities.

Company towns have existed in several countries. They are found, for example, in eighteenth and nineteenth century British coal fields, around twentieth century coal mines in Japan and at the Krupp works in Germany. But it is in the United States that the company town has reached its greatest development. Here it is met with in nearly every important industry. The total number of people living in company towns is probably in excess of two million, and if dwellers in company camps and farm tenants working under the direction of an overseer were included this figure would have to be greatly increased.

The isolated company town is a major social problem. Isolation may be geographic or social. Geographic isolation is sometimes imposed by the nature of the case, as with the extractive industries or with industries dependent on water power, but it may also be sought deliberately. Thus in the United States the establishment of cotton mills in isolated sections of the southern Piedmont region resulted in some measure from an attempt of northern capitalists to escape both the higher wages and the higher taxes of New England. Geographically isolated towns have few connections of any kind with the rest of the world, and this frequently results in the stagnation or degradation of their inhabitants. Social isolation also occurs when Negro and immigrant company towns adjoin native white communities but have few contacts with them and when as in many of the new industrial cities of the South an invisible barrier exists between the native white inhabitants of the company town and the rest of the city's residents.

The purpose of the company town is to attract, hold and control labor. When a new plant is opening up in an isolated community the company must make some provision for its prospective employees and often finds it necessary to house them all. If the houses so built are not afterwards sold off, the company town becomes a permanent institution. Company towns are also built near established communities: scores of such "towns" were built during the World War, when the problem of labor turnover became serious.

The company town as such is usually not run as a money making proposition. The United States Bureau of Labor Statistics found that a gross return of 8.3 percent on the investment was typical. Rents are generally low; a few companies charge no rent at all. Although the town may be a success from the standpoint of the labor manager and may even provide its inhabitants with somewhat better housing than they had previously experienced, it has many decided drawbacks from the point of view of the tenant workers. Most of these drawbacks result from the combination of the functions of landlord and town manager and employer. Indeed, it is the question of control which overshadows all other problems in the company town.

There are certain objectionable features in connection with housing. First, there are those to be found in insecurity of tenure and in the unnecessarily poor quality of most company housing. Secondly, the company's usual policy is to install the largest number of workers possible in each house. Where only some of the

employees are housed by the company discrimination may be shown in favor of the families who take in boarders and lodgers or who withdraw their children from school to send them to work for the company. If a house ceases to supply any workers to the plant—because, for example, the tenants are on strike—the company may and commonly does evict the tenants. Thirdly, the low rents are frequently a cause of low wages. Finally, tenants in company houses are more apt than other workers to be called on for compulsory overtime work in an emergency.

With a few notable exceptions the planning of company towns has been below approved standards. A large majority of towns are unsewered and the houses have no running water. Other defects are summarized as follows by John Nolen, a noted town planner: "The houses and other buildings have not been well placed or grouped, and there is no real recognition of street and site planning. The architecture almost invariably has been commonplace, or worse. The provision for play, outdoor recreation and social relaxation has usually been altogether inadequate. The communities have been too small in total area and population for a satisfactory social life. Finally, sufficient attention has not been given to the very important matter of the management of these housing enterprises, after the buildings were once erected." Some company towns are managed with laudable efficiency; in many others the houses go unpainted for years at a time, garbage is collected seldom and ashes never, repairs are left to the tenants and the streets in the rainy season are quagmires.

The company usually participates directly or indirectly in the control of church and school. Sometimes it owns both institutions; quite often it subsidizes the salaries of school teachers and ministers, and some high official of the company is frequently found on the school board and on the governing body of the church. Several cases are on record where ministers and teachers who attacked the company's policy have been forced to leave the town. Responsible church bodies have condemned this condition but have not corrected it.

Two recent studies on the advancement of school children in North Carolina have confirmed the popular impression that schools in company towns are below average. One of them attributed the poor showing of the children in company towns in part to "the lack of stimulating influence in the mill school and a mill environment." There is now a slight tendency for the public authorities to assume greater control of schools and for the influence of the company in school affairs to diminish.

Company stores (also known as commissaries) are widely found in company towns. They may deal in a large variety of goods or confine themselves to a few lines. The motives in conducting such stores are various. Some were opened during the World War to help combat the high cost of living and were closed again when prices became stabilized; most have been established to supply the inhabitants of the town with the necessaries of life at a time when no other sources of supplies were available. Some are continued for profit; certain employers make more money on their company stores than they do on their main enterprise. Some company stores sell at cost. Some follow an intermediate policy, retailing groceries at cost and clothing, furniture and other goods commonly sold on credit at unusually high prices.

Company stores are a continual source of irritation to employees, who commonly refer to them as "pluck me" stores. The United States Coal Commission made in 1925 a careful comparison of the prices charged by company stores and independents. Presumably it compared cash stores with cash stores and credit stores with credit stores. It found that prices in company stores were seven percent higher in an Alabama mining town and four percent higher in the Kanawha district of West Virginia for goods of apparently the same quality. The company store has special competitive advantages. It is always favored by a location convenient to the purchasers. It commonly carries a larger stock of goods than the independent roadside stores. When the company contemplates a shutdown or an increase in the scale of operations, the company store is apprised in advance and can diminish or increase its stock. The manager of the company store has access to information regarding the earnings of his customers and uses this information in granting or withholding credit.

Even more serious than higher prices are the compulsory features of certain company stores. In many towns no other stores exist. Where workers are paid in scrip (store orders) in place of cash or in advance of pay day they are forced to have recourse to the company store, since it alone can redeem scrip. In times of slack work, when the plant is operating part time and pay envelopes are correspondingly small, the whole

community goes on to a credit basis and the company store flourishes accordingly. By making credit unduly easy the company store even encourages wasteful buying, and the company may aid in the collection of debts to the store. Finally, it is known that foremen and other company officials frequently influence the men to trade at the company store and that men have been discharged for no other reason than trading with independent dealers. The manager of the company store sometimes has to pay for this cooperation from foremen.

Company stores have had a longer history than the company town and have existed independently of it. They have been a curse to the workers of many countries. In England, where they were a particularly frequent subject of complaint during the nineteenth century, they are known as "tommy shops." Here the forced acceptance of store orders in place of money wages was for long especially serious. Institutions similar to the industrial company store also have long existed in agricultural regions, and seamen have suffered for centuries under the exactions of the ship's "slop chest."

Company stores have almost universally acquired an unsavory reputation. England started to legislate against them in 1831. Truck acts passed in that year and in 1887 and 1896 provide with some exceptions that workmen may not be required to spend any part of their wages at a particular shop and that wages must be paid in the coin of the realm. Most industrial states of the United States have passed laws for the control or even elimination of company stores. Laws of the latter class have not had much effect; in Pennsylvania, for example, it is illegal for a mining company to run a company store but not illegal for the stockholders of the company to be, as they commonly are, the owners of the store. In France also the company store has survived laws aiming at its abolition; it is run as a cooperative, with the controlling interest in the hands of a few salaried employees. A third type of law has prohibited companies from forcing employees to trade at company stores and has compelled payment of wages in lawful currency. The practises which these laws were designed to correct have declined, but the effect of the laws is difficult to trace and abuses are still widespread. It is of interest that on both sides of the Atlantic truck acts have commonly been ineffective when workers have not been strong enough to compel their observance. Laws for regulating prices at company stores are usually accompanied by such weak administrative provisions that they are of little or no effect.

The number of company stores is apparently diminishing, but they are still numerous. Where they come into active competition with independent stores, especially chain stores, the abuses incident to their operation are in effect limited to those inherent in the credit system. One check on the abuses of the credit system is found in more frequent pay days, a reform which has been advocated for many years by the United Mine Workers and other trade unions.

Where there is no trade union and the company's economic control over the town is undisputed its political control is taken for granted, and if the company has no wider political ambitions political life in the company town is inactive. Some southern textile towns do not even go through the formality of an election. But when the company desires to have a voice in some larger field, such as county, state or national offices, its foremen may at election time act as bosses for the favored party, lining up the largest vote possible.

The company must have a certain amount of political control if it wishes, as it often does in isolated towns, to keep the company town closed to "undesirables," in which class are usually included hucksters, peddlers and especially "agitators." The last category consists of any individuals who might organize an opposition to the company's economic or political control, especially trade union organizers. So solicitous is the proprietor to preserve the peace of mind of his employee tenants that he often builds a fence around the "town" and stations guards at the entrance. The walled-in company town is a common feature of the American landscape. The guards are technically officers of the law. In the state of Pennsylvania they are known as industrial police and formerly were known as coal and iron police. Their salary is paid by the companies whose property they protect. In most states the guarding is done by deputy sheriffs, and accordingly the control of the office of sheriff has become a prime interest of the employer.

In the mountain fastnesses of West Virginia whole counties are "closed." Thus in 1922 some thousands of union coal miners, finding that it was impossible for union organizers to enter Logan county, West Virginia, marched on Logan. They were dispersed by federal troops and by the influence of the United Mine Workers of America. Logan county is still closed.

With the development of technically interlocked industries towns controlled by several companies, such as Kingsport, Tennessee, and Longview, Washington, have appeared. It is not clear, however, that this diversification necessarily diminishes concentration of control. In both the towns mentioned the industries are financially as well as technically united.

The most serious abuse in the present situation is that the guardians of law and order are paid by the company. This system has today few or no public defenders, but it still persists. In West Virginia the payment of deputy sheriffs by coal mining companies has been condoned on the ground that the public authorities were unable to maintain law and order. The argument appears specious. During the coal strike of 1927–28 the West Virginia legislature made special emergency appropriations to meet the cost of maintaining order; they were turned back into the treasury unused and the coal operators continued to appoint their own mine guards. It has been repeatedly demonstrated that the employment of mine guards is a source of friction, and it is an open question whether mine guards are not guilty of causing more violence than they prevent. The way the system operates at present was thus described by the United States Coal Commission in 1925: "The clamor raised against these deputies caused a change in the method of paying them. The operators now 'loan' the county an amount equal to the extra cost of maintaining these special deputies. There is no record that their 'loans' have been repaid and the operators do not seem to be pressing for payment" (*Report*, vol. i, p. 173). Company funds have also been used to defray the extra expenses of the militia and the National Guard when these have been called upon to do strike duty, the advance being classified as a loan in these cases also. Legislation on this subject is urgently needed.

A second abuse which calls for legislative remedy is that of the closed company town. Trade unionism corrects this, but the day when all company towns will be organized is far distant. Nor is there much prospect of closed towns being opened through court action alone. The company can and commonly does assure its legal right to close its town by provisions inserted in the house leases. The following excerpt from a lease used by the Clarkson Mining Company in Ohio is typical: " . . . lessee will not use or suffer or permit to be used said lands or the private way or road through or over the lands of the lessor to said dwelling house for any other purpose than that of ingress or egress to and from the public road for lessee and the members of his family, nor do any act or thing nor permit nor cause the same to be done whereby the public may be invited or allowed to go or trespass upon the lands of lessor." The United States Coal Commission entered a sharp protest against "house leases which prevent free access and exit," but no legislation resulted. In British Columbia the Company Towns Regulation Act of 1919 provides that any community which has been declared by the lieutenant governor in council to be a company town shall thereafter be open at all times to the general public.

Thirdly, the employer who is also the landlord is likely to abuse his power as landlord. In company towns the company, in addition to the power of evicting from its houses any of its workers and their families who challenge its supreme authority, may legally force them to go with their belongings beyond the limits of its private domain. This situation needs a fundamental change which will place control of employees' houses and the right to live in a town definitely beyond the employer's power.

Where control has remained unchallenged the abuses to which the company town is subject are as serious today as they ever were. Any effective move for decentralization of industry might well foster a new growth of company towns. Yet there are forces in operation which tend to weaken employer control. Foremost among these is improved transportation, which enables employees to live at a distance from their work. A coal mine employing one hundred and fifty men was recently opened near Butler, Pennsylvania, and operated for a year without a company town being built; the miners arrived each day by automobile and interurban car line from distances up to twenty miles. Improved transport has helped to break up the company town in the coal fields of Indiana and Illinois especially but has had little effect in mountainous West Virginia.

The company town which grows into an incorporated city develops independent businesses and the grip of a single company tends to be weakened. But the effect on company control of mere incorporation or of absorption of the company town into a larger municipal unit may be very slight. An aggressive, determined company may dominate a city of considerable size.

It is evident that for isolated non-union company towns, in which the employer owns all the

land, no effective steps have been taken to obtain for the employees the practise of those "immemorial rights" of free speech and free assemblage which are supposedly guaranteed by state and federal constitutions. There is no place where a meeting to criticize the employer's policy may be held. The employer controls the job and the political machinery; he dominates the school, the church, the organized amusements, the local business and professional men and often all medical service. The employee's freedom is limited to activities which do not tend to weaken the employer's control. Democracy is an empty mockery. Employees have no real property and no means of acquiring any. They are treated, in effect, like irresponsible children. The welfare work sometimes undertaken by employers can never compensate the employees for their lack of economic and political self-rule.

HORACE B. DAVIS

See: COMPANY HOUSING; COMPANY UNIONS; LABOR; LABOR CONTRACT; LABOR DISPUTES; POLICING, INDUSTRIAL; DEPORTATION AND EXPULSION OF ALIENS; TRADE UNIONS; CIVIL LIBERTIES; COAL INDUSTRY; IRON AND STEEL INDUSTRY; MINING; TEXTILE INDUSTRY; LUMBER INDUSTRY.

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COMPANY UNIONS. As the name implies, company unions are "unions instigated and practically dominated by the employers, organized and conducted for the purpose of combating or displacing independent unionism" (Hoxie, p. 51). The terms company union and employee representation are often used interchangeably, especially in the United States, where trade unionists commonly refer to any shop committee, works council or industrial assembly established without the assistance of trade unions as a company union. In recent literature, however, company union has come to designate a special form of employee representation which not only seeks to become a substitute for the trade union but also uses the methods and the forms of organization of the trade unions. It is usually an employees' association within a plant making collective bargaining contracts with the employer. It is likely to employ such weapons as compulsory membership and the "yellow-dog contract," although this latter is most often used alone as a particularly drastic instrument against unionism.

While employees' committees, both as a part of trade union arrangements and as an attempt to establish collective relations where trade unions do not exist, date back to the middle of the nineteenth century, company unions for the purpose of combating or displacing organized labor are in the main a post-war American development. In Germany the "yellow trade unions," instituted in the late nineties by such employers as Stumm, and in Great Britain the isolated attempts to establish profit sharing and copartnership schemes on the part of employers like Henry Briggs in the mining industry and Sir George Livesey in the South Metropolitan Gas Company never gained much headway, because of the strength of the independent trade union movement. During the World War the United States War Labor Board established shop committees as agencies for collective bargaining in more than two hundred plants. The American Federation of Labor, which was represented on this board, intended that these committees should be dominated by the trade unions in the case of organized industries or should lead to the organization of unions where none existed. This was in fact the result of the establishment of the war committees. The employers, however, fearing that they might be forced to deal permanently with trade unions, put an end to the committees as soon as possible after the dissolution of the War Labor Board or replaced them

with other types of employee representative boards or with company unions. In European countries the strength and established position of the labor organizations prevented such a development.

Most of the early plans for company unions in this country were prepared by the management and were either put into operation by an order of the company or presented ready made to the employees for adoption. In more recent arrangements, although the initial move is made by the employer, the question of the desirability of a company union is voted upon by the employees, and joint committees of management and workers are elected to participate in the preparation of the detailed program, which is then submitted to a vote by the workers. If the result of this vote is favorable, representatives are elected to work with a committee of the management. The company union generally operates through elected representatives or officers of the employees' association, who meet alone and who submit their decisions to the management or its appointed representatives. Meetings of the entire association are infrequent and are practically without exception held within the plant itself. Proposals for the consideration of the company union may come from either side. Usually final decision on the action of the company union rests with the management; sometimes it is provided that the decision of a single representative of the management may be vetoed by a two-thirds vote of the company union, but in practise this course has very seldom been followed. Payment to officers of the company union for time spent in negotiation and conference may be made by the company or, in rare instances where company unions have a treasury, out of that treasury.

It has been estimated that about a thousand industrial establishments, employing nearly a million and a half workers, now have some form of employee representation. Except by careful study of their actual operation it is impossible to tell which of these establishments have real company unions and which are mere shop committees. The distribution of these million and a half workers by industries shows that 25 percent are in the railroad industry and that the railroad company unions have developed largely since the failure of the shop crafts' strike in 1922; almost another 25 percent work for other large scale public utility concerns. Large single corporations, like the General Electric Company and the Bethlehem Steel Company, each account for a greater number of company union workers than all the printing and lumber industries combined. The National Industrial Conference Board estimated in 1925 that over 840,000 company union workers were engaged in plants employing more than 15,000 workers and that 57,000 were engaged in plants employing between 10,000 and 15,000. This estimate also indicated a general decline in the number of company unions in smaller establishments. It appears that the company union has been instituted where trade unionism has been most severely blocked. In industries of a monopolistic character or in highly capitalized corporations the company union serves as a convenient substitute for dealing systematically and in some regulated fashion with large bodies of workers.

While the persistence of many of these company unions has been due primarily to management interest and activity, certain weaknesses in current trade union structure and tactics have contributed at least partially to the acceptance of company unionism by many workers. The craft structure of American trade unionism would mean the division of the employees of most of these large corporations into a great number of separate international unions. Often trade unions do not include the majority of the workers and are therefore ineffective. Certain industries and trades are characterized by corrupt unionism. Immigrant workers have often been excluded by high initiation fees and other devices. Unskilled laborers, semiskilled specialized machine operators, women workers and Negroes have all been subjected to a variety of discriminations on the part of trade unions. Factionalism within the trade union and the necessity for vigilant participation by the membership to insure efficient management are likely to make the machinery of the company union appeal to many workers as simpler, even if less efficacious. Many trade unions have failed, moreover, to take advantage of supplementary negotiating and conference machinery which might be afforded by shop councils or committees of workers within the plants in order to make adjustment to the intricacies of modern industry and the variations in manufacturing processes from shop to shop.

As a means of equalizing bargaining power between employers and wage earners and improving conditions for the laboring classes company unions as now organized have certain fundamental defects. Organized labor always has a political and social program even when it

eschews a separate labor party; it employs legislative agents to look after labor's interests in matters of government and it secures the enactment of factory laws and other legislation designed to improve the lot of wage earners. Company unions, since they include the employees of only one plant or corporation, are in no position to take part in such activities. As long as they remain unfederated they must confine their activities to the plant or the plants of the company which employs them. This prevents them also from performing one of the most important functions of trade unions, namely that of forcing backward employers to adopt the standards of the most reputable and progressive. The long hours and low wages of the southern cotton mills are a matter of concern to the national trade unions; but the company unions do not send organizers to help the workers in these mills to improve their conditions. On the other hand, company unions profit from the existence of strong trade unions in other plants of the same industry. In such cases the wage standards won by the national unions are likely to be the standards which the company unions adopt.

Impartial studies of several company unions by the Russell Sage Foundation—especially of the Colorado Fuel and Iron Company, which was the largest pre-war company union experiment—suggest other weaknesses. Even within the plants a company union cannot do as effective work as a well managed union, because the representatives of the workers (with rare exceptions) must be employees of the company, not specialists in bargaining or trained labor sales agents like the officials of many trade unions. Nor are employee representatives paid by the employer likely to be as independent and forceful in protecting the interests of the workers as representatives chosen and paid by trade unions. The employer may honestly guarantee freedom of action, but the company union representative may nevertheless remain fearful of discrimination. In case of disagreement between management and workers on questions important to the wage earners a national union also has the financial resources to employ technical and legal counsel to aid the workers in a single plant, whereas members of company unions must rely either on workers in the plant, who may be ignorant and untrained in such matters, or else on the experts paid by the employer to advise the management. Such aid for employees is particularly necessary in cases of arbitration, but company unionism is hardly in a position to provide it. Perhaps this is the reason why arbitration is rarely resorted to by company unions. Management decisions are likely to be final and the employer may veto vitally important improvements proposed by employees.

Furthermore, should the members of a company union feel that a request which is vetoed is justification for a strike, they find themselves again at a disadvantage. Unlike members of trade unions they have no trained leaders experienced in conducting strikes and in maintaining the morale of strikers. While they are out of work they can get no strike benefits, which the powerful national unions can pay from their large treasuries or from assessments levied on their members in various parts of the country. Nor can they expect moral and financial support by making appeals to organized labor everywhere as any group of union workers may do. Strikes are almost bound to fail when conducted by company unions, because of the inherent defects of this type of organization.

Several suggestions have been advanced concerning the future of the company union. One possible development is a growth of independence and power of the company unions. Illustrative of this is the statement of the representatives of the Pennsylvania Railroad Company union. "General Atterbury has put something in the field which he would have a hard job to take out, and we have gotten so far that we say this—we dare him to take it out." If along with such a development the regular trade unions persist in their attitude of opposition to the company unions without making any of the changes in organization or policy which would seem necessary to win over their membership, the company organizations may aim at a separate movement, which would compete with the American Federation of Labor. It has been pointed out that the Christian, the Hirsch-Duncker and the Fascist unions compete with the regular trade unions in European countries. The direction of these unions did not come, however, as in the case of the company unions, from individual employers, nor is the policy followed of replacing trade union labor on strike.

Another possible development is the transformation of the company unions into trade unions. This may occur when the company union has been spineless, ineffective and compulsory and the workers have had a tradition of unionism and realign themselves with the trade union. It may come as a result of the type of strategy followed by the Amalgamated Clothing

Workers Union which converted A. E. Nash, who had instituted a "Golden Rule" company union in his Cincinnati clothing factory, even before winning over the workers themselves. The existing competition and antagonism between company unionism and trade unionism may be compromised on some such basis as that involved in the contract of the Mitten management of the Philadelphia Rapid Transit Workers and the Amalgamated Association of Street and Electrical Railway Employees, if that experiment is at all successful. According to this contract the firm agrees to drop a vigorous policy of opposition to collective bargaining with the trade unions if after a stated time the union has demonstrated its success in other centers and if —without opposition from the firm—a majority of the Philadelphia workers after an organization campaign express their desire for trade union organization.

The adoption of a broader social attitude of the type represented by the employee representation plans of the Dutchess Bleachery Company, the Dennison Manufacturing Company and others, together with a reconstruction and invigoration of trade unionism, may lead to a peaceful combination of the two now antagonistic forces. The basis of the combination of the two may be the inclusion in the employee representation plans of the trade union method of bargaining over wages and hours on a national scale with the aid of trained experts chosen by the workers themselves and, on the other hand, the adoption by trade unions of the shop committee methods of the company unions for handling the problems that are peculiar to each plant.

WILLIAM M. LEISERSON

See: EMPLOYEE REPRESENTATION; COLLECTIVE BARGAINING; LABOR CONTRACT; PERSONNEL MANAGEMENT; LABOR-CAPITAL COOPERATION; INDUSTRIAL RELATIONS COUNCILS; TRADE UNIONS; LABOR.

Consult: Hoxie, R. F., *Trade Unionism in the United States* (2nd ed. New York 1923); *American Labor Dynamics*, ed. by J. B. S. Hardman (New York 1928) chs. xi, xix, xx; Gemmill, P. F., *Present-Day Labor Relations* (New York 1929); Dunn, R. W., *Company Unions* (New York 1927); Lauck, W. J., *Political and Industrial Democracy, 1776–1926* (New York 1926); National Industrial Conference Board, *Research Reports*, no. 21 (New York 1919), no. 50 (New York 1922), and *Special Report*, no. 32 (New York 1925); Burton, E. R., *Employee Representation* (Baltimore 1926); Miller, E. J., *Workmen's Representation in Industrial Government*, University of Illinois Studies in the Social Sciences, vol. x, nos. 3 and 4 (Urbana, Ill. 1924); Selekman, B. M., and van Kleeck, Mary, *Employees' Representation in Coal Mines* (New York 1924); Blau, P. and P., *Interborough Rapid Transit Company against William Green, et al: Brief for Defendants* (New York 1928); Herkner, Heinrich, *Die Arbeiterfrage*, 2 vols. (8th ed. Berlin 1922) vol. i, p. 434–71; Selekman, B. M. and S. K., *British Industry Today* (New York 1929) p. 126–33.

COMPARATIVE LAW may be divided into three branches: descriptive comparative law, comparative history of law and comparative legislation, or comparative jurisprudence.

Descriptive comparative law is the inventory of the systems of law of the past and present as a whole as well as of individual rules which these systems establish for the several categories of legal relations. Comparative studies of specific institutions of the law are naturally the most numerous. Modern law is described comparatively in manuals such as Lehr's; in comparative expositions such as Ernest Roguin's *Traité de droit civil comparé* (vols. i–vii, Paris 1904–12) and Franz Schlegelberger's *Rechtsvergleichendes Handwörterbuch für das Zivil- und Handelsrecht des In- und Auslandes* (vols. i–ii, Berlin 1927–29); in collections of codifications concerning a branch of law, such as Oskar Borchardt's *Die Handelsgesetze des Erdballs* (35 vols., 3rd ed. Berlin 1906–14; incomplete American ed. Boston 1911–15) and Karl Heinsheimer's *Die Zivilgesetze der Gegenwart* (vols. i, iii, vi– , Mannheim 1927–); and, above all, in the publications of the societies of comparative legislation. The most important of these societies, with the places and dates of their foundation and the titles and dates of first publication of their periodicals, which unless otherwise noted are still current, are as follows: Société de Législation Comparée (Paris 1863, *Bulletin* 1872– , and *Annuaire de législation étrangère* 1872–1927); Internationale Vereinigung für vergleichende Rechtswissenschaft und Volkswirtschaftslehre zu Berlin (Berlin 1894, *Jahrbuch* 1895–1914, *Blätter für vergleichende Rechtswissenschaft* . . . 1905–26). As indicated, these two publications were discontinued—the one at the time of the war, the other after the death of the president and founder, Felix Meyer. The association, reconstituted in 1927, is now represented by the *Zeitschrift für ausländisches und internationales Privatrecht* (1927–), which is the organ of the university institute of the same name and has absorbed the *Auslandsrecht* (Berlin 1919–26). There are the Society of Comparative Legislation (London 1896, *Journal* 1897, which in 1899 became the *Journal of Comparative Legislation and International Law*) and the Institut Belge

de Droit Comparé (Brussels 1908). The latter's *Revue trimestrielle*, after having published seven volumes up to 1914, was interrupted during the war but reappeared in 1922. There is also the Istituto di Studi Legislativi (Rome 1926, *Annuario di diritto comparato e di studi legislativi* Milan 1927–). This institute hopes to play in Italy the same roles which are played in France by the Société de Législation Comparée and the Société d'Études Législatives (Paris 1901). The latter, in its *Bulletin* (1902–), emphasizes comparative law as a tool in its work of stimulating legislative action. In many countries substitutes for societies of comparative legislation are to be found in boards or committees of information on foreign laws, organs of governmental departments, associations of jurists or business men or institutions having an autonomous existence, like the International Intermediary Institute at The Hague.

Comparative history of law is closely allied to ethnological jurisprudence, folklore, legal sociology and philosophy of law. It endeavors to bring out through the establishment of a universal history of law the rhythms or natural laws of the succession of social phenomena which direct the evolution of legal institutions. Its students have been up to the present principally interested in the reconstitution of the most obscure phases of the legal history of human societies. The two following periodicals will give a sufficient idea of the enormous bibliography of this branch of comparative law: *Zeitschrift für vergleichende Rechtswissenschaft*, founded by Bernhöft and Cohn, first appearing in 1878 and brought to full development under Joseph Kohler's direction from 1882 to 1916 and since then continued by Leonhard Adam; and *L'année sociologique* founded by Émile Durkheim in 1898, interrupted by the war, but recontinued in 1925 for the years 1923–24.

Comparative legislation, or comparative jurisprudence proper, represents the effort to define the common trunk on which present national doctrines of law are destined to graft themselves as a result both of the development of the study of law as a social science and of the awakening of an international legal consciousness. The functions and present activities of comparative legislation are far from being the same in the several fields of positive law. It has more easily taken root in the field of public than in that of private law, because of the association of constitutional, financial and industrial law with political science and financial and industrial economics in the curricula of many universities. But in general this discipline works only toward scientific or technical education. Contrariwise, comparative criminal law, which at present constitutes the most vigorous branch of comparative law, aims at an interpenetration of the laws compared. A spirit of universalistic science has been given to penal law—above all to its general part—by the activity of the international anthropology and criminal sociology congresses which began in 1885; by international penitentiary congresses which were started in 1872; and above all by the Internationale kriminalistische Vereinigung (*Mitteilungen* 1889–), which was practically dissolved during the war and has only begun to function since 1926 in its German section; also by the Association Internationale de Droit Pénal (Paris 1924, *Revue internationale de droit pénal* 1924–), which held its first congress in Brussels in 1926 and has provided in its constitution for progress toward a universal penal law. This movement toward internationalization has been further accentuated by the penetration of criminology and penitentiary science into the teaching of penal law; by the simultaneous publication in a large number of countries of codifications of penal law taking as their point of departure the critical comparison of existing laws; and finally by the efforts made to graft an international criminal law on public international law, as in the work of Donnedieu de Vabre and Travers.

Some workers in the field of comparative law have detached themselves from the domain of private law to form the first experimental laboratories of comparative legislation dealing with such subjects as the law of patents, designs and trademarks on the one hand, and the law of copyrights on the other. The Bureau International de l'Union pour la Protection de la Propriété Industrielle (Berne 1883, *La propriété industrielle* 1885–) and the Bureau de l'Union Internationale pour la Protection des Oeuvres Littéraires et Artistiques (Berne 1886–87, *Le droit d'auteur* 1888–) are comparing the several laws on these subjects in preparation for the final coming of "uniform laws of justice and honesty." The beginnings of a uniform code can be traced in maritime commercial law, for which useful international accords have been made or prepared by the similar action of the International Maritime Committee, the International Law Association and diplomatic conferences. The same tendency can be traced in agricultural law, for which abundant documentation is

furnished by the Institut International d'Agriculture at Rome in its *Annuaire international de législation agricole* (1911–), and in labor law, which has been well equipped by the establishment of the International Organization of Labour in connection with the Treaty of Versailles. The need for the extension of this equipment to other fields of private law has given birth to the Académie Internationale de Droit Comparé (Geneva 1924, *Acta* 1928–) and to two organizations attached to the League of Nations: the legal section of the Institut International de Coopération Intellectuelle and the Institut International pour l'Unification du Droit Privé (1928).

Comparative law is still seeking its courses, and its students are not all searching in the same directions. This lack of harmony is due in part to a too frequent neglect of the necessity of distinguishing, where comparative jurisprudence is concerned, between the law of domestic relations and real property on the one hand and, on the other, the law of commercial relations. For the former, unification or reconciliation is neither desirable nor realizable. The comparative study of law is here reduced to an auxiliary discipline of legislative policy or to a complement of the theory of the conflict of laws. But as far as the law of contracts and obligations is concerned, in its application to commercial and industrial law, greater pressure exists against the obstacles placed in the way of international trade by the diversity of local regulations as a result of the economy of the capitalistic world.

Comparative jurisprudence has proceeded by adapting to the international sphere previously existing disciplines, which have made for the creation of the *droit commun coutumier* in France or the *deutsches Privatrecht* in Germany. A similar process of unification is to be seen in the evolution of the American common law, which has been drawn by university teaching from a general view of the forty-eight systems of law of the American federated states. The analytical school in England and the school of the *Allgemeine Rechtslehre* in Germany represent impulses which are strongly related to the growth of comparative jurisprudence; and going further back the *jus gentium* of the Romans and the universal striving for "natural law" may be mentioned.

However, the principal ancestor of comparative jurisprudence is Roman law in the modernized form which the glossators, post-glossators and humanists have given it. By a process of reception, the intensity of which varied with different chapters of the law and in different regions, this Roman law gave continental Europe the benefits of a relative community of law for centuries. Its power as positive law has been progressively destroyed by the nineteenth century codifications except perhaps in South Africa. Yet it is still the instrument of scientific liaison between Latin and German law. England, on the contrary, resisting the attraction of Roman law has constituted an original corps of law which colonization has made the common law of the English speaking peoples. The task of comparative jurisprudence is to remedy the situation arising from the coexistence of these two bodies of common law by bringing back at least to the commercial law of the capitalistic world the spirit of humanism with which the doctrines of the civilians were formerly inspired. Ihering had already assigned this role to comparative law, but his appeal was not heard until the beginning of the twentieth century under the influence of Raymond Saleilles, and no practical advances were made until the Treaty of Versailles created the necessary international point of view.

The rudimentary but perfectible instruments of action which comparative jurisprudence has at its disposal at present may be enumerated as follows: (1) organs of legislative action (a) in international treaties, (b) in uniform laws, such as those adopted in various European countries and in the American states, dealing principally with various branches of commercial law (the Instituto-Luso-Hispano-Americano has advocated the adoption of uniform laws in Latin countries and the *Revue juridique international de la locomotion aérienne*, Paris 1910–28, sponsored uniform laws in its field), (c) in international collections of statutes such as the *Legislative Series* of the International Labour Office (London 1919–); (2) organs of judicial action: in the beginnings of international law reporting, as in the *Revue de droit maritime comparé* (Paris 1923–) and *International Survey of Legal Decisions on Labour Law* (Geneva 1926–); (3) organs of action on trade practises: as represented by the York-Antwerp rules, and such collections as Ishizaki's *Le droit corporatif international de la vente de soies* (3 vols., Paris 1928); (4) organs for teaching. Comparative legislation is represented in all the French universities by chairs or courses which are optional to students and in Portugal by similar courses which are obligatory; in Germany only—save in

rare instances—by seminars, where it is often connected with private international law. University institutes of comparative law are increasing in civil law countries: in Lyons (Séminaire oriental, 1906, *Travaux* 1913– ; Institut de Droit Comparé, 1921, Bibliothèque, *Études et documents* 1922–28, with a *Série de criminologie et de droit pénal comparé* 1929–); in Paris (Salle de Travail, *Collection d'études théoriques et pratiques de droit . . .* , ed. by Henri Lévy-Ullmann, 24 vols., 1923–30); in Strasbourg; in Toulouse (collections of constitutional and Latin civil law); in Berlin (the Institut für Auslandisches und Internationales Privatrecht, under the direction of Ernest Rabel and Viktor Bruns, *Zeitschrift*, *supra*); in Munich and Heidelberg; in Breslau (studies in eastern European law); Hamburg (studies in Ibero-American); in Oslo (the work of Professor Fredrik Stang); and institutes are in formation in Italy, Argentina and other countries.

Common law countries have been slower to experiment. In England the first fruitful attempts have been made at the London School of Economics rather than at the older universities. In America the adaptation of the English common law to native conditions has itself represented a form of comparative jurisprudence, and a growing interest is now manifested in the field. In general, comparative law will have most difficulty in forcing entry where law teaching is not presented in a framework of economics and political science; for comparative jurisprudence and law as a social science are two aspects of the same thing.

ÉDOUARD LAMBERT

See: LAW; JURISPRUDENCE; LEGAL EDUCATION; ROMAN LAW; CIVIL LAW; CUSTOMARY LAW; COMMON LAW; RECEPTION; CRIMINAL LAW; COMMERCIAL LAW; CONFLICT OF LAWS; LEGISLATION; UNIFORM LEGISLATION; INTERNATIONAL LEGISLATION.

Consult: Lambert, Édouard, "L'enseignement du droit comme science sociale et comme science internationale" in Valeur, Robert, *L'enseignement du droit en France et aux États-Unis*, Institut de Droit Comparé de Lyon, Études et documents, vol. xxiii (Paris 1928), and "Le droit commun de la société des nations" in Académie International de Droit Comparé, *Actorum*, vol. i– (Berlin 1928–) vol. i, p. 126–57; Beudant, R., Capitant, H., and others, *L'oeuvre juridique de Raymond Saleilles* (Paris 1914); Jonesco, Constant, *L'oeuvre de Raymond Saleilles en droit civil comparé* (Paris 1919); Achelis, Thomas, *A. H. Post und die vergleichende Rechtswissenschaft* (Hamburg 1896); Kohler, Josef, *Das Recht als Kulturerscheinung; Einleitung in die vergleichende Rechtswissenschaft* (Würzburg 1885); Demogue, René, *L'unification internationale du droit privé* (Paris 1927), tr. as "The Movement for the International Assimilation of Law" in *The Progress of Continental Law in the Nineteenth Century*, by various authors, Continental Legal History series, vol. xi (Boston 1918) pt. iii; Ripert, Georges, "L'unification du droit maritime" in *Journal du droit international*, vol. i (1923) 209–16; Wigmore, J. H., "The Movement for International Assimilation of Private Law: Recent Phases" in *Illinois Law Review*, vol. xx (1925–26) 42–60; Lepaulle, Pierre, "The Function of Comparative Law, with a Critique of Sociological Jurisprudence" in *Harvard Law Review*, vol. xxxv (1921–22) 838–58; Ehrlich, Ludwik, "Comparative Public Law and the Fundamentals of its Study" in *Columbia Law Review*, vol. xxi (1921) 623–46; Sarfatti, Mario, "Comparative Jurisprudence in Italy with Regard to Private English Law" in *Law Quarterly Review*, vol. xxxviii (1922) 371–80; Gutteridge, H. C., "The Study of Comparative Law in France and England," and "The Institutes of Comparative Law in France and Italy" in *Journal of Comparative Legislation and International Law*, 3rd ser., vol. iv (1922) 84–88 and vol. vii (1925) 212–16; Meili, Friedrich, *Institutionen der vergleichenden Rechtswissenschaft* (Stuttgart 1898), containing extensive bibliography of the literature of comparative law and of comparative law movements.

COMPARATIVE PSYCHOLOGY. Logically and practically, comparative psychology should denote the study of mind, its conditions, expressions and relations, by means of the method of comparison. Actually, the term is synonymous with animal psychology, which as it happens is mainly the study of behavior. But whatever the accident of usage the linking of "comparative" with "psychology" has long implied scientific study of the growth or development of mind and its behavioral patterns in the individual organism and their evolution in the race. Indeed, genetic description or the history of mind is quite as distinctive of comparative psychology as is its special method, and since the achievement of such description necessitates the use of all materials of ontogeny and phylogeny comparative psychology is inclusive of the greater part of human psychology as well as of that of all other organisms. Only to the extent that it is the science of experience (the psychology of the self) is human psychology sharply separated from comparative psychology. The two contrast significantly in that comparative psychology has always tended to be more highly objective, to concern itself especially with problems of genesis and development and to constitute, historically at least, a bridge between general biological science and introspective psychology.

More intimately than the general science of psychology comparative psychology is associated with the comparative disciplines of zoology,

anatomy, physiology, pathology and sociology. From these subjects it constantly borrows facts and methods. Its origin traces to natural history —historically the naturalistic uncontrolled observation of animal life. Evolutionary hypothesis at various times has extended and intensified interest in comparative psychology and finally, following the publication of Darwin's views, focused it on mental evolution. During the latter half of the nineteenth century naturalistic observation of the senses, instincts and habits of organisms was gradually supplemented by the introduction of experimental method with its development of special techniques for the analysis of behavior and control of conditions of observation. By the end of the century the experimentalizing of comparative psychology had progressed conspicuously. The movement was especially vigorous and influential in America, where as contribution to animal behavior, animal psychology, genetic psychology and comparative psychology a large amount of important observational and theoretical work has been reported.

Notable in the history of comparative psychology are invention and refinement of methods of observation, perfecting of observational controls, increase in accuracy and completeness of description, and extension of influence. Both methodologically and factually the subject has exerted significant influence on the general science of psychology and its technologies and on education and the social sciences. Evidently the remarkable development and persistence of the experimental movement in the comparative study of mind and behavior are due chiefly to the robust objectivism and methodological resourcefulness of investigators. Uncontrolled naturalistic observation, anecdotal description, anthropomorphism and careless interpretation have been gradually replaced by careful, critical inquiry, increasingly objective description and eminently fruitful speculation.

Necessarily objective, because the method of introspection is applicable only in the study of the psychology of the self, comparative psychology more than most other branches of the science has tended to study the organism as a whole. Thus with the aid of other sciences it has achieved knowledge of interrelations of structural, functional and experiential phenomena. Much of its work may properly be designated as psychobiological. Illustrative of lines of inquiry which have been fruitfully developed are the following. For convenience of description the three major categories, receptivity, affectivity and adaptivity, are employed.

Studies of receptivity (sensory phenomena) are numerous and conspicuously important. They include: discovery and analysis of general and specialized modes of qualities and sense, their characteristics, relations and values; interrelation of sensory and other phenomena and association of processes of reception with those of response. It is through receptive capacity that the organism maintains contact with its environment. Many aspects of the problems within this category have been investigated in a wide range of organic types, often with special attention to adaptation, ontogeny, phylogeny, variability, thresholds, norms, abnormal deviations, modifiability and educability. The phylogenesis of vision, and more recently of color vision, has interested many investigators. The layman is as a rule surprised to learn that whereas monkeys and apes apparently possess color vision similar to that of man dogs and cats are either color blind or possess color sensitiveness radically different from our own.

In the field of affective phenomena studies are less numerous than in that of receptivity. Observation and analysis of affective experience and behavior in many types of organism have been attempted. Feelings, emotions, sentiments and their behavioral correlates are recognized as worthy of experimental study, but techniques for this purpose are less satisfactory than in the case of receptivity and of adaptivity. Even the present terminology for affective phenomena is obviously inadequate. The term fear, for example, denotes an experience or a bodily picture, either or both. While the student of human psychology has studied especially the experience, the comparative psychologist has endeavored to observe, so far as practicable to measure, and thus to obtain accurate description of the bodily picture. Temperament, which possibly is primarily affective in its constitution, seems more likely to be serviceably analyzed, measured with respect to its constituent processes, described genetically and ultimately modified and controlled through and by means of the efforts of the comparative psychologist than otherwise. It is recognized especially by social scientists that there are various reasons for looking to comparative psychology and psychobiology for experimental conquest of affective experience and behavior and for the achievement of diagnostically valuable measurements and of a degree of experimental control of the specific

phenomena which will place affectivity, as represented for example in temperament, no less definitely within the sphere of human engineering than are now phenomena of receptivity and adaptivity (intelligence).

Studies in adaptivity are mentioned last because they most obviously and conspicuously command attention. Whereas a generation ago instinct and habit were being studied comparatively as sharply contrasted tendencies in animal life, today there is substituted for both the concept of behavioral adaptivity. Knowledge is sought of types, characteristics, external and internal conditions, relations and values of the processes of learning, habit formation and modifiability, all of which are forms of behavioral adaptation. Through numerous scientifically admirable experimental studies of adaptivity comparative psychology has greatly extended and perfected knowledge of the processes involved and of the nature and relations of the hereditary basis of action (formerly called instinct) and of those developments and modifications of structure which condition the appearance of distinctively individualized patterns of behavior. Research has largely emancipated the comparative psychologist from the *ex cathedra* pronouncement that certain behavior patterns are inherited and certain others acquired individually. It has been demonstrated that certain structural conditions are inherited and that from and upon these develop structures and reactive capacities which finally gain expression in more or less definitely, complexly and permanently adapted activities. Adaptivity is therefore exhibited by current work in comparative psychology as a fundamentally significant category and concept. Modern studies of instinct and habit tend more and more intimately to involve and engage the materials and techniques of experimental zoology and structural and functional neurology as well as of psychobiology.

Of theoretical positions the teleological and the mechanistic (*see* MECHANISM and VITALISM) appear in comparative psychology as in all science. That they are other than expressions of temperamental differences among investigators has not been proved. Extremists are not lacking, but the majority of comparative psychologists appear to be pragmatic in their objectivism and to harbor the hope, if not also the belief, that their division of biological science is more likely to be advanced than retarded by open mindedness, breadth of view, freedom from dogmatism and willingness to try all methods and all points of view. Few of them have denied or are prepared to deny that mind may be an aspect of activity or at least of organic activity. As a rule they strive disinterestedly for reliable genetic description of mind and its expressions in behavior and thus for a better understanding of life.

ROBERT M. YERKES

See: PSYCHOLOGY; SOCIAL PSYCHOLOGY; CHILD PSYCHOLOGY; BEHAVIORISM; GESTALT; CONSCIOUSNESS; INSTINCT; ANIMAL SOCIETIES; BIOLOGY.

Consult: As representative of stages of development, points of view and major fields of inquiry in comparative psychology: Romanes, George John, *Mental Evolution in Animals* (London 1883); Morgan, C. Lloyd, *An Introduction to Comparative Psychology* (rev. ed. London 1906); Thorndike, Edward L., *Animal Intelligence* (New York 1911); Hobhouse, L. T., *Mind in Evolution* (3rd ed. London 1926); Washburn, Margaret Floy, *The Animal Mind* (3rd ed. New York 1926), with bibliography; Watson, John B., *Behavior: an Introduction to Comparative Psychology* (New York 1914); *Handbuch der vergleichenden Psychologie*, ed. by G. Kafka, 2 vols. (Munich 1922), with bibliography; Yerkes, Robert M. and Ada W., *The Great Apes, a Study of Anthropoid Life* (New Haven 1929), with bibliography.

COMPARATIVE RELIGION. Although religions have actually been compared for more than two thousand years, comparative religion as a scientific discipline is modern, having its point of origin in the study of religious data by scholars in the second half of the nineteenth century. Made on the pattern of comparative philology and comparative mythology, the term comparative religion has always been awkward and unsatisfactory. It may be regarded as synonymous with the science of religion, *science des religions*, *Religionswissenschaft*, and inclusive of *les sciences religieuses*. The generally accepted divisions of the study are history of religions, psychology of religion and philosophy of religion, corresponding with Goblet d'Alviella's classification of hierography, hierology, hierosophy, although L. H. Jordan among others has steadily advocated a further division to be devoted to comparison of religions (see Third International Congress for the History of Religions, *Transactions*, Oxford 1908, vol. ii, p. 365–452).

From the time of the mingling of religions in the Greco-Roman world thinkers have been forced to evaluate their own religion in relation to others. Scores of theories have been advanced for the reconciliation of religions, theories as to the nature of religion, laws of religious development and interpretations of religious origins.

The professedly scientific theories of modern scholars in the field of religious origins were often anticipated by those of earlier thinkers: for example, the worship of the souls of dead heroes advanced by Euhemerus (*c.* 300 B.C.); fetishism and astrolatry, by C. De Brosses (1709–77); satisfaction of human needs, by A. Court de Gébelin (1725–84); animism, by N. S. Bergier (1718–90); astrolatry, by C. F. Dupuis (1742–1809); fetishism, deified men and astrolatry, by C. Meiners (1747–1810); and the sense of wonder and mystery, by C. G. Heyne (1729–1812). A note which runs consistently through all these centuries is the steady assumption of the supreme status and transcendent worth of Judaism and Christianity. All work on religions therefore resolved itself into apologetics. Conditions were not ripe for the development of religious sciences until toward the close of the nineteenth century. Then several factors converged to make possible a more objective approach to religious materials. After many false starts there developed a historical and critical spirit best represented in the mid-century by K. O. Müller in his *Prolegomena zu einer wissenschaftlichen Mythologie* (Göttingen 1825). Then, also for the first time, there was made available an adequate mass of reliable materials relative to many religions which had been collected by European conquerors, travelers and missionaries. The conflicting and discordant attempts to interpret these religions made more than ever apparent the necessity of finding a method free from bias and a priori reasoning. At the same time the achievements of the new science of comparative philology, followed by the first flights of comparative mythology, turned the philologists to the study of the religions revealed in the newly discovered sacred books of the Orient. A still greater stimulus was the theory of biological evolution, which encouraged anthropologists and students of society to seek a law of evolution in the religious history of man. Outstanding investigators in theology, history and the sciences were attracted by these developments and undertook to put the history of religions on a scientific basis; a new objective attitude and an effort to escape the hampering hand of apologetics became signs of the new trend.

The new science found an eager welcome. University departments were given over to it and before the close of the century there were chairs for the study of religion in Holland, Switzerland, France, Italy, Denmark, Belgium and America. The science rapidly acquired special lectureship foundations, its own journals, museums, textbooks and international congresses. Although freed from the shackles of apologetics, it soon became clear, however, that comparative religion could not remain a discipline circumscribed within definite boundaries, for its development as a science depended upon research in all phases of the history of man. Specialists in all the sciences which deal with human culture have during the last century been its builders, and the great names which mark the stages of its development are also the important names in the various social sciences.

The exploitation of the rich heritage of materials and tools of research furnished by earlier scholars was undertaken by no less than six distinct groups, each with its own special interest. The chief figure of the philological school was Max Müller (1823–1900), who had made a brilliant application of comparative philology to the study of mythology and who now turned to the interpretation of religion in the opening lectures of the Hibbert Foundation (*The Origin and Growth of Religion as Illustrated by the Religions of India*, London 1879) and of the Gifford Foundation (*Natural Religion*, London 1889; *Physical Religion*, London 1891; *Anthropological Religion*, London 1892; and *Theosophy: or, Psychological Religion*, London 1893). The anthropological school, which was interested chiefly in primitive religions, had as its outstanding figures before the opening of the century E. B. Tylor (1832–1917), J. G. Frazer (1854–) and A. Lang (1844–1912). The method of both of these groups was comparative and psychological. Not to be classified in any school but of great influence was Herbert Spencer, who began his *Principles of Sociology* (3 vols., London 1877–96) with a treatment of religious origins. In France in the closing decades of the century Émile Durkheim (1858–1917) announced a new objective sociological method, while earlier in Germany M. Lazarus (1824–1903) and C. Steinthal (1823–99), later joined by W. M. Wundt (1832–1920), had established the school of *Völkerpsychologie*. In addition to these influences there were scholars like Albert Réville (1826–1906), Jean Réville (1855–1908), Conrad von Orelli (1846–1912), Chantepie de la Saussaye (1848–1920), Maurice Vernes (1845–1923), C. P. Tiele (1830–1902) and many specialists in the realm of a single religion, who continued the tradition of the historical school. Finally, there were the theologians, historians and anthropol-

ogists who continued to write histories of religions and comparative religion colored with overt or disguised apologetics. The story of the last half century of development is thus largely a record of slow emancipation from presuppositions and the refinement of methods on the part of all groups, with a gradual realization of the necessary synthesis of the sciences in the interpretation of the constantly changing social process of which religion is a function.

The escape from unconscious biases which are part of the intellectual climate in which scholars live has also been a slow process. Experience indicates that the attainment of a purely objective approach to the materials of religion is especially difficult. Although scholars early and easily abandoned the concept of primitive revelation, a species of revelation theory continued to hold the ground for decades. Theological dogma was likewise discredited, but the continuation of its fundamentals in the religious philosophies of G. W. F. Hegel, F. E. D. Schleiermacher, Immanuel Kant and A. B. Ritschl shaped the world view of many scientific workers and colored their interpretation of the facts of religions. Only in the last decade have theological ideas and concepts of the supernatural, regarded as functions of social groups, been brought completely within the control of the religious sciences. The science of religion has not even yet outgrown fully such concepts as a "faculty of faith," the psychological unity of mankind, religious sentiment, religious instinct and religious consciousness. A third bias and a much more serious one was the presupposition that a unilinear law of evolution might be discovered in the social realm and therefore also in the development of religion. Herbert Spencer, Max Müller, Émile Durkheim and the early anthropologists shaped their materials in terms of this hypothesis. The general titles of the Hibbert lectures also indicate this interest. Reckless use of the comparative method did make possible the arrangement of the materials of the religions of preliterate peoples into a plausible scheme of evolution, but inability to find agreement regarding origins and conflicting reconstructions of the supposed law of development led to the chastening of the method and removal of its influence from the field. A more persistent bias—the identification of religion with ideas of the supernatural and attitudes toward it—was the result of the peculiar nature of Christianity as a religion. Indeed, when the long search for religious origins is examined it often turns out to be only a search for the earliest and simplest idea of the supernatural. The controversy over magic and religion was made possible only because religion had by definition been identified with man's relation to divine beings. This long logomachy ended in the discovery that so-called magic is simply an irrational, emotionally created technique and hence, unless a distinction is arbitrarily read into the two terms, inseparable from other phases of the religious complex. When the idea of a progressive evolution from the simple to the more complex and the idea of religion as *belief* in the supernatural were ultimately removed, the religious sciences were able to see religions in their manifold varieties as behavior patterns of groups in search of the necessary values in life. The drive of human desires for physical and social satisfactions thereafter took the central place in the study of religion, while ideology, cult and the specific values of the ideal could be clearly seen as relative to and shaped by the environmental situations of the group existence.

When this life process, moving through changing social human situations in relation to a natural environment, was accepted as the creator of the elements of the religious complex, the method of the religious sciences became clear. The interpretation of a religion must depend upon an adequate description of these changing situations. Then idea, ideal and cult technique will be naturally oriented in their setting as functions of group life. To attain that adequate description is the task of the science, and its fulfilment requires the collaboration of all the social sciences and their specific methods. For materials, instruments of research and refinement of method the religious sciences depend upon prehistory, archaeology, geography, physical anthropology, ethnology, psychology, history, philology, sociology, social psychology and the criticism of documentary data and all the other social sciences which interpret economic, legal and institutional materials. Probably the great interpretative works of the future in the science of religion will be works of collaboration by groups of specialized scholars familiar with the materials and methods of these various sciences.

A. Eustace Haydon

See: Religion; Religious Education; Theology; Dogma; Sacred Books; Evolution, Social; History; Anthropology.

Consult: History: Pinard de la Boullaye, H., *L'étude comparée des religions*, 2 vols. (3rd ed. Paris 1929) vol. i; Réville, J., *Les phases successives de l'histoire des re-*

ligions (Paris 1909); Jordan, L. H., *Comparative Religion; Its Genesis and Growth* (Edinburgh 1905), and *Comparative Religion; Its Adjuncts and Allies* (London 1915); Gruppe, O., *Geschichte der klassischen Mythologie und Religionsgeschichte* (Leipsic 1921); Hardy, E., "Zur Geschichte der vergleichenden Religionsforschung" in *Archiv für Religionswissenschaft*, vol. iv (Tübingen 1901) p. 45–66, 97–135, 193–228; Lehmann, E., "Zur Geschichte der Religionsgeschichte" in Chantepie de la Saussaye, P. D., *Lehrbuch der Religionsgeschichte*, 2 vols. (4th ed. Tübingen 1925) vol. i, p. 1–22; Haydon, A. E., "Twenty-Five Years of History of Religions" in *Journal of Religion*, vol. vi (1926) 17–40.

METHODOLOGY: Pinard de la Boullaye, H., *L'étude comparée des religions*, 2 vols. (3rd ed. Paris 1929) vol. ii; Foucart, G., *Histoire des religions et méthode comparative* (Paris 1912) p. i–clxiv; Boas, F., "The Methods of Ethnology" in *American Anthropologist*, vol. xxii (1920) 311–21; Graebner, F., *Methode der Ethnologie* (Heidelberg 1911); Durkheim, É., *Les règles de la méthode sociologique* (2nd ed. Paris 1901); Case, S. J., "The Historical Study of Religion" in *Journal of Religion*, vol. i (1921) 1–17; Haydon, A. E., "What Constitutes a Scientific Interpretation of Religion?" in *Journal of Religion*, vol. vi (1926) 243–49.

COMPAYRÉ, GABRIEL (1843–1913), French educational administrator and author. Compayré was professor of philosophy at Toulouse, inspector general of public instruction and a member of the Academy of Moral and Political Sciences. He published many books on the history and science of education, translations of Locke, Sully, Huxley, and pamphlets on J. J. Rousseau, H. Spencer, Pestalozzi, J. Macé, Condorcet, Herbart, F. Pécaut, Montaigne, Démia, Horace Mann, le Père Girard, Fénelon and Froebel. In 1909 he became director of *L'éducateur moderne*, an educational review.

Compayré was not only a popularizer of pedagogy but a scientific pedagogue; although he had no pedagogical system of his own he understood and explained all systems. He was the first in France to base pedagogy upon psychology, especially child psychology, which he tried to build up experimentally. His *L'évolution intellectuelle et morale de l'enfant* (Paris 1893, 6th ed. 1913; tr. by M. E. Wilson in International Education series, vols. xxxv, liii, New York 1902–09) is based on observations of his own children concerning senses, memory, imagination, instincts, imitation, curiosity, judging and reasoning, language, plays. His *L'adolescence: études de psychologie et de pédagogie* (Paris 1909, 2nd ed. 1910) introduced to France by means of an exhaustive and sympathetic review the work of G. Stanley Hall. While some of his work is obsolete his book is still of use, and his conception of pedagogical science as independent of general philosophy was wholly new in its time and place. He gave scientific pedagogy a preeminent place in normal school training, in universities and in educational councils and was chiefly responsible for the development in France of pedagogical science.

ROGER COUSINET

Consult: Bourdeau, J., "Notice sur la vie et les travaux de M. Gabriel Compayré" in Académie des Sciences Morales et Politiques, *Séances et travaux*, vol. lxxxvii (1917) 237–72.

COMPENSATED DOLLAR. The compensated dollar proposal is one of several plans which have been suggested to cure the evils of inflation and deflation. The object of these plans is to control money and credit with a view to maintaining an approximately steady general level of prices. This does not mean the control of individual prices or "price fixing." The general level of prices can be maintained while individual prices are perfectly free to move, just as the waves of the sea are free to move up and down relatively to the general sea level.

It is only since the World War that the idea of a monetary unit stabilized in purchasing power has attracted any widespread attention. Although there had been many similar schemes for varying the gold content of the dollar proposed by earlier writers, the compensated dollar proposal was most fully set forth by Fisher (*Stabilizing the Dollar*). As a result of the new interest in the problem the plan has been widely discussed and embodied in several bills which have been laid before Congress.

The chief characteristics of the compensated dollar plan may be briefly summarized. First, upon its adoption all gold coins would be dispensed with and replaced by gold certificates. These would not, like the present gold certificates, entitle the holder to a fixed quantity of gold, but would entitle him to a fixed value of gold.

Second, the weight of gold which would have this fixed value, i.e. would purchase the same market basket full of goods, would vary from time to time and would be determined in accordance with an index number of commodity prices. If, for instance, the commodity price index should rise to 102, that is, 2 percent above the par agreed upon, the gold content of the dollar would be increased by 2 percent. If the index should decline to 97 the gold content of

the dollar would be reduced by 3 percent. In other words, the price of gold at the United States Mint, instead of remaining immutably and artificially fixed as it has been since 1837 at the figure of $20.67 an ounce, would vary from time to time just as the price of silver or any other commodity varies according to market conditions.

Third, in order to keep a 100 percent reserve behind the gold certificates so that they would be fully covered like the present gold certificates, any decrease in the value of the covering gold would require that the government buy more gold with gold certificates to make up the deficiency. Conversely, if gold should increase in value additional gold certificates would be issued.

Fourth, the equivalent of the present free coinage of gold would be retained. The right to deposit gold in exchange for certificates and likewise the right to redeem certificates in gold would have the same effect as free coinage has today. Free coinage would then mean, as practically it does mean today, not the actual coinage of gold but the unlimited purchase of gold by the government at the price set. The government would pay for gold with certificates just as it does today. The difference would be that the price of gold under the compensated dollar plan would vary in accordance with the variations in the official index number. Conversely, the government would redeem gold certificates, just as it does today, in gold at the market weight per dollar, in whatever amounts and whenever presented. The difference in redemption would be that under the new plan the amount of gold paid out to redeem each dollar would vary from time to time.

Fifth, there would be imposed a small brassage fee of, say, one percent. That is, the government would charge one percent more for gold than it would pay for it. The object of this charge would be not to remunerate the government for its services in operating the system but to prevent speculation in gold at the government's expense. Such speculation might otherwise occur if, for instance, gold could be bought on one day at $20.50 an ounce in the open market and it were known that it could be sold back to the government the next day at $20.80. This brassage fee of one percent, coupled with the restriction that on no one date would the government change the price by more than one percent, would suffice to prevent speculation injurious to the government. Any speculation which might remain would be merely in anticipation of expected price changes, would be beneficial rather than otherwise and would not be at the expense of the government exchequer.

From the standpoint of actual cost of operation the compensated dollar plan is far superior to any other plan for stabilization which still maintains gold as the basis of redemption. If the gold standard were to be given up, an entirely different and simpler system could be substituted, such as that proposed by Professor Gilbert Lewis of the University of California, who would have certificates virtually, although not literally, redeemable in composites of commodities. The "managed currency" of Professor John Maynard Keynes is another proposal for achieving the value standardization of the money unit. He proposes to reject gold as a dangerously harmful monetary standard and to substitute paper credit currency in its stead. In his scheme also the amount of the currency issued would be determined by index numbers.

IRVING FISHER

See: INFLATION AND DEFLATION; BUSINESS CYCLES; PRICE STABILIZATION; CREDIT CONTROL; MONEY; CREDIT; BANKING, COMMERCIAL; CURRENCY; COINAGE; GOLD; INDEX NUMBERS.

Consult: Fisher, Irving, *Stabilizing the Dollar* (New York 1920), and *The Money Illusion* (New York 1928); Clark, J. M., "Possible Complications of the Compensated Dollar" in *American Economic Review*, vol. iii (1913) 576–88; Taussig, F. W., "The Plan for a Compensated Dollar" in *Quarterly Journal of Economics*, vol. xxvii (1912–13) 401–16.

COMPENSATION AND LIABILITY INSURANCE. The purpose of liability or third party insurance, including workmen's compensation insurance, is to indemnify the insured for damage to the persons or property of others for which he has been held legally liable. Although frequently written in the same form, insurance against the hazards of injury to the persons of third parties and to the property of third parties represents entirely separate covers and separately calculated premiums. The third parties suffering personal injuries may be employees or members of the public. For actions arising out of industrial injuries to employees employers' liability and workmen's compensation policies are used, while claims by the public are covered by one of the numerous so-called public liability insurances. For damage suits originating from injuries to the property of third parties parallel property damage policies have been devised where there is a hazard.

The development of liability insurance has been conditioned by the increasing employment of practises involving danger of injury to third parties and by the changes in the law governing liability. Until the last quarter of the nineteenth century the law in all countries held a person liable for injuries caused by his own acts of commission or omission or (except in England and the United States) those of his agents, wards and servants, if it could be proved that this person did not exercise a reasonable amount of prudence and care, where law was based on de facto responsibility for ownership or control (e. g. Prussian act of 1838). The mere occurrence of injury caused by ownership or control created liability. On the continent liability was linked to negligence by the doctrines of civil law, and in English speaking countries by common law as interpreted by the courts. In the latter the liability for injuries to employees as such was for a long time nonexistent. The courts held the employer blameless if it could be shown that the injury was the result of an act of another workman or was a usual risk of occupation or was due in however small a part to some action of the injured party. Any of these defenses of the employer was sufficient to defeat a suit for damages except in a very few cases. It was not until 1880 that the Employers' Liability Act was passed in England which invalidated to some extent the "fellow servant" defense of the employer and for the first time penetrated the almost complete immunity of the master in industrial accident suits. Soon thereafter the American states entered upon a period, which was to last for a quarter of a century, of employers' liability legislation attempting to restrict the scope of employers' defenses. The injured worker could now hope for a measure of relief in the courts, and although his case was weak according to modern standards it created a new hazard for his employer, who called for insurance protection. The first company, the Employers' Liability Assurance Corporation, began business in England in 1880; in 1886 it also wrote the first employers' liability policy issued in the United States. The first American company was the Travelers of Hartford founded in 1889.

Despite the modifications of employers' defenses introduced by employers' liability enactments very little improvement was effected in the condition of the employee. For the essential feature of a negligence system is that liability must be tested and proved in a court of law, and no matter how broad minded its administration no court can overcome the handicap of a code of rules originated centuries before the factory system. Most injured workers received no indemnity at all. Those few who were successful were compensated months and even years after their injury. A remedy was sought in substituting the principle of compensation for that of liability for negligence. The principle of compensation is based on the assumption that the complexity of the modern industrial structure makes it a practical impossibility to allocate blame for an industrial injury. It goes much further than the mere statement that it is unjust for the employer to leave to his employees the burden of meeting the industrial injury hazard; it postulates that industrial injury is an occupational risk and as such is one of the costs of production which like all other costs must be borne by the final consumer of the product. The employer is made responsible not for the occurrence of the injuries but merely for collecting from the group the cost of paying for them. As soon as an industrial injury as defined in the appropriate statute takes place it is compensated by the employer or the insurer to whom he has transferred his liability. The defenses of the "fellow servant" and the "assumption of risk" rules are entirely gone, and that of contributory negligence is almost entirely gone. The first English compensation law was enacted in 1897 and the scope of its operation was materially extended in 1900 and 1906; it was revised again in 1923. The first effective American compensation statute dates from 1911, and since then all but four American states (Arkansas, Florida, Mississippi and South Carolina) have enacted compensation legislation.

Generally speaking, on the continent of Europe liability for industrial injuries was from the beginning of the nineteenth century governed by the doctrine of negligence of the civil law, which did not differentiate between employees and members of the public and consequently did not offer the defense of the "fellow servant" rule. The risk borne by the employer was therefore greater than in English common law countries and at an earlier date he sought to protect himself by taking out collective insurance for his workmen with a private company or by insuring himself in a state fund, as in France, or by making contributions to workmen's benefit organizations, as in Prussia. With

the spread of industrialism the principle of compensation was eventually substituted for that of liability. The steps in this development were the shifting of the burden of proof in industrial injury cases to employers, the development of the concepts of occupational risk and the extension of the compensation principle from a few hazardous trades to a great majority of industrial occupations. Beginning with Germany in 1884 European and South American states enacted general workmen's compensation laws; in some cases these statutes were merely an extension of liability legislation which heretofore applied only to railways, shipping and mining. This process received an additional impetus from the trend toward social insurance in the post-war period, so that at present virtually every country of occidental civilization has some amount of compensation legislation.

Compensation laws created a new hazard for the employer and made insurance protection imperative for all but the very large concerns and for industries in which the occupational risk is extremely small. Since compensation laws are enacted for the benefit of the workmen and payments may extend for as long as a generation after the occurrence of the accident, insurance protection is essential in carrying out the purposes of the legislation. Compensation statutes in practise, however, do not always connote compensation insurance. Thus the English take the extreme position of permitting the employer to remain uninsured, although in fact a majority pool their risks in mutual employers' associations or insure with private carriers. In France workmen's compensation insurance is also optional, but the payment of compensation is safeguarded by a state guaranty fund supported by taxation of non-insured employers. On the other hand, where compensation is an integral part of a more comprehensive program of social insurance, compensation insurance with a specified insurer is likely to be compulsory. In Germany, for example, every employer must insure his accident risk in a mutual employers' association; in addition both employers and employees must contribute to sick benefit funds, which cover incidental disability from industrial accidents. Although the German system is highly autonomous in administration, the insurance funds are closely supervised by the state. Seven American states which compel insurance with a state fund (although two of these permit self-insurance) offer an example of still another form of compulsory insurance. In other American jurisdictions the general rule is that the employer must either insure or satisfy the state that he is able financially to bear the risk himself.

Self-insurance may under certain conditions be almost as satisfactory as insurance with a carrier. If the establishment fund of a large concern were carefully segregated from its other assets, managed as an independent entity and efficiently supervised by public authority it would be as safe as any other insurance fund. But even in such circumstances the fact that compensation is paid directly by the employer is likely to intimidate the employee into accepting less than his just due. In too many cases self-insurance means only that the employer is relieved from making insurance premium payments and pays benefits as long as his assets warrant. A disgraceful blot on the American compensation record is the frequency with which the victims of accidents, especially of a catastrophic character, receive little or nothing because the employing corporation is insolvent and passes out of the picture.

Where the American employer insures his compensation risk with a private carrier he may choose between the stock company, the mutual company and the reciprocal exchange. The stock company, a profit making enterprise, relies for its business upon a system of agencies which in many cases extends to every part of the country. It promises to the employer a fixed cost of covering the compensation risk and the superior service of its widespread organization. Legally the mutual insurance company represents an association of persons or corporations who have combined their compensation risks. Mutual companies differ, however, from many mutual associations of employers found in European countries in that most of them are, like stock companies, operated by a corps of specialists; generally the members of the mutual are no closer to the details of the business than are the customers of the stock carrier. Mutuals do not maintain an expensive agency system, and they refund profits to their members in the form of dividends. The so-called reciprocal or interinsurance exchange is a variety of mutual. In legal form it is an association of persons each of whom agrees to indemnify every other member severally and not jointly. Each member maintains a separate deposit which corresponds to a premium in an insurance company and constitutes the base of the entire interinsurance structure. The size of the deposit determines

the proportion in which each member is charged upon occurrence of loss and the liability of each member for debt. The affairs of the exchange are in the hands of a manager or attorney-in-fact, who is paid a certain percentage of the deposits. The reciprocals insist that legally they are not insurance corporations and that their organization makes them immune from all insurance legislation as such. Their exact legal status is almost entirely undetermined, and the legislation which governs them is totally special and inadequate. Also in ten American states and some foreign countries the employer may (and in seven American states must) insure his risk with a state fund which is actually a mutual company administered by government appointees.

The comparative importance of these carriers in the United States at the present time may be measured by the distribution of premium income among them: the stock company still obtains 60 percent, although it is faced with ever keener competition; the share of the mutual company is about 20 percent and that of the state fund, including the exclusive funds, runs consistently between 16 and 17 percent; the reciprocal exchange wrote about 6 percent of the business in 1923 but its share had declined by 1929 to about 3 percent.

A scientific comparison of insurance carriers would involve three elements: cost of insurance to employers and of administration of compensation to the state, security to both employers and beneficiaries and the standard of service maintained in promptness and adequacy of compensation payments and in accident prevention work. Such comparison is, however, difficult; the carriers differ from each other in the type of business done and comprehensive data on all these questions are not available. As compared with the mutual the stock company claims superior security because of its broader base of operations, and in American practise it has been outstanding in efforts toward industrial accident prevention. It is to be observed, however, that there have been failures among stock companies and that their expense ratio is about twice as high as that of the mutuals. On the other hand, the lower costs of the mutuals are due not merely to the fact that they have eliminated the agency system but also to the fact that as a class they write larger risks which tend to produce lower loss and expense costs. The reciprocal exchange operating on the assessment plan is not in a position to offer the advantage of fixed cost to its members, unless it reinsures or severely limits its members' liability; moreover, if it can limit the liability of its members for debts to third parties (a privilege recognized in one state), the reciprocal as a type of insurance carrier does not maintain an adequate standard of security for compensation beneficiaries. Apart from public subsidies sometimes received, the expenses of a properly administered state fund should not be lower than those of a mutual company, nor is the security of payments by it superior, except morally, perhaps, to that of an efficiently managed private carrier. As a public agency it cannot select its risks, and in the case of certain industries with a high injury hazard it is often the only carrier willing to insure. Theoretically a state fund does not have as much inducement as a private carrier to engage in "short changing" settlements with victims of industrial accidents and to delay the payment of compensation by prolonged litigation. In fact, one of the conclusions of the investigation carried out by the United States Bureau of Labor Statistics covering the period from 1917 to 1919 was that "state funds are more liberal in settling claims and appeal fewer cases to the commissions or courts" (*Bulletin*, no. 301, 1922, p. 4). Other equally authoritative students of the question, however, point to the fact that for political reasons the personnel of the state insurance fund is often mediocre and that appropriations to maintain it are often cut down to a point where efficiency is hampered. Moreover, it is alleged that employees of the state fund sometimes consider themselves trustees for the insuring employers rather than for the injured employees and resort to the same practises of paring down claims as do the less scrupulous private carriers. This is particularly detrimental to the interests of employees when the settlement of claims is in the same hands as those which manage the state fund.

As compared with self-insurance and competitive insurance carriers monopolistic insurers have a great many theoretical advantages. They enjoy considerable economies in the cost of operation: their selling costs are wholly eliminated and smaller savings are effected in policy issuance, claims adjustment and plant inspection. In the matter of security of payments to beneficiaries they have the undoubted advantage of unlimited power of assessment upon the insurants and of a base of operation usually sufficiently broad to yield a premium income of

safe magnitude. Where the monopoly is vested in a public insurance fund separated from the administration of claims settlement, the monopolistic insurer should have a better record than a competitive insurer in the prompt and equitable adjustment of claims. These are the considerations which underlie the agitation in the United States for compulsory insurance with a state fund, espoused by organized labor and the American Association for Labor Legislation. The American experience with exclusive state funds, however, has not been as satisfactory as theoretical considerations would lead one to expect—particularly on the score of promptness and liberality of payments and initiative in undertaking accident prevention work.

In most American states employers' liability and workmen's compensation insurance are combined in one policy. The reason for this is that compensation nowhere applies to all industrial injuries: not all intrastate occupations are covered, interstate and foreign commerce are entirely left out, and under the so-called elective laws either employer or employee may elect not to come under the compensation law. Victims of industrial injuries not protected by the compensation law may sue and obtain relief under provisions governing employers' liability. The contract in general use is known as the Standard Workmen's Compensation and Employers' Liability Policy. It is required in many states and is used everywhere by the companies in order to secure uniformity. The principal clauses of the policy contain the promises of the company to inspect the insured premises, investigate reported accidents, defend suits and settle claims. Every part of the compensation law, whether mentioned in the policy or not, is in fact a part of the policy and governs its interpretation. The policy period is always one year, because of rapidly changing conditions that affect risk and premium. There is no policy face or limit; in every respect the company stands in the place of the employer.

Rate making in compensation insurance must be based on an adequate system of risk classification; otherwise the losses of one industry will be paid by another or, where a company carries other lines, by an altogether different group of insurants. A risk class or classification may be an entire industry, as cast iron pipe manufacturing; or an occupation, as carpentry; or a process, as blasting. In a classification are placed the loss and pay roll data for all insured risks and the average loss cost or pure premium ascertained. The risk classification must be broad enough to develop a dependable experience for rate making; it must be homogeneous in respect to physical hazard in order to yield a true rate; and it must coincide as far as possible with the actual divisions found in industry in order to eliminate a multiplicity of rates for a single plant. The requirement of homogeneity, then, conflicts with that of following the lines of industrial division and even more so with the requirement of sufficient volume of data. The rate maker may not simply pile up loss and pay roll data by adding the experience of the years cumulatively, for rates of accident frequency and severity change, wage levels rise or fall, the compensation laws themselves are revised and their administration is consistently liberalized. Some of the changes which invalidate uncorrected data, such as the effect of an amendment to the schedule of benefits, may be exactly measured; others, such as changes in wage level, are so tenuous that the actuaries no longer attempt to take them into consideration. At the same time, the data cannot be confined to the very recent past because what would be gained in homogeneity would be lost in volume. Again, territorial differences hamper the rate maker when he attempts to add to his data by using nation wide experience. Every state has its own compensation law; liberality of administration varies between the states; accident rates are not the same; wages are pitched at different levels. In order to be comparable and susceptible of combination data must be adjusted. These adjustment and correction factors and procedures, no matter how carefully conceived and executed, are nevertheless artificial and capable of error.

After years of attempting to pitch rates at precisely the correct level and to project rates made today into the future the compensation rate structure has become comparatively simple. National or basic pure premiums are constructed for all the risks of a given classification throughout all the states; thus the desired volume of loss and pay roll experience is secured. The resulting pure premiums are "reverted" (corrected) to the required state level. It is important to note, however, that this average pure premium is used only when the experience of a state is deficient in quantity. In the current rate structure an important factor in rate making is that of credibility, or standard for measuring the reliability of a single state's experience. Its purpose is to permit a

state to make its own pure premiums to the extent to which its experience measures up to the standard of experience adequacy. The final rate as given in the manual is obtained when the pure premium is loaded for expense such as taxes, the cost of acquiring business (commission to agents and brokers and the expense of field supervision), the expenses of maintaining the home office, of inspection and accident prevention, of claim adjustment and the like. Among the recent innovations proposed in premium making is the application of premium constants designed to make the smaller risks bear a greater share of expenses and loss costs.

The manual rate is further refined in application to individual risks by merit rating,which has reached its highest development in workmen's compensation insurance. Merit rating has been evolved in part as a competitive weapon and in part as a means of accident prevention. The stock companies, which require some means of combating the low cost argument of the mutuals and rely heavily on the service given to their policyholders, have naturally led in this development. One type of merit rating is schedule rating, in which the award of debits or credits on the manual rate is made by reference to a schedule or list of the physical features of the risk. If the individual risk is more safely guarded and operated than the standard of safety set it will receive a credit or reduced rate; in the opposite case the insured must pay a rate higher than the manual. The essential feature of the schedule rating plan is that it assumes a direct relationship between the physical features of the risk and losses. Despite the fact that it leaves out of consideration the intangible causes of accidents it is unexcelled as a specific means of calling attention to undesirable equipment and practises. But it is expensive to operate and is subject to abuse by the companies, which are naturally tempted to make rates as low as possible. Where schedule rating is prospective and gives credit for appearances, experience rating, the other type of merit rating, is retrospective. It awards merits and demerits on the basis of individual experience; where it is worse than that of the group, the insured is penalized; where it is better, he is given a credit. Thus experience rating measures both the physical and intangible causes of loss. Its great advantage from the point of view of the carrier is its cheapness, because it is purely an office operation. As a way of giving an object lesson in accident prevention it is necessarily inferior to schedule rating, since the offending process or machine is not specifically pointed out. The two plans at present are used together, even on the same risk, but the trend is toward placing more emphasis on experience rating. In the future the two rating schemes will probably be combined, experience rating serving as the basis and attention being called to the specific dangerous features of the risk. In the past one of the serious defects of both types of merit rating has been the persistent deficits resulting in premium income.

The National Council on Compensation Insurance is the dominant organization in compensation rate making in the United States. It is affiliated with local bureaus in all but a few states and through them it applies rates. Its entire operations are under the direct supervision of a representative of the Insurance Commissioners' Convention, who is chairman of all committees entrusted with matters of rating. For the other liability lines the national organization is the National Bureau of Casualty and Surety Underwriters. In general both organizations confine themselves to rating and allied functions and leave inspection, education and other services to the individual companies.

Perhaps even more important than correct rates are correct reserves. A reserve is a fund set aside to meet an obligation; it is held by the company in trust for policyholders and beneficiaries. There are two principal reserve funds: the unearned premium reserve and the loss reserve. The first of these consists of premium payments by the policyholders which have not been earned by the company at the date of valuation. This sum must be on hand to meet losses that will surely take place during the remainder of the policy period. Should the carrier go out of business it would reinsure all of its risks by transferring the unearned premium reserve to another company. It is needed also to make refunds to canceling policyholders. While the unearned premium reserve takes care of future obligations, the loss reserve is a fund for the payment of those already incurred. It is peculiarly vital in compensation and liability insurance: in workmen's compensation many of the payments are to be made in instalments extending over years, and the settlement of liability claims often requires considerable time.

The state regulates compensation and liability insurance at many points, of which the most important are rates, reserves, methods of claim settlement and production expense. In

the United States the insurance departments of the state governments exercise only a most casual supervision over the making of rates. In over half of the states not even the filing of rates is required, and when power over rates is given a board or official it is generally only that of approval. The usual standard to which rates must conform is that of adequacy, supplemented sometimes by the requirement of reasonableness, but there are many states that have no standard at all. Only in the state of Texas does the public authority make and enforce its own rates. The regulation of reserves is more stringent. The uniform liability loss reserve law adopted in twenty states requires the maintenance of a reserve equal to obligations on policies over three years old discounted at 4 percent and to 65 percent of the earned premium (less payments already made) on policies less than three years old. The regulation of production expense has so far been attempted only in New York, but in matters of insurance regulation the influence of the insurance commissioner of this state is so far reaching as to be almost nation wide. The restrictions which he has approved have not yet been entirely successful, but the trend of the times will demand for workmen's compensation the same restrictions as are already imposed on life insurance.

Public liability insurance has been less affected by legal developments than employers' liability and workmen's compensation insurance because liability for injuries to members of the public is still governed more or less by the old law of negligence. With minor exceptions public liability insurance acquired independent importance only with the introduction of machines in transportation, building and other exposed industries. It was the increasing use of the automobile more than any other single factor that stimulated the expansion of public liability insurance. The first automobile liability policy was written in England in 1895, and the first automobile property damage policy in the United States in 1898. At present automobile liability and property damage (liability) premiums represent about one third of the aggregate casualty premiums in the United States, and the present trend points to further rapid growth. Thirteen states in this country and two Canadian provinces have already enacted some form of semicompulsory or compulsory automobile liability insurance. An interesting recent development in compulsory automobile insurance is the suggestion that the principle of compensation without fault be applied to indemnification for automobile accidents. The numerous other public liability and property damage (liability) coverages available at present (*see* CASUALTY INSURANCE) are comparatively insignificant even in the United States, where they have reached their highest development. In 1929, for example, the net premiums for public liability and property damage other than automobile did not exceed 9 percent of total casualty premiums. Technically the various public liability lines closely resemble employers' liability and compensation insurance: they are written by the same carriers; rates and reserves are computed on the same principles. Important differences affecting rates and reserves are that while the compensation policy has no face, public liability forms have definite limits for injury to a single person and for total payments on a single accident and that a very important part of the public liability policy is the promise to defend suits against the insured, many of which are groundless and exaggerated.

C. A. KULP

See: INSURANCE; SOCIAL INSURANCE; NEGLIGENCE; EMPLOYERS' LIABILITY; WORKMEN'S COMPENSATION; HEALTH INSURANCE; AUTOMOBILE INSURANCE.

Consult: United States, Department of Labor, *Workmen's Compensation Insurance and Benefit Funds in the United States*, Twenty-third Annual Report (1910); United States, Bureau of Labor Statistics, *Comparison of Workmen's Compensation Insurance and Administration*, by Carl Hookstadt, Bulletin no. 301 (1922); Downey, E. H., *Workmen's Compensation* (New York 1924) chs. v and vii; McCahan, David, *State Insurance in the United States* (Philadelphia 1929); Michelbacher, G. F., and Nial, T. M., *Workmen's Compensation Insurance* (New York 1925); Kulp, C. A., *Casualty Insurance* (New York 1928) pt. ii; Michelbacher, G. F., and others, *Casualty Insurance Principles* (New York 1930); United States, Department of Labor, *Workmen's Insurance and Compensation Systems in Europe*, Twenty-second Annual Report, 2 vols. (1909); Cohen, Joseph L., *Workmen's Compensation in Great Britain* (London 1923); International Labour Office, *Compensation for Industrial Accidents*, Studies and Reports, ser. M, no. 2 (Geneva 1925); Manes, A., *Die Haftpflichtversicherung* (Leipsic 1902); Hertzfelder, Emil, *Haftpflichtversicherung* (Berlin 1914); Kirkpatrick, S. V., *Insurance of Public Liability Risks* (London 1924).

COMPETITION is a term in social theory which associates the fact of a struggle with the function of order. It is the key word in an account, real, abstract or fictitious, of how rivalry for prestige and income, for power and wealth, comes to promote organization. It is by compe-

tition—whether of persons, firms, industries, nations, races, beliefs, habits or cultures—that the fittest survive; individuals, instruments and institutions of different capacities are given places in a going society; and an industrial system, whose personnel passes, materials decay and arrangements change, is adapted to new conditions. Competition is at once a process of selection, an economic organization and an agency of social development.

The genus, of which competition is a belated sport, is rivalry. The fact of rivalry is universal in life and in society. It is manifest in a struggle between germ cells for a chance at life; plants, for sunlight and growth; bats and beavers and elephants, for food and mates; and kind against kind and like against unlike, for a foothold on the earth. It is evident in the strivings which attend the round of everyday activities; one against another, bakers contend to provide wholesome bread; undertakers, to give peaceful rest to the dead; salesmen, to break down resistances; scholars, to surprise truth and make contributions to knowledge; and uplifters, to do good. It appears in every social order under which men have lived; in the conflicts of tribes for unhappy hunting grounds; of holy men, for the glory of saying the most prayers; of barons, for castles on the Rhine; of merchant adventurers, for the spoils of the East; and of capitalists, to bag the largest profits and to establish the biggest and best foundations. As event follows event into history a machine process wins its way against ancient crafts; a novelty called business displaces custom and authority in the control of industries; a fresh interpretation is read into the established law; a modern creed replaces outworn dogma in dominion over the human mind. If all the world's a shifting stage, rivalry distributes the ever changing parts among the ever new players.

Competition is rivalry subdued into organization by rules of the game. Nature after centuries of creative effort produced no such scheme of arrangements as the competitive system. No great convention, called to consider how industrial activities might be put together, contrived such a constitution for the economic order. It grew up at a time when the mediaeval regime of prelate and baron, of fief and glebe, was passing; it was essentially the product of petty trade. Into its making there went an element of choice, apparent in a few big decisions. The older way of authoritative control was rejected because of the mischief it had done; monopoly was unacceptable because of the threat it carried. But there was no conscious judgment to abandon status, to establish contract, to transform landed into commercial property or to replace custom with the market in the making of prices. For the most part, such arrangements just grew up. They represent the accommodations of a myriad of men, in a million places high and low, to their own little necessities; they are the survivals of a series of chance judgments. The general features which characterize competition came into existence long before its elements were remarked or put together into a mental picture.

In spite of haphazard growth a structure may be discovered within the competitive system. It consists of two pairs of institutions: private property and contract; profit making and freedom of a trade. The usages of private property determine who is to hold and to control the various resources of society; the usages of contract, how persons, instruments and materials are to be brought together in the productive process. Together property and contract supply the mechanics of competition. The lure of profits draws individuals and corporations into industry and impels them to produce and market goods. The openness of an industry to all who care to take its chances prevents monopoly and limits money making to reasonable gains. The bait of profit is beacon and guide; the freedom of the trade is brake and governor. Together they direct industry, keep it orderly and adjust it to a changing social order.

Yet in no industry is competition as simple, mechanical or articulate as this. Each of the four institutions is a compound of many usages. The right to property is a bundle of equities, such as a voice in control, an interest in disposition and a claim to income, which may be put together into many permutations. An ownership of the old homestead in fee simple is one thing, the agglomeration of privileges which make up the ownership of a great railway system quite another. A shift in demand, the revision of a statute, an innovation in technology or a change of management may affect the character of a right or rob property of its value. The right of contract, once thought of as a voluntary agreement between equals, is a changing thing; it has been remade by the rise of the corporation, the coming of business and the growth of large scale production. At present many bargains with all their conditions are proposed by one party and accepted or rejected by the other. The profit motive appears in many forms; the corn grower

and the automobile manufacturer, the baron of steel and the baronet of coal, may be equally devoted to their own pecuniary interests, but the arts of money making which they practise are very different. All trades may at law be equally open, but in fact they are buttressed about by very different barriers against the intruder. Competition is too living to know a set pattern; the current organization of the shoe industry did not prevail at the turn of the century; the competition of grocers who vie for trade on the same street is unlike that of the cotton planters of twelve states who sell in a world market. The competitive system is sprawling and conglomerate as well as neat and orderly; it is contrived of institutions, each of which is prone to depart from its type; its operation depends upon men quite unlike each other in intelligence, knowledge, foresight and judgment. As a product of inconsequential growth it is a part of all that it has met. The norm may well be there, but a tangle of colorful detail confuses the simple lines of its structure.

Accordingly, a single explanation of competition is hardly to be expected. As with every attempt to run an abstraction through a mass of human behavior, the subject invites varied and conflicting statements. In popular writing, which is voluminous, competition is not distinguished from free enterprise, laissez faire and capitalism, and judgments are passed upon it as if it were a synonym for the prevailing economic order. On the one hand, competition is the gigantic motor which has caused nearly everybody to use his mental and physical powers to get ahead; it develops in the individual the habits of self-reliance, deliberation and eager, interested, universal watchfulness; it is that reconciliation of men to productive processes which issues in the largest aggregate of wealth. It is in alliance with morality, gives to a man material goods only upon condition that he become something of an idealist and allows him plenty only when he is personally capable of abstinence. It has lifted our race to a standard where the mode of living of common laborers is more comfortable and desirable than the everyday existence of the kings of whom Homer sings. On the other hand, competition is a nice new name for an ugly, brutal fact of all against all, without plan or system, without pity or mercy; it is a metamorphosis of the protean genius of graft; it is not law, but lawlessness; carried to its logical outcome it is anarchy or the absence of law. It is hymned by penny-a-liners and philosophers as the god of all society; perhaps there is competition among the angels and Gabriel and Raphael have won their ranks by doing the maximum of worship on the minimum of grace. It might well inspire an epic on the consecration of cannibalism.

In professional thought competition is isolated and reduced to abstract statement. The economists were captivated by the Newtonian physics which, for the moment at least, had brought law, order and economy into the world of nature. So, with little thought of deliberate borrowing, they set about creating a mechanics of competitive business. To this end they employed a bit of observation, a goodly amount of abstraction and a bountiful measure of the most rigorous logic of the day. They made price—or value—the focus of their attention, selected buying and selling as the essential phenomena to be studied, disentangled the market process from general industrial activity and sought out the principles of the economic order.

The crux of the matter was to them the problem of economy. Its basic terms are a population of insatiable wants and a world of stubborn and inadequate resources. Out of the gifts of nature goods and services are to be produced which satisfy the demands of men; since there is not enough to go round, the wealth of the community must be made to go as far as may be. The result is a great productive system, with the market in the foreground, through which resources are painfully converted into pleasure giving goods. The actors are human beings, impelled by the utilities which articles of consumption possess to overcome the disutility of personal effort. Each must take his mite of service or his property to market and fetch away the wherewithal of his living. In the market goods and services are all tagged with prices and personal wealth comes by way of careful and shrewd calculation. In disposing of goods and services each has to compete with others who have like goods and services to sell. In seeking what one would have each has to bid up against others who would take it away. As a result value is a sovereign in the great competitive economy; an upward dart of price or a downward drop allows those who will pay most to purchase, gives a market to those who will sell for least and effects a neat adjustment between supply and demand. Under the double competitive process of seller against seller and buyer against buyer it cannot well be otherwise. For if it chances that a price is too low to effect a balance, a flood of bids

speeds it to the proper level; and if too high, a host of offers brings it down. The domain of competition is almost universal. The march of invention opposes new wares to old: motor busses to street cars, electric refrigerators to ice, radio to the phonograph. Wants even vie to create a competition between unlike goods: a modern car and an antique couch, an evening down town and a Sunday in the country are rival claimants upon one's income. With price as a guide competition continuously accommodates the production of goods to the changing demand for them. A delicate structure of responsive prices must keep on effecting the best mediation that may be between the wants of the people and the productive capacity of industry. The self-seeking individual is forced to have a thought about the community; acquisition is endowed with a social purpose. Thanks to the economic harmonies, there is no fundamental antithesis between competition and cooperation; competition is the way of cooperation.

There is, in short and in the abstract, a competitive order of economic forces acting of themselves and by themselves. The industrial system is an automatic self-regulating mechanism which must continuously secure from a niggardly nature just such goods as yield the largest surplus of pleasures over pains. It is a Newtonian economic system wherein matter is replaced by wealth, attraction and repulsion give way to utility and disutility, the phenomena of the market like those of the heavens are given an equilibrium, a system of checks and balances keeps the machine in order, and the theory of the conservation of energy finds a parallel in the law of the economic maximum. At the deft hands of the theorists competitive activity was converted into an account which was at once the great explanation and the great apology.

An abstraction easily becomes a norm to which reality must correspond. An ideal competition finds its counterpart in a policy of competition for a going industrial system. Accidents, tricks of one kind and another, combinations, frictions great and small, whatnots which will not fit in, are discarded as no part of competition. In the here and now—not *in vacuo* or by benefit of *ceteris paribus*—a practical competition gives assurance of order and economy to the affairs of industry. Its regime promotes efficiency in organization, economy in resources, fairness to the interested parties and orderly development in business. It tends to make each establishment in an industry tight and tidy, to fit establishments neatly together into industries and to articulate industries into an orderly system. It allows little tolerance to waste; the producer who would survive must give constant thought to cutting his expenses and must keep his house in order. Accordingly, the ventures which together make up an industry cannot continue to absorb more laborers, use more materials or claim more investment funds than are necessary. Its rule safeguards the interest of the consumer. No seller can persist, against others who would have his market, in palming off low quality goods or in selling wares for what they are not; nor can he keep on charging more than the traffic will mercifully bear. Since the producer is ever alert to costs there is a constant spur toward progress in the industrial arts; since advances in technology quickly become common property the consumer is the lasting beneficiary of discovery and invention. The rule of competition insures to the workman the true and full value of his service; and reasonable arrangements in regard to hours, safety, health, discipline and hiring and firing. He is free to take or leave work in a shop, offer his services to a rival firm or hawk his labor in another industry. Finally, with some friction but without extravagant waste, competition accommodates an industrial system of many changing elements to the novelty in demand and circumstances which change brings. All in all a decentralized system is far preferable to the way of authority. It is far better to take a chance on a multitude of little judgments, made by interested parties, properly checked and balanced, than upon a few big decisions.

As fact, theory and policy, competition-as-it-is and as-it-is-set-down-in-books invites a varied attack. Critics, according to their several bents, are disposed to dispute its assumptions, to insist upon its limitations and to question its working. A first count, leveled against postulates, is an aspect of the prevailing skepticism. As a general challenge the critics wonder if industrial phenomena lend themselves easily to mechanical analogy; if a uniformity and a purpose have not been given to an inchoate mass of human activity; and if an alien explanation has not been driven where it does not belong. They inquire whether simplicity and symmetry are not of the mind rather than of things, a fashion in truth long since outworn. From this they proceed to more specific doubts. Are men in industrial activities impelled exclusively or even primarily by self-interest? If they are, has self-

interest an economic objective? And, if it has, can it be written down in pecuniary terms? Are the myriad of human judgments upon which the operation of the system depends adequately grounded in knowledge, reason and foresight? Are materials, funds and labor responsive enough to direction to give the controlled flexibility which the working of the system requires? Will the march of time and unwilled events be kind enough to allow intent to be realized? Is the process that converts a host of petty decisions into a competitive order at work free from serious hazards? Here the essence of the matter is the start of the argument. As these questions are differently answered, the competitive system becomes to different students a reality, a norm, an abstraction, a hypothesis, a myth and a fiction.

A second count is directed at the pretentiousness of the competitive explanation. It aims rather to limit the province than question the rule of competition. The system works, not automatically but in response to human judgments; in any enterprise what is done depends upon where discretion lies. In different business units bondholders, owners of shares, directors, managers, underofficials, laborers and investment bankers have very different places in the scheme of control. Since each group has an interest of its own not identical with that of the concern the making of policy knows no set procedure. Nor is the way of discretion straight and narrow. A lack of knowledge of the business or of the industry makes for mistaken judgments. Oftimes a cake of custom makes management so much a matter of routine that a chance obtrusion of competition becomes a disturbing influence. The fear of losses and the promise of gains lead rivals to see merit in brotherly understanding; thus in many matters agreements come to replace the answers given by the operation of competitive forces. The state, departing from an ideal of non-interference, thrusts its regulatory will into the domain of private business. But even a qualified competition does not extend to the confines of the industrial system. Combination is not unknown in the land; railroads, telegraphs, telephones and waterworks bear only vestigial marks of a competition that is gone; the waning domestic industries are still under family control; and many important undertakings, such as the national defense, the maintenance of roads and the provision of education, are under the auspices of government. In short, a competition that will not run true to type has been compromised by a confusion of ends, by custom, by understandings and by interference from without; and the uncertain domain of a compromised competition shades off into monopoly, public utilities, household economy and state enterprise.

A third count is aimed at the competitive system at work. A test of theory by reference to facts is difficult. There are no certain standards by which the quality of its operation may be judged. Competition does not assure measurable results; the promise is only of getting as much as may be out of the resources and effecting the best mediation that may be among conflicting interests. As yet the facts that can be brought to judgment are a mere handful. The studies of its actual operation are far fewer in number than the accounts of how competition is supposed to work. But though available facts cover a mere fragment of industry they reveal a serious discrepancy between ideal and actuality. The consumer has his case: the quality of the ware is uneven and below standard, the sum he pays is in excess of the necessary costs of production, and a fitful price divides users into the favored and the unfavored. The laborer has his complaint: working conditions seem to be dictated by unenlightened self-interest, rates of wages defy explanation in terms of the laws of price, and existing standards of life are not adequate livings. The industrial engineer cannot easily reduce the-competition-that-is to an orderly diagram: establishments keep on being wastefully run; bankruptcy claims the unfit but reorganization keeps them going; a potential capacity to produce is vastly in excess of market demand; shops, plants, factories and mines are jumbled into untidy industries. It is only crudely, irregularly, wastefully and with much suffering that businesses are accommodated to changing circumstance.

If specific studies fall short of an indictment at least they reveal a lag in economic organization. A scheme of arrangements which grew up amid the conditions of petty trade is hardly adequate to the great industry. The presumptions which underlie competitive policy do not belong to the world of the machine process, the corporation and quantity production. In the small town the tradesman can keep one eye on his customers, another on his rivals and both on his own shop; in the great industry customers are distant markets, an understanding of the industry demands a research organization, and the ups and downs of business depend upon factors

which lie at the ends of the world. In the small town the conditions of trade stand out in clear cut relief; all costs are direct, price is a guide to production, a gradually increasing unit cost prevents untoward expansion and insures sound growth. In the great industry each hides from his fellow his sales strategy, overhead costs click on with the clock, a diminishing unit cost tempts to expansion, and an overdone capacity makes for disorderly growth. In the small town an occasional improvement is made in an ancient craft; as its use becomes general there is time for an easy accommodation. In the great industry invention and discovery appear and take their turbulent way through the economic system. A competition adapted to the deficit economy of petty trade may fail to serve the surplus economy of big business.

In like manner competition has invited the attention of those who would do something about it. One group demands that it be preserved, pure and undefiled, in all its native simplicity; another would eradicate the evil, root and branch, and substitute for it a moral economic order. But since the shortcomings especially remarked have been in specific performance, the general demand has been to mend the system and make it work. Revision has been a labor of love for those who would retain competition yet help it over the hard places and make smooth its going. Its arrangements have been modified from within. Business men, through trade, industrial and commercial associations, have aimed at only so much of cooperation as will make competition less ruthless and more rational. Farmers, resolutely opposed to monopoly in all its forms, have organized cooperatives to escape the tyranny of an uncontrolled market. Laborers have used the trade union only to secure a bargaining power equal to that of employers. If the state has interfered in private matters, the use of formal authority—to conserve natural resources, to set up weights and measures, to insure the quality of the ware, to fix hours of labor, to provide compensation for accidents, to distinguish "fair" from "unfair" competitive practises, to determine a plane of competition and to establish great industrial codes—leaves the rival firms in an industry as free to compete as before. In the wake of collective action and state intervention there appears a regulated competition.

The integrity of competition is not proof against such amendment. An up to date competition which has a moral code, rules of the game and an umpire is not the old fashioned competition of each for himself and the devil take the hindmost. Even if rivals continue to be free to vie for custom, the matters brought under direction are no longer determined by resort to the ordeal of the market. If quality, hours and compensation are rescued from the play of economic forces and placed under authoritative control, wages, prices and performance might well follow. As item after item is withdrawn, competition ceases to be the great arranger of economic affairs. A voluminous literature is concerned with the possibilities of a controlled competition. In it a formal authority, such as the government or an economic council, is alike to determine quality, service and price and to fix wages and working conditions. Since neither consumers nor laborers may be exploited rival traders can earn profits only by improving technical processes and reducing the expense of waste. Hostile critics, conscious of its vanishing domain, have referred to the new competition as an engaging name for a novel sort of collectivism.

A constructive effort has been made to maintain competition. The free competition of the books has been paralleled with the enforced competition of the courts of law. In its dependence upon contract lies an inherent weakness in the institution. So long as buyers want goods and sellers are willing to accept dollars, liberty of contract gets things done and promotes order. But on occasion the lure of the same dollars makes it to the advantage of producers to agree among themselves to control capacity, to regulate output and to stabilize prices. Again the state is invoked, this time to make rivals compete. Freedom of contract is to be allowed along the vertical line, between buyer and seller; but it is to be prohibited along the horizontal line, between buyer and buyer and seller and seller. It is to be allowed where competition makes insecure the gains; it is to be prohibited where agreement is used to secure the gains. As long ago as the reign of Elizabeth there were statutes against monopoly; a comprehensive code against the restraint of trade has become part of the common law; the states of the union have attempted by statute to protect the good people against combinations; and in the Sherman, the Clayton and the Trade Commission acts the national Congress has read enforced competition into the law of the land.

The statutes in behalf of competition invite a study in law enforcement. A violation of an act and a sentence of conviction are separated by

many barriers. An overworked department of justice may never get around to the case. The evidence, in the possession of persons who have an interest in concealing it, may not be forthcoming. A clear violation of the spirit of the act may not be comprehended in the letter. A maze of legal issues, upon any one of which the decision may turn, may divert attention from the main question. A complicated procedure of exception and demurrer and appeal, of review and re-review, of questions of fact and of law, may in the end wear the case out. Over a period of forty years the administration of the federal antitrust acts has resulted in an insignificant number of penal sentences, the collection of only a few million dollars in fines and the confiscation of a few cartons of cigarettes illegally shipped in interstate commerce.

A translation of an economic policy into legislation is always an uncertain adventure; the words of the antitrust statutes have not been free from peradventures. At one time the none too definite standard of the rule of reason was set up as the test of whether or not monopolistic practises fell afoul of the law [Standard Oil Co. of New Jersey et al. *v.* U. S., 221 U. S. 1 (1910)]. At present activities of trade association that stop measurably short of price fixing are within the tolerance of the courts [Cement Manufacturers Protective Association et al. *v.* U. S., 268 U. S. 588 (1925)]; but agreements among competitors to maintain prices, even though they be reasonable and impose no additional burden upon consumers, are under the ban [U. S. *v.* Trenton Potteries Co. et al., 273 U. S. 392 (1926)]. In the British dominions, on the contrary, rivals may take reasonable precautions against cut-throat competition, and English law has no place for "a rule of possible evil" (Attorney-General of the Commonwealth of Australia *v.* Adelaide S. S. Co., 1913 A. C. 781). It is not without significance that many cases under the Sherman Act have arisen out of small scale business and that conspicuous victories for the statute have been won in outlawing practises of trade unions. If legislation has helped toward the preservation of competition the result must be due not to effective and vigorous enforcement but to the devotion of captains of industry to the spirit of the law.

A thousand trends which attend the coming of the new industrial revolution are amending the individual competition of petty trade into an organized competition within and between great industries. A competition, never so pure or prevalent as assumed, is likely to be further compromised by acts of the state; it is more likely to be transformed by the growth of a scheme of formal control within business itself. It may well lose its identity in an authoritative economic order which will come to replace the state, just as the state replaced the church, as the dominant agency of social control. In any event the devices and procedures, the understandings and arrangements, which make up competition are being remade by changing circumstance; presently only a surviving sport will tell of an institution that once lived, inspired schematic economics and perplexed its critics. Its place and function are to be taken by some scheme of control for subduing conflict into organized struggle, for in any future ordering of human affairs, however backward, revolutionary or utopian, rivalry must have its place. Only in such a non-economy as heaven, where celestials are free from wants or there is a surfeit of all good things, can it be absent. The parties, the forms, the fashions, the rules, the intensity and the ends of struggle may change; but the norm of competition among persons, goods, industries, ideas, institutions and cultures must remain.

WALTON H. HAMILTON

See: ECONOMICS; ECONOMIC ORGANIZATION; INDIVIDUALISM; CAPITALISM; PROPERTY; CONTRACT; FREEDOM OF CONTRACT; LAISSEZ FAIRE; UNFAIR COMPETITION; MONOPOLY; TRUSTS; COMBINATIONS, INDUSTRIAL; GOVERNMENT REGULATION OF INDUSTRY; RATIONALIZATION.

Consult: Adams, H. C., "Relation of the State to Industrial Action" in American Economic Association, *Publications*, vol. i (1887) 465–549; Cooley, C. H., "Personal Competition" in American Economic Association, *Economic Studies*, vol. iv (1899) no. ii; Hadley, A. T., *Economics* (New York 1896) ch. iii; Hamilton, Walton H., and Wright, Helen R., *The Case of Bituminous Coal* (New York 1925); Jevons, W. Stanley, *The Theory of Political Economy* (4th ed. London 1911); Marshall, Alfred, *Principles of Economics* (8th ed. London 1920) bk. v; Marshall, L. C., *Readings in Industrial Society* (Chicago 1918) ch. xiii.

COMPOSITION. *See* LAW.

COMPROMISE

COMPROMISE is that mode of resolving conflicts in which all parties agree to renounce or to reduce some of their demands. A compromise, in contrast to a dictated solution such as is involved in coercion and conformity, implies some degree of equality of bargaining power. The agreement involved in compromise is also to be distinguished from that involved in integration. In the former case each party is able to identify

the precise extent of his losses and gains; in the latter, new alternatives are accepted of such a kind as to render it extremely difficult to discern the balance between concessions made and concessions received. Conflicting demands about wage scales, for example, may be deferred to an indeterminate future, while it is agreed to experiment meanwhile with a new means of inaugurating and of sharing production economies. The latter course of action may have arisen during struggle or negotiation, and it may have brought about a redefinition of the interests of the contending groups.

Any theory of the strategy of making compromises would prescribe that adjustments be sought before differences have been so sharply drawn that considerations of prestige distort calculations of expediency. Compromises are often made impossible because the conflicting parties have gone so far in pushing their demands that they cannot compromise and still "save face." Such a theory would emphasize the advantages of drawing attention to the values which are cherished in common, in the hope of avoiding too much concentration upon values which are mutually exclusive. When there are many such values held in common, success in the pursuit of any particular value is secondary to the preservation of the whole network of common interests and sentiments. But when a working arrangement is reached through compromise under the stress of emergency, it can survive only if it becomes fortified by the accretion of other interests and by the growth of emotional bonds.

Society relies on compromise to adjust the conflicting claims of law and right that are couched in terms which if taken literally would render collective action impossible. In the memorable phrase of Burke, "All government . . . is founded on compromise and barter. We balance inconveniences; we give and take;—we remit some rights, that we may enjoy others." No constitutional system can function smoothly without the growth of conventions which represent the sacrifice of formal claims to working necessities. This is particularly obvious when there is a division of power between central and local units of government and where there is a separation of powers among several branches of government. Even in absolute monarchies and dictatorships the ruler must concede much to the sentiments and interests of his subjects. While it is common to cite these instances as cases of compromise, this usage is not strictly accurate, since constitutional usages generally grow without conscious arrangement. The true compromise is the conscious modification and adaptation of demands. It is more likely to be found in democracies, where the party system is relied upon for everyday governmental functioning, and especially when, as under a multiparty arrangement, a process of bargaining between the parties for political advantage precedes the formation of a relatively stable government.

One salient feature of compromise is that it implies the objectification of values. Sometimes this objectifying process proceeds until a common measure of value is accepted for numerous operations. This is the function of money in economic transactions; and to the extent that conflicting demands can be reduced to money terms, as happens often in collective bargaining and industrial conciliation, compromise is made easier. Political values involve calculations of fighting power, which are clearly evident in international relations, but political values have never been objectified in any single index. The "balance of power" as the basis for international strategy came nearest to working effectively when one acre of land was approximately equal in value as a source of men and materials to every other acre, but even this assumption was never consistently adhered to. No medium of exchange could be devised which would bear the same relation to estimates of fighting power as monetary metals bore to estimates of economic value.

Although compromise is generally conceded to be indispensable and is often commended by liberals as a substitute for revolution, a philosophy of compromise has been severely criticized. Attitudes are supposed to arise which encourage the temporizers and discourage the responsible social thinkers. John Morley spoke bitterly of the notion "that if a subject is not ripe for practical treatment, you and I are therefore entirely relieved from the duty of having clear ideas about it" (p. 77). He complained of several factors which conspire to transform intellectuals into temporizers. Due to the rise of the scientific attitude "opinions are counted rather as phenomena to be explained, than as matters of truth and falsehood" (p. 25). Men are made self-conscious of the relativity of their own ideas and indisposed to insist upon them. The concept of evolution itself may often be construed to "place individual robustness and initiative in the light of superfluities, with which a world that goes by evolution can well dispense" (p.

26). During transitional periods hope is often pinned on reforms which are soon shown to have no efficacy, and disillusionment ensues.

Compromise is favored by tendencies which are early organized in the experience of the individual. These tendencies are often spoken of as impulses to submit, to subordinate the self. It is customary in the growth of the mind to stress the assertive drives which are unfavorable to compromise and to neglect the role of other human characteristics which prepare the way for the smooth adjustment of interpersonal relationships.

HAROLD D. LASSWELL

See: OPPORTUNISM; CONFLICT, SOCIAL; SOCIAL PROCESS; CONSENSUS; DISCUSSION; CONCILIATION, INDUSTRIAL; MEDIATION; COALITION; COERCION; CONFORMITY; INTRANSIGENCE.

Consult: Burke, Edmund, "Speech on Conciliation with America" in *Works*, 12 vols. (8th ed. Boston 1884) vol. ii, p. 99–186; Morley, John, *On Compromise* (2nd ed. London 1877); Ross, E. A., *Principles of Sociology* (New York 1920); Simmel, Georg, *Soziologie* (2nd ed. Munich 1922); Bristol, L. M., *Social Adaptation* (Cambridge, Mass. 1915).

COMPULSORY VOTING. *See* VOTING.

COMPURGATION was a legal procedure whereby the party upon whom the burden of proof in an action rested cleared himself by his own oath supported by the oaths of a number of oath helpers. The practise was widely distributed throughout mediaeval Europe, principally among Germanic nations, and still survives in a few remote places, e.g. the Caucasus. It existed in a bewildering variety of forms. Sometimes the compurgators had to be kinsmen, sometimes kinsmen were excluded; sometimes they were selected by the principal, sometimes by his adversary, sometimes by a public officer and frequently by ingenious combinations of these methods; their number might depend upon the gravity of the issue, the status of the parties and of the compurgators themselves, a noble being the equivalent of several commoners. Generally, but not always, the oath of the compurgators was merely that they believed their principal's oath to be credible. They seem never to have had to give their reasons for swearing or refusing to swear.

The origin of compurgation has caused much speculation. It is very probable that it was connected with the solidarity of the family group. With the decline of the social order based upon family solidarity the institution continued, but on newly invented rational grounds, serving as a rough indication of the party's credit in the community. It has been suggested by some that the compurgators were in the first place actually witnesses and only later became auxiliary swearers; to others the reverse seems more probable; and, again, the similarity to the ordeal has been emphasized. A definite conclusion on these questions is hardly possible at the present time, and it is not necessary to assume that the history will be found to be the same in all regions and in all periods.

The church naturally adopted compurgation (*purgatio canonica*) from the habits of its subjects, and Innocent III rationalized it by confining it to cases where the accusation was based upon ill fame and accompanied by suspicion but unproved by evidence, thus converting it into a test of reputation. In this form it survived in England for the trial of clerks and laymen in ecclesiastical courts even after the Reformation. Those clerks who were sent by royal justices to the ordinary as clerks convicted of felony but entitled to benefit of clergy had to find compurgators until 1575, when purgation was forbidden them on account of the "sundry perjuries" which by this date had become notorious. Laymen, and clerks other than those convicted of felony, could be put to their purgation by ecclesiastical courts until the statute of 1661 which abolished the oath ex officio and seemingly the canonical purgation as well.

At common law compurgation (wager of law) ceased to be a complete defense in criminal cases after the Assize of Clarendon in 1166. The only exceptions were London and certain boroughs which retained wager of law in felonies as a valued privilege. In civil matters it had been restricted judicially by the close of the thirteenth century to certain actions such as debt, detinue and account and a few other rare cases. But when such actions as assumpsit became available where debt would have lain, and trover where detinue would have lain, and accounting could be had by bill in equity, compurgation became of even less importance. Boroughs, however, secured its legislative extension in some cases, evidently finding it a satisfactory procedure. It was finally abolished in 1833.

It is doubtful whether wager of law existed in America, but it is certain that in some cases a defendant could "purge himself" by his own unsupported oath. Compurgation is no longer regarded as an origin of the jury and has no historical connection with the modern practise

of introducing evidence of character and reputation.

THEODORE F. T. PLUCKNETT

See: LAW; CANON LAW; PROCEDURE, LEGAL.

Consult: Kovalewsky, M. M., *Coutume contemporaine et loi ancienne: droit coutumier ossétien éclairé par l'histoire comparée* (Paris 1893); Engelmann, Arthur, *Der Civilprozess: Geschichte und System*, 3 vols. (Breslau 1889–1901), vol. ii tr. and ed. by R. W. Millar as *A History of Continental Civil Procedure by Arthur Engelmann . . . and Others*, Continental Legal History series, vol. vii (Boston 1927); Esmein, Adhémar, *Histoire de la procédure criminelle en France* (Paris 1882), tr. by John Simpson, Continental Legal History series, vol. v (Boston 1913); Gibson, Edmund, *Codex juris ecclesiastici anglicani*, 2 vols. (2nd ed. Oxford 1761); Hale, W. H., *A Series of Precedents and Proceedings in Criminal Causes . . . 1475 to 1640* (London 1847); Bateson, Mary, *Borough Customs*, Publications of Selden Society, vols. xviii, xxi (London 1904–06) vol. xviii; Thayer, J. B., *A Preliminary Treatise on Evidence at the Common Law* (Boston 1898); Lea, H. C., *Superstition and Force: Essays on the Wager of Law—the Wager of Battle—the Ordeal—Torture* (4th ed. Philadelphia 1892).

COMSTOCK, ANTHONY (1844–1915), American vice crusader. Comstock has become the symbol of the use of the police power by quasi-official societies for the enforcement of what they regard as good morals. Inheritor of the residual Puritanism of New England, he was disturbed as farm boy, as volunteer soldier (1863–65), as New York clerk and as traveling salesman by the dangers for young men in the current gross solicitations to vice. At twenty-eight he destroyed, single handed, important sources of pornographic books and pictures in New York. This zeal was rooted in his religion and partly also in an undecipherable personal psychology. The volunteer reformer enlisted the help of Morris K. Jesup and other business men, supporters of the Young Men's Christian Association. They had the scant existing legal barriers to pornography in New York buttressed with new statutes and in 1873 organized the New York Society for the Suppression of Vice under a charter that granted police powers. Comstock, the secretary, became a novel kind of prosecutor. Meanwhile, to stop leaks of obscenity through the post office the moral forces obtained the passage on March 3, 1873, of the federal statute later dubbed the Comstock Law. This provided penalties for the mailing of alleged obscene publications or information on contraception and the methods or materials for producing abortion. The last clause reflected the conviction that lust would conquer everybody if conception could be avoided; subsequently it was used to stop the scientific or popular discussion of birth control. Comstock became a special post office agent (without salary) and soon instituted a series of famous prosecutions against actual purveyors of immorality and also against respectable persons who wanted freedom to discuss sex. The natural urge of an organization to function plus Comstock's cultural limitations led him to extend his bans to indefensible extremes against works of art, science, literature and drama. For forty years the battle raged between what Bernard Shaw called "Comstockery" and its opponents, who declared that obscenity was too subjective to be defined, that the censorship was a dangerous usurpation and that education alone, not suppression, would help society. Before his death, his power undermined by ridicule and the new liberalism in sex thought, Comstock passed from the picture. His society still exists under more restrained direction.

Comstock's personal life was blameless; he died in modest circumstances, having refused bribes and turned his fees over to the society; he was certainly brave. Well intentioned but limited by ignorance and temperament, he reflected the moral attitude and sex knowledge of his times. His vast labors abated crass commercial pornography. He helped the medical profession and health movement by his attacks on abortionists and quack advertising. He forced the newspapers to bar immoral personals and to scrutinize their advertising. This scrutiny led to later reforms. His attitude probably forced the proponents of freedom of discussion about sex and enlightened sex education to define and defend their liberalism. Dispassionate critics declare that he attacked few really serious works of art or science and that the total of his final suppressions was practically nil. He tried to understand the views of art and science far more than their proponents tried to understand him.

On the other hand, Comstock began by fighting real evils and turned aside to fight imaginary ones. He hampered constructive measures by silly and intemperate deeds. He entangled innocent reformers by the decoys of the *agent provocateur*. He made censorship odious but established the principle in the federal government and opened the way for prosecutions aimed at radical critics of the existing order in economics, politics and morals. The bans against vice became bans against new ideas. But others than Comstock were the true inspirers of these at-

tacks. The great evil he did was in stopping for a generation by the federal birth control clause the sane and scientific discussion of an important principle.

Several vice societies, inspired by Comstock's vigor and rationale, arose after 1873. The principal one (reflecting again an essentially Puritan impetus) has been the New England Watch and Ward Society of Boston. Such pressure groups express a characteristic American bent based on residual Puritanism and business orthodoxy.

LEON WHIPPLE

Principal works: *Frauds Exposed* (New York 1880); *Traps for the Young* (New York 1883, 3rd ed. 1884); *Morals versus Art* (New York 1888).

Consult: Broun, Heywood, and Leech, Margaret, *Anthony Comstock, Roundsman of the Lord* (New York 1927); Trumbull, C. G., *Anthony Comstock, Fighter* (New York 1913); Bennett, D. M., *Anthony Comstock, His Career of Cruelty and Crime* (New York 1878); Ernst, M. L., and Seagle, William, *To the Pure . . . A Study of Obscenity and the Censor* (New York 1928).

COMTE, ISIDORE AUGUSTE MARIE FRANÇOIS XAVIER (1798–1857), French sociologist. Comte was born at Montpellier of Catholic royalist parents. At the École Polytechnique, which he entered in 1814, he came under the influence of the writers with whom throughout the subsequent course of his life he was to retain some degree of intellectual affiliation. From the traditionalists Bonald and especially de Maistre he borrowed the notion of an order governing the evolution of human society, and from Condorcet the idea that this evolution was attended by progress. Between 1818 and 1824 he was associated as secretary, disciple and friend with Saint-Simon, who stimulated his interest in economics. It was during this period that Comte worked out his general conception of social science, to which he gave the name of sociology.

Comte's ultimate purpose was the political reorganization of human society. His fundamental conviction was that such reorganization must wait upon the spiritual and moral unification of society. Believing that the evolution of the human mind proceeded according to definite laws he regarded it as his first task to isolate and demonstrate them by scientific processes assisted by historical verification. This was the aim of the great *Cours de philosophie positive* (6 vols., Paris 1830–42, 5th ed. 1892–94; tr. by H. Martineau, 2 vols., 3rd ed. London 1893), the first volume of which he opened with the postulate that the evolution of knowledge is governed by the law of the three states, a law previously stated by Turgot and Saint-Simon. By an array of historical evidence—well selected for the purposes of his theory—he then proceeded to show that in his first inquiries into the causes of phenomena man inevitably propounded a theological explanation; that this explanation, which gradually lost its essential theological elements as it appeared under the successive aspects of fetishism, polytheism and monotheism, was at length supplanted by metaphysics, representing an attempt to discover through the process of reason the essence of phenomena; and that the metaphysical stage had eventually given way, or was giving way, to the final or positive stage. Here the mind abandons its search for essences and absolutes and contents itself with the discovery of relationships between phenomena, that is, with the construction of sciences. In tracing the evolution of the positive sciences Comte formulated his second great law, that of decreasing generality and increasing complexity, which signified that the sciences developed, and could develop, only in a definite order: mathematics, astronomy, physics, chemistry, biology, sociology. Each science depended upon those preceding it for its positive content; the series, and with it the spiritual or intellectual unification of society, was complete when sociology was evolved.

Comte was now prepared to expound his plan for the practical reorganization of society on the basis of the principles of sociology. In the interval between the completion of the *Cours* and the appearance of the *Système de politique positive* (4 vols., Paris 1851–54, 3rd ed. 1890–95; tr. into English, 4 vols., London 1875–77), in which Comte outlined this plan, he contracted a friendship with Clotilde de Vaux, whose death in 1846, a year after their meeting, produced in him an emotional crisis and brought to the fore all his pent up mysticism. The experience affected his conception of the process of social reorganization, which he now came to regard as essentially religious. Hence to some of his disciples, such as Littré in France and Mill in England, the *Système* brought bitter disappointment, and the master was accused of having ruthlessly abnegated his past doctrine. In reality, however, the fundamental principles of the work represent not a *volte face* but a harking back to certain neglected ideas of Comte's youth, logically harmonized with the implications of his sociology.

The central thesis of the *Système* is the necessity of unifying all divergent beliefs and practises through the establishment of a religion of humanity. The positive religion was essentially a system of ethics, absolute in that it applied to all men and culminating in the worship of the symbol of humanity. Comte's passion for systematization led him to construct down to its minutest details a plan for the practical organization of this religion, a plan showing unmistakable traces of his admiration for mediaeval Catholic institutions. In the positive society the spiritual authority would be not only independent of the temporal but superior to it. Desiring to render his idea in supremely concrete terms Comte introduced into his scheme many elements, such as the calendar of saints—positive saints, the servants of humanity—and the hierarchy of sacraments, which appeared to certain less mystical persons as the wanderings of a deranged mind. Comte himself was the first to admit that these elements in his religion were rooted in forms of thought destined to disappear; to him they were no more than symbols, as Clothilde was the symbol of womanhood and womanhood the symbol of humanity.

Whatever the value of Comte's specific scheme for social reorganization, however far from reality he may have strayed in constructing it, his disclosure of the necessity of treating all social thought as an interrelated whole had a profound influence upon the subsequent development of the various social sciences. In obedience to the dictates of his system he refused to recognize either politics or economics as an independent science, and in politics he was, like the traditionalists, superficially a reactionary. Yet his thought was not without influence in widening the scope of both of these disciplines. The positive criminologists, inspired at least in part by the currents he had set in motion, revealed the inadequacy of the old rigid criteria of crime and punishment and pointed out the manifold environmental factors which justice must take into account. Historians felt the impulse of Comte's work both because he demonstrated the methodological importance of history in the discovery of social laws and because he emphasized the variety of phenomena into which it must penetrate. His insistence upon the role of universal education in the achievement of social unity helped to open new avenues of endeavor for educational theorists. Considered in these broad aspects the influence of positivism has been too far reaching to be sought in the work of any single thinker. The direct imprint of his thinking can, however, be seen in the French scientific movement of the last half of the nineteenth century, represented by Taine, Renan and Berthelot, and in the writings of such outstanding English figures as John Stuart Mill, who between 1841 and 1846 was in close communication with Comte, and Herbert Spencer, in spite of the latter's repudiation of Comte's laws of evolution. Contemporary sociology not only owes to the creator of positivism its existence as an independent science but possesses the seal of his authority upon three fundamental precepts in its methodology: the necessity of treating social facts like physical phenomena, of reducing them in the final analysis to social beliefs and of applying to them the method of experimental investigation.

RENÉ HUBERT

Other works: *Discours sur l'esprit positif* (Paris 1844, new ed. 1898); *Catéchisme positiviste* (Paris 1852; 2nd ed. by P. Laffitte, 1874), tr. by Richard Congreve as *The Catechism of Positive Religion* (London 1858); *Appel aux conservateurs* (Paris 1855), tr. by T. C. Donkin and Richard Congreve (London 1889); *La synthèse subjective d'Auguste Comte* (Paris 1856, 2nd ed. 1900); *Early Essays on Social Philosophy*, tr. by H. D. Hutton from the Appendix to the *Système de politique*, new ed. by F. Harrison (London 1911). Comte's correspondence has been published in several volumes, including *Lettres d'Auguste Comte à M. Valat . . . 1815–1844* (Paris 1870); *Lettres . . . à John Stuart Mill, 1841–1846* (Paris 1877); *Lettres inédites de John Stuart Mill à Auguste Comte*, ed. by L. Lévy-Bruhl (Paris 1899), containing also letters from Comte to Mill; *Correspondance inédite d'Auguste Comte*, 4 vols. (Paris 1903–04). See also the *Testament d'Auguste Comte*, ed. by P. Laffitte (2nd ed. Paris 1896), including his correspondence with Clotilde de Vaux.

Consult: Gouhier, Henri, *La vie d'Auguste Comte* (Paris 1931); Deroisin, H. P., *Notes sur A. Comte, par un de ses disciples* (Paris 1909); Lévy-Bruhl, Lucien, *La philosophie d'Auguste Comte* (Paris 1900), tr. by Kathleen de Beaumont-Klein (New York 1903); Roux, Adrien, *La pensée d'Auguste Comte* (Paris 1920); Seillière, E. A. A. L., *Auguste Comte* (Paris 1924); Cantecor, G., *Comte* (Paris 1930); Hubert, R., *Auguste Comte: choix de textes et étude du système philosophique* (Paris 1913); De Grange, McQuilken, "The Method of Auguste Comte" in *Methods in Social Science*, ed. by S. A. Rice (Chicago 1931) 19–58; Alengry, F., *Essai historique et critique sur la sociologie chez Auguste Comte* (Paris 1899); Mehlis, G., *Die Geschichtsphilosophie Auguste Comtes kritisch dargestellt* (Leipsic 1909); Defourny, Maurice, *La sociologie positiviste: Auguste Comte* (Paris 1902); Mill, J. S., *Auguste Comte and Positivism* (3rd ed. London 1882); Faguet, Émile, *Politiques et moralistes du dix-neuvième siècle*, 3 vols. (Paris 1898–1900) vol. ii, p. 281–369; Littré, Émile, *Auguste Comte et la philosophie positive* (2nd ed. Paris 1864); Caird, Edward, *The Social Philosophy and Religion of Comte* (2nd ed. Glasgow 1893); Roberty,

Eugène de, *Auguste Comte et Herbert Spencer* (2nd ed. Paris 1895); Lévy-Bruhl, Lucien, "Auguste Comte et Stuart Mill d'après leur correspondance" in *Revue philosophique de la France et de l'étranger*, vol. xlvi (1898) 627–44; Dumas, Georges, "Saint-Simon père du positivisme" in *Revue philosophique*, vol. lvii (1904) 136–57, 263–87; Joly, Henri, "Auguste Comte et Frédéric Le Play" in *Réforme sociale*, vol. xxxix (1900) 901–26; Pécaut, F., "Auguste Comte et Durkheim" in *Revue de métaphysique et de morale*, vol. xxviii (1921) 639–55.

CONANT, CHARLES ARTHUR (1861–1915), American journalist, economist and practical banker. His early advocacy of a central banking system in the United States marked him as an advanced thinker in the field of banking theory. In the book for which he is best known, *A History of Modern Banks of Issue* (New York 1896), now in its sixth edition (New York 1927), he showed the superiority of a central banking system over the highly disorganized system then prevalent in the United States. This book was for many years the main source of information and inspiration for later writers on the subject of central banking. Conant was one of the pioneers of monetary reform in the Latin American countries and in the Philippine Islands and gave practical assistance in Mexico, Nicaragua, Cuba and the Philippines. He took an active part in the work of the United States National Monetary Commission and prepared for the latter two reports, "The National Bank of Belgium" and "The Banking System of Mexico" (in National Monetary Commission, *Publications*, vol. xvi, nos. i–ii, Washington 1910). A prolific writer, he published more than sixty articles relating to the field of banking theory and practise, edited the "Foreign Banking and Finance" department of the *Bankers' Magazine* and participated in a number of movements which led to important banking legislation. Among these was his advocacy of a uniform Bills of Exchange Act, in connection with which he served in 1910 and 1912 as American delegate to the International Conference on Bills of Exchange at The Hague. In 1903 he was a member of the Commission on International Exchange which attempted to establish a fixed relationship between the moneys of gold standard and silver standard countries. He also served on the New York Chamber of Commerce Committee on Currency Reform which in 1906 reported favorably on the establishment of a central bank.

MARCUS NADLER

Important works: *Principles of Money and Banking*, 2 vols. (New York 1905); *A Special Report on Coinage and Banking in the Philippine Islands* (Washington 1901); "The Currency of the Philippine Islands" and "The Way to Attain and Maintain Monetary Reform in Latin America" in American Academy of Political and Social Science, *Annals*, vol. xx (1902) 518–33, and vol. xxxvii (1911) 618–27.

CONCENTRATION, INDUSTRIAL. *See* COMBINATIONS, INDUSTRIAL.

CONCERT OF POWERS is a phrase used to designate the system, employed in the nineteenth and the early twentieth century, by which the Great Powers sought to establish a common policy of cooperation to prevent war and the spread of revolutionary tendencies. They aimed to achieve their objectives through international conferences called to deal with specific problems.

In 1804 as a result of the Napoleonic wars Alexander I of Russia, then a liberal idealist, presented to England a plan for the reconstruction of Europe on the basis of an intimate concert between the two powers. This ripened, with modification in a conservative direction, into the efforts made by the Congress of Vienna and the Holy Alliance to preserve the constitutional and international status quo. Between 1818 and 1914 there were held approximately twenty important conferences, in some of which the United States participated, for settling amicably by cooperative effort various questions which threatened to disturb peace. The earlier conferences at Aix-la-Chapelle (October 1, 1818), Troppau (October 20, 1820) and Verona (October 20, 1822) endeavored largely to prevent the spread of revolutionary movements inimical to monarchical authority and conservatism; in the long run these aims failed because they contravened the new dynamic forces of nationalism and democracy, with which England sympathized and which caused her withdrawal from the Concert.

The field in which the Concert of Powers, or in this case the "Concert of Europe," has been most active and successful has been in dealing with the Near East. Ever since the Greek War of Independence the Great Powers have endeavored to restrain the chronic elements of disorder in the Balkans and in the eastern Mediterranean regions which arose from the progressive decay of the Ottoman Empire and from the superposition of a Mohammedan autocracy over mixed populations of Christians at feud with one another no less than with their nominal rulers. The Concert became active with the appearance of Mehemet Ali, but failed to prevent the

Crimean War or the Russo-Turkish War of 1877. It has, however, upon several occasions prevented a local Balkan war from developing into a general European war, notably in the cases of the Serbo-Bulgarian War of 1885, the Cretan War of 1897, and the Balkan wars of 1912–13. But even in this last case the authority and dignity of the Concert was often rudely flouted by the Balkan allies, as when they went to war against Turkey in 1912 or as when Montenegro, with a population one tenth of that of New York City, defied the powers and their international fleet in the question of Scutari.

A case of a different kind in which the Concert of Europe functioned successfully was the occasion of Holland's contemplated sale of Luxemburg to France in 1867. From the narrow standpoint of "sovereignty" this sale was the affair of nobody except the parties immediately concerned. Bismarck, however, intimated that if the sale were consummated it might lead to war between France and Germany. Thereupon the powers intervened in the interests of the peace of Europe and at a conference held in London the question was settled by their collective guaranty of the neutrality of Luxemburg.

The idea of the Concert of Powers is fundamentally different from the balance of power principle. The Concert aims to secure harmony and cooperation by conciliation and by minimizing the tendency of the powers to group into opposing combinations. Balance of power aims to secure the status quo and peace by grouping the powers in such combinations against one another as to establish an equilibrium which none will dare to attempt to overthrow. But such attempted balancing is rarely stable and causes infinite international fears, suspicions and armament rivalries. During the Balkan wars of 1912–13 peace among the Great Powers was preserved in part because the powers, led by Sir Edward Grey and Bethmann-Hollweg, generally placed the Concert of Europe above the balance of power principle as represented in the Triple Alliance and the Triple Entente. In July, 1914, this was not the case.

The Concert of Powers may be regarded as one of the most successful experiments toward international government prior to 1914. In spite of its occasional failures it not infrequently effected cooperation among the Great Powers sufficient to avert war. Its weaknesses were that its conferences were too often controlled by considerations of expediency rather than of justice, were commonly composed of diplomats rather than of responsible ministers and represented only the Great Powers, who paid little or no heed to the rights and interests of small states. These weaknesses are largely avoided in the League of Nations, by which the Concert of Europe has now been virtually superseded.

On the American continent the pan-American conferences, initiated in 1889, offer a fruitful and increasingly successful "Concert of America."

SIDNEY B. FAY

See: ALLIANCE; AGREEMENTS, INTERNATIONAL; DIPLOMACY; NEAR EASTERN PROBLEM; BALANCE OF POWER; INTERNATIONALISM; INTERNATIONAL ORGANIZATION; LEAGUE OF NATIONS.

Consult: Phillips, W. A., *The Confederation of Europe* (2nd ed. New York 1920); Dupuis, Charles, *Le principe d'équilibre et le concert européen* (Paris 1909); Potter, P. B., *An Introduction to the Study of International Organization* (3rd ed. New York 1928); *The European Concert in the Eastern Question*, ed. by T. E. Holland (Oxford 1885); Sayre, F. B., *Experiments in International Administration* (New York 1919); Mowat, R. B., *The Concert of Europe* (London 1930).

CONCESSIONS. In the modern state the individual may generally engage in trade or other economic enterprise without special permission. There are, however, certain classes of economic activity which do require governmental permission, variously termed, in different countries, franchise, license, patent, charter, monopoly, grant, approbation, admission and concession. The use of these terms is by no means uniform. The term concession is customarily applied in international law to all such authorizations. Permission required merely in order that the public authorities may examine the qualifications of the applicant and of his enterprise is in some countries called a concession. In the United States the term is generally reserved for rights existing abroad. This article will deal only with rights concerning economic activities which are of a public or semipublic character in that they have been or are deemed normally to be reserved to the granting public body, or are deemed to be of a special public interest. In the latter case it will usually be found that in some other country the same type of activity is governmental. Furthermore the article will be restricted to international concessions. While with the development of the modern concept of public utilities concessions granted by a country to its own citizens have become rather more important than formerly, concessions granted to foreigners raise special problems because foreign management, often foreign cap-

ital and sometimes foreign labor are engaged in activities which have a special connection with the national interests of the granting country.

Almost any kind of economic activity may be the object of a concession: the exploitation of raw materials (oil, minerals, timber) or agriculture, manufacturing, trading (import or export) or transportation (inland or coastal navigation, railroads, surface cars, busses, aerial transport). Yet an enterprise which requires a concession in one country may be entirely free or entirely forbidden or reserved to the government or nationals in another country.

Any governmental body—unitary state, component state, federation, province, district, municipality or native chief in a colony—may be the grantor of a concession. The grantee may be an individual or individuals, a private or public corporation or even a state or other governmental body. For the purposes of international law protection it is important to distinguish between grantors possessing personality in international law and those not possessing it. It is also essential to differentiate between grantors conferring the concession by virtue of original or delegated legislative power and those without legislative power, because only the former are able to change their own obligations or the rights of grantees by means of legislation. In almost all cases the grant is made after application by the grantee or after negotiations have led to an actual agreement. The grant itself may be created through a public unilateral act or through a contract under the private law or more frequently under the public law of the grantor. A treaty between the granting state and state of the grantee will not give rights directly to private persons but merely provides for their creation under a system of municipal law. These distinctions are of more than technical importance. Legal protection is weakest where the basis of the concession is a unilateral public act, for in this case the grantor can modify the grant, subject only to constitutional or statutory restrictions. Legal protection is stronger where the basis is a public law contract, but even in this case the grantee is not treated in all respects as the legal equal of the grantor. The strongest type of legal protection exists where the concession is created through a private law contract and where therefore the two parties are treated more nearly as legal equals. The existence of a treaty may in all cases afford additional protection.

In law a fundamental distinction exists between rights concerning the having or the acquiring of tangible things or other objects such as real property rights or debts (*jura habendi*) and rights which consist in the permission to engage in a certain kind of activity such as patents (*jura faciendi*). The principal rights of a concession holder are always of the latter type.

The principal right of the concession is directed not only against the grantor but also against third parties, who may not lawfully interfere with its exercise. It is, however, not usually a monopoly right. Monopolistic concessions are necessarily of a character affecting public interests directly, even if the activity as such is not one which is deemed to be different from ordinary activities. In the more important concession agreements the principal right is frequently supported by a considerable number of auxiliary rights. The grantee may be given rights over, or title to, land or the right of expropriation over land or other property needed for working the concession. He may obtain money subsidies, tariff or tax exemptions or the right to buy supplies from the grantor or other sources under special conditions. He may be authorized to create a corporation without special permission or different in structure from those permitted under the general laws of the grantor state. He may be permitted to employ labor under conditions especially favorable to the concessionaire. Territorial sovereignty or rights approaching it may occasionally be given either to the grantee or to his home state. Such auxiliary rights are sometimes known as concessions but they should not be confused with the rights ordinarily covered by that term. From a legal point of view it is important to ascertain which auxiliary rights are dependent for their continuation upon the continued validity of the main right and which are independent so that they can outlast the concession itself.

The grantee of a concession is not always obligated to exercise the rights conferred. In many cases, however, the concession has the character of a function which involves both duties and rights. Even when the exercise of the rights is not a duty it may be subject to regulation which may concern prices or other details. In addition the grantee may be obligated to make payments to the grantor especially in cases of monopolistic concessions.

A concession may be granted for a definite or an indefinite period of time. If the concession

is likely to outlast the economic and political conditions under which it has been granted, stipulations concerning the liquidation and possibly the repurchase of the concession become important.

Interference by the grantor state with concessionary rights involves problems of a special and complicated nature, resulting largely from the fact that the concession is usually at one and the same time a private property right of the grantee, a contract relationship to which a government is a party and a right affecting governmental interests. Where the concession is regarded as existing under a public unilateral act or a public contract the ordinary tribunals of the granting country may not be competent to decide disputes arising out of the concession, and the grantee may therefore be forced to rely upon administrative tribunals or other governmental bodies in charge of deciding administrative disputes. It is possible, even in other than so-called backward countries, that the grantor does not allow such disputes to be submitted to any judicial or quasi-judicial body. Normally the grantor is immune against lawsuits abroad. Should a dispute concerning a concession come up before a foreign tribunal, as for instance when the grantor has consented to such a suit, it is probable that the law of the grantor would be applied to the main right as well as to most other aspects of the dispute, since it concerns the exercise of public or quasi-public functions in the granting country. Even if judgment is rendered against the grantor its enforcement may be limited inasmuch as assets of the grantor are in the main likely to be immune against attachment. Unless the concession is granted to a government and exists under a treaty, international law cannot govern the concession agreement itself; the home state of the grantee can only base protests on international law if the grantor violates a treaty obligation or the general rules of international law concerning protection of acquired private rights. Where the grantor government violates its own laws and fails to give adequate remedy in its own courts, the government of the grantee may base its protests on clear violations of international law. Whether such disputes will ultimately come before an international public tribunal depends upon preexisting and subsequent agreements between the two states. Concessions have often been the subject of international public arbitration. Provision for private arbitration directly between grantor and grantee is as yet not a common feature even of the more important international concession agreements.

A distinction must be made between interference by virtue of preexisting laws and interference by virtue of later laws. A concession may be voidable from the outset, due to preexisting laws against deceit, coercion or similar measures employed in obtaining the concession. The most important ground for cancelation is the failure of the grantee to live up to some one or more of the numerous obligations or conditions imposed on him, provided that such breach or default was, under the preexisting law, a cause for cancelation. Abuse of the concession or other illegal acts of the grantee may also lead to cancelation. The attempts of concession holders to exercise indirect political control, however, although a much discussed source of friction, will not necessarily be illegal under the laws of the grantor country.

Many modern constitutions provide for the cancelation or confiscation of private rights. Concessions acquired in the face of such provisions are necessarily precarious from the outset, and a bona fide cancelation is a lawful exercise of reserved governmental powers. Similar problems have arisen in the past in case of concessions and other rights granted by absolute kings and independent native rulers possessed of the right to destroy private rights at any time.

Since the grantors are also legislators, or at least able to exert strong influence upon the legislature, they possess a power usually beyond that of a private party to a transaction, namely the power of changing existing laws to their own advantage and to the disadvantage of the grantees. The illegality under international law of the application of such laws to foreign concessionaires is a highly controversial question. Factors which must be considered are as follows: whether tangible property is protected against confiscation with or without compensation; whether the semipublic character of a concession exempts it from the protection accorded to purely private rights; whether the existence of a specific governmental promise should accord a higher protection (mainly with regard to specific maintenance) than exists for property acquired without such promise; and whether the legal status of the concession as a private or public contract right or unilateral act is a basis for different treatment. Auxiliary rights should be treated independently according to their own merits unless they are clearly

dependent upon the concession. Landed property and debts will normally enjoy a stronger protection than concessions.

The position of concessions to enemies during war time depends very largely upon the general law governing the treatment of enemy private property, a matter more controversial than ever since 1914. If it be held that enemy property, including property such as public debts which can rely upon specific promises, is generally subject to confiscation, certainly concessions are not exempt. If confiscation is regarded as unlawful in other cases, it might still be argued that concessions are in a weaker position because they concern the exercise of functions connected with public interest. The same argument may be advanced with regard to mere sequestration, which might be forbidden with regard to tangible property and debts but valid in the case of concessions. The risks of enemy concession holders are not restricted to the duration of the war itself, for, as the last war has shown, their own state may be forced to sacrifice their rights in a peace treaty.

Neutral concessionaires should not be affected by the war, except to the extent that during a war the exercise of the concession is somewhat more likely to meet with varying degrees of disapproval in the grantor country and therefore give rise to lawful or unlawful attempts at cancelation.

The most complicated problems of legal protection arise after territorial changes. The principle to be followed in cases of state succession is highly controversial especially since the war of 1898 between the United States and Spain and the British conquest of South Africa in 1900. It would seem that even in the absence of treaty stipulations providing for their maintenance concessions, unless of a particular character, should not be canceled without compensation; on the other hand, the successor state should not be bound by the specific promises of its predecessor with regard to specific maintenance of concessions. In the case of partial loss of territory the question is even more complicated than in that of complete annexation or complete dismemberment. Two extreme opinions have been advanced: one to the effect that the cessionary state succeeds to the succession contract or other obligations of the grantor state; another to the effect that the cessionary need not respect any concessions granted before the territorial change. The question cannot be answered briefly since it involves a number of important distinctions, such as whether complete destruction of the concessions or mere depreciation results; whether the grantor is totally or only partially transferred to a new sovereignty; and whether the successor state recognizes under its own law the type of right granted by the ceding state.

Although the term concession is not known to mediaeval law, there were many institutions in the Middle Ages which correspond to modern concessions and form the basis of later development. Acquisition of land in most cases took place under the feudal system, under which the tenant of land had obligations as well as rights. If an alien wanted to engage in agriculture he was usually dependent upon a feudal grant. Where wholesale emigrations into less developed countries took place, like the migration of German settlers into Transylvania, the Hanseatic settlements in England and Russia and the settlement of European merchants in the Levant, such settlements were sometimes endowed with special privileges. Trade and production functioned principally under the guild system, admission to which usually required special permission. In general, liberty of economic activity was the exception and special permission the rule in mediaeval times.

In agriculture the feudal system continued almost everywhere until the French Revolution, and outside of France it was gradually replaced by modern institutions between 1790 and 1848. In trade and commerce a gradual weakening of the guild system took place everywhere, but special privileges and monopolies continued and even increased in importance with the development of industry and the necessity of promoting special skill and invention by special rights. The admission of skilled foreign tradesmen and merchants was encouraged under the mercantile system. With the rise of national economic units, however, special privileges for foreign settlements became much rarer and less embracing.

Outside of Europe the settlements in newly discovered countries led to institutions which were essentially different from both the feudal and the guild systems. Individuals and trading organizations like the East India Company obtained from their home governments concessions which gave them not merely the right to trade but also to acquire land and to exercise governmental functions over this land on a basis widely different from the feudal system. The concessions were frequently granted prior to actual acquisition or conquest of the territory

involved in the concession. This new system played an important part in the development of America.

As the distinction between public and private law became more marked and as government came to be regarded as something reserved to public persons, states and sovereigns rather than to private persons, concessions of a different type became more frequent outside of Europe. These were granted not by the home government of the grantee but by the native rulers of the country and did not convey governmental rights in the same sense as the older type. They were nevertheless of great political importance, for the grantee was frequently protected by his home country and his influence and position were used as stepping stones to territorial expansion. The importance and frequency of such concessions during the nineteenth century kept pace with the general industrial development, which made acquisitions of oversea raw materials increasingly important. With the accumulation of wealth after the Napoleonic wars and the climax of the capitalistic era the extension of concessions was also undoubtedly fostered by the desire to invest surplus capital in foreign enterprises which promised high profits. As long as England was the best prepared of the European states for extensive overseas expansion and as long as competition between European states was not considerable, international concessions did not give rise to important political disputes. Nevertheless, after the recovery of France from the Napoleonic wars and the consolidation of national democratic states, the other European states began increasingly to look for overseas expansion. Concessions as important elements in this expansion thus became factors in the great struggle for the distribution of the remaining sources of wealth—a struggle which became more and more prominent toward the end of the nineteenth century. This period witnessed even a revival of territorial concessions in some places.

Oil concessions in view of their general and political importance have probably received more attention than almost any other type. Those in Mexico, Persia and Irak especially have given rise to discussion and controversy, but those in the Caucasus, India, the Dutch East Indies and various Latin American countries are also important. Not all so-called oil concessions, however, are concessions in the technical sense here adopted: they may be ordinary real property or subsoil rights or private mining rights of various descriptions. The states are probably less concerned with the supply of oil in peace time than with the envisaged impossibility of obtaining it in times of war—either as a belligerent, from enemies or even from neutral countries which are not adjacent, or as a neutral, from belligerents who may need all their oil supplies for war purposes. Similar considerations govern international policy with regard to other minerals.

Rubber concessions have obtained a certain notoriety because in some countries, as the Congo State and Liberia, their exercise is usually admitted to have been connected with objectionable labor conditions. The question of rubber has also been involved in recent controversies over international restraint of trade. The controversy which centered around the Stevenson Act (1922–28), however, was concerned not with concessions but with the exercise of governmental control and private restraint of trade.

Railroad concessions have been and still are of great importance in almost all economically undeveloped countries. They have had historical importance in China, Turkey and also in South Africa. While such concessions have always been of great importance in Latin American countries, the United States has developed its railroad system partly with foreign money but almost exclusively with American skill and management. River concessions and inland navigation concessions have been numerous. The entering of harbors has been generally recognized as not needing special concessions except in portions of the Orient. Since the World War concessions for aerial transport have become of increasing importance.

With the parceling out of most oversea territories among the leading world powers and with the subsequent exclusion of foreigners the field of international concessions has been narrowed considerably. Concessions granted to foreigners remain important, however, in Russia, China, Turkey, Persia, Liberia, Abyssinia and in the Latin American states. In the more developed European countries concessions granted to foreigners have not played an important role since the last century. Recently, however, countries advanced politically and economically have been forced to admit foreign concessions and foreign management although efficient domestic management was available. This is a consequence of political pressure or more frequently

of financial need. The concession, for instance, may have been pledged for a debt or may have been given in consideration of a loan. From an economic point of view such concessions are inherently abnormal because they replace domestic management by foreign management without economic justification. International concessions are chiefly held by nationals of Great Britain, the United States and France. German expansion in this field has been partly interrupted as a result of the World War.

As many concessions were obtained from backward rulers of corrupt governments, it was possible for grantees to use questionable tactics in obtaining them. Even South Africa was not entirely free from such abuses, as is revealed by the report which the Lyttelton Commission made after the annexation by Great Britain. Concessions obtained through such means have not always been excluded from protection by the home governments of the grantees.

Complaints about maltreatment of native labor by concession holders have centered chiefly around Africa. It cannot be said, however, that such practises are a general feature of all foreign concessions. Control over the operation of concessions is inevitably dependent upon the character of the government and the checks upon it. A progressive step toward international control has been taken by the adoption of the mandate system, and the Mandate Section of the Secretariat of the League of Nations is admittedly exercising an efficient restrictive influence.

The economic and political consequences of concessions for the grantor country are essentially similar to those of foreign economic control in general. In all economically backward countries concessions are apt to promote and accelerate economic development, but foreign capitalists may not always be interested in the preservation of resources. Even an approximate estimate of economic advantages and disadvantages to the granting country would be merely hypothetical, since it is impossible to ascertain what the economic development of the particular country would have been if certain concessions had not been granted. An important concession granted to nationals of a powerful foreign state is likely to increase the possibility of foreign interference and even intervention but hardly more than in the case of other methods of economic penetration. Concessions granted to foreigners by a country which is not only economically backward but also essentially different in its culture from the country of the grantee may affect the general social life of the granting country. They may introduce modern methods of efficiency not only in economic affairs but also, for instance, in such matters as sanitation. They may contribute to the disintegration of the native culture and change the social structure of a country by transforming a part of the population into a laboring class similar to that existing in western countries.

International concessions are, of course, potential sources of wealth and revenue for the country of the grantee. They represent, however, only one legal type of foreign economic investment and activity and therefore only one of the means of economic expansion abroad. For instance, the economic and political effects of oil interests abroad do not vary according to whether such interests have the legal form of real property rights or of concessions. The influence of concessions upon the political and economic position of the state of the grantee and upon its foreign policy can therefore be studied effectively only in connection with the whole problem of foreign raw materials, economic monopolies and investments.

International concessions will probably remain one of the legal forms of international economic intercourse as long as countries are in need of economic skill which is not available in their own country. Even increasing nationalism, while undoubtedly a restrictive influence, is not likely to lead to a total abolition of international concessions. Nor would the disappearance of the modern system of private capitalism have this effect. As long as several independent states remain in existence the economic problems may remain the same, although in a socialistic or communistic world concessions would be granted to states instead of to individuals or to private corporations. With the constant reduction of the number of backward governments the problem of controlling the acquisition of concessions will probably become less important than it was in the nineteenth century. On the other hand, whether that class of concession based on political pressure or financial need will increase will depend on world development in general. Where a backward government is replaced through conquest by a more advanced government or where territories become mandates, the problem of control is solved by the change of sovereignty rather than by any general legal restriction of sovereignty. As long as the present conception of sover-

eignty remains it will be difficult to restrict the possibility of voluntary governmental promises. The present system of international law does not hold invalid treaties which are imposed through political pressure or which have undesirable effects. It would be almost impossible to restrict the validity of promises given to individuals to any greater extent than those given to states. In so far as concessions have undesirable effects on grantor countries, limited remedy may be partly found through extra-legal means, such as publicity and advocacy of doctrines favoring the development of national culture, rather than through speedy national economic development. The most important remedy both for the protection of grantors and grantees is probably the dissemination of general legal advice with model forms for concession agreements.

Many improvements are possible in the drafting of concession agreements. The insertion of clauses providing for private arbitration would be very helpful; and as international law has not yet reached the stage of maturity, provisions for the application of equity principles in arbitration might also be suggested. Legal disputes could probably be diminished if every concession agreement contained a clear definition of the legal status of the concession, detailed provisions concerning the interdependence of the obligations of the grantor and the grantee and express provisions regarding the independent or ancillary character of auxiliary rights. Time limits are essential for all concessions which are likely to outlast the general or special conditions under which they have been granted. While stipulations concerning the possibility of cancelation may be desirable, it seems even more essential to insert repurchase clauses providing for an orderly and fair liquidation of concessions. It would probably be futile to provide for the continued functioning of enemy concessions during war time; provision should be made, however, for the maintenance of the substance of concession rights and for compensation or revival at the end of the war. If territorial changes appear likely in the region where the concession is granted, it might be desirable to minimize the public character of the concession and to shape it in a way which makes the granted rights as independent as possible of the continued validity of specific promises of the grantor or the grantor's government.

ERNST H. FEILCHENFELD

See: IMPERIALISM; COLONIES; CHARTERED COMPANIES; FOREIGN INVESTMENT; BACKWARD COUNTRIES; INTERVENTION; SPHERES OF INFLUENCE; RAW MATERIALS; OIL; RUBBER; RAILROADS; FORCED LABOR; MANDATE; STATE SUCCESSION; NEW ECONOMIC POLICY.

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CONCILIAR MOVEMENT. The conciliar movement was the attempt made in the fifteenth century to reform the church "in head and members" through the agency of a series of general councils. It aimed at putting an end to the Great Schism, arising from the existence since 1378 of the two rival lines of popes, one Roman, the other Avignonese, and at overhauling the administrative machinery into which the system of finance practised by the Avignonese pontiffs had introduced many grave abuses. The idea that appeal could be made to a general council as an instrument of reform was no novelty. The third and fourth Lateran councils in 1179 and 1215 respectively had introduced reforms into the body of the church, and one of the objects of the Council of Vienna of 1311–

12 had been the correction of evils. But in the schism the situation was peculiar. While there were two popes, each with his own obedience, there was no lawfully constituted convening authority; and no council would be of any value in the situation unless all canonical impediments were set aside and the whole body of the church in the persons of its representatives was given the power to dispose of the papacy. Early conciliar theorists like Guillaume Durand, who in the early fourteenth century under the stress of the quarrel between the French monarchy and the pope had advocated a general council, had never been confronted with such a situation. Hence the present upholders of this plan, writing in the first days of the schism, had to urge the doctrine of utility and plead for the constitution of the councils on grounds of *epikeia*, or the equitable supervision of the rigidities of the canon law—a position that finds strong expression in the works of Jean Gerson, chancellor of the University of Paris. When Gerson assumed the chancellorship in 1395, the University of Paris had already become the center of conciliar propaganda, inspired by such men as Pierre d'Ailly and even earlier by the German masters, Conrad of Gelnhausen and Henry of Langenstein, author of *Concilium pacis* (composed in 1381; in H. von der Hardt, *Magnum oecumenicum constantiense concilium*, 7 vols., Frankfort 1696–1742, vol. ii, p. 3–60) and of *De scismate* (composed about 1382; ed. by G. Sommerfeldt in *Historisches Jahrbuch*, vol. xxx, 1909, p. 46–61). As a result of the efforts of the university the conviction was gradually growing in Europe that a representative council was the only way of ending the schism and securing reform of the abuses universally castigated. In the early days, however, Paris itself was by no means unanimous in its advocacy of this cause. The *via concilii* had the support of the Anglo-German nation, some of the Picards and great numbers of the masters and scholars of the faculty of arts, but the three superior faculties, theology, *décrets* and medicine, were slower to be convinced. Their hesitation was not unaffected by the French king's unwillingness until the declaration of neutrality in 1399 to desert the Avignonese pope and so forfeit his schemes for extending Angevin influence in central Italy and the chance of securing promotion for Paris graduates. But later, when the patience of Christendom was exhausted and when the obstinacy of Benedict XIII and the nervousness of Gregory XII checked every attempt to effect a mutual understanding between the popes with a view to their cession, the cardinals of each party were forced to concert measures for holding a council to end the schism; and their efforts were strongly supported by the Gallican church and by the rulers of France, England, Bohemia and Hungary. The result was the Council of Pisa, which assembled in 1409.

Unity and reform were its two objects. Neither was secured. Determination to make a speedy end of the schism soon led to the election of Peter Philargi as Alexander V, but since the council merely declared the two existing pontiffs schismatic without attempting to conciliate them, the result was the *condominium* of three representatives of St. Peter. Nor was reform in the church brought any nearer. The question was referred to a committee of four cardinals, who hesitated to recommend any drastic step, while the gentle Alexander himself was not equal to the task. For one thing, however, the council was remarkable: representatives of the church and of the universities spoke their minds about the limitations which might under certain circumstances be imposed upon the papal monarchy. Gerson and Pierre d'Ailly, then bishop of Cambrai and later cardinal, were each prominent in their statements of a constitutional theory for the church, and the former's *De auferibilitate papae ab ecclesia* (in his *Opera omnia*, new ed. by E. du Pin, 5 vols., Antwerp 1706, vol. ii, cols. 209–24) marks a stage in the evolution of conciliar theory. For nearly five years after the Council of Pisa there was a pause in conciliar activity. Alexander was succeeded in 1410 by the military-minded John XXIII, who had no desire to see the triarchy ended by a general council. But ironically enough it was his own dangerous position in the political struggles of Italy that ultimately led him into the assembly which cost him his tiara. In June, 1413, he was driven from Rome by Ladislaus of Naples and had to seek the support of the Holy Roman emperor Sigismund. The price of German assistance was the gratification of Sigismund's idealistic leanings, the summoning of a council to end the confusion in the church, to effect a thoroughgoing reform and—here Sigismund's own political interests coincided with his orthodoxy—to deal with the Hussite movement in Bohemia. These were the three objects of the Council of Constance, which convened on November 5, 1414, and closed on April 22, 1418. "So foxes are caught," was

John XXIII's remark as his cavalcade came within sight of its meeting place.

Representation at the Council of Constance was almost universal. No less than 83 princes sent ambassadors; and besides 33 cardinals there were 47 archbishops, 145 bishops, 132 abbots and 361 doctors of civil and canon law, with 1400 ordinary masters of arts and licentiates. With so heterogeneous a composition, with so many different purposes and cross purposes seeking fulfilment, questions of internal organization, particularly the order of business and the method of voting, assumed immediate and fundamental importance. If heads were counted, the reactionary party might win and John XXIII might simply remove his opponents and ignore the question of reform. Such an outcome was hardly in keeping with the plans of the French leaders like d'Ailly and William Fillastre, the dean of Reims. Their program was essentially that expressed in d'Ailly's *Capita agendorum* (in H. von der Hardt, *Magnum . . .*, vol. i, pt. ix, p. 506–36), which called for a complete reformation in head and members, and they were not to be satisfied with the restoration of unity in the person of a notorious reprobate. Hence, when the English delegation led by Bishop Robert Hallam of Salisbury and supported by the Germans suggested that the system in vogue in the universities should be adopted and that voting should be by nations, the French fell in with the plan and the papalist Italians were outnumbered and acquiesced. This deprived the cardinals of effective influence. Envisaging the result John XXIII publicly professed his willingness to quit the papal chair but in March, 1415, secretly escaped to Schaffhausen. The unequal battle between the cardinals, anxious to preserve their right of election, and the conciliar liberals, determined to procure John's abdication, continued until John was finally deposed. Shortly afterwards Gregory XII resigned and in July, 1417, after prolonged efforts to secure his voluntary abdication Benedict XIII, the pope "from the land of good mules," was at length pronounced schismatic and heretical. The following November unity was achieved by the election of Cardinal Oddo Colonna as Martin V.

The other problems before the council concerned heresy and reform. Bohemian nationalism had for some years blended with an evangelical movement centering in the Altstadt at Prague and strongly though not exclusively influenced by Wycliffite doctrine, which aimed at curtailing the wealth and luxury of the largely German hierarchy in Bohemia and at the popular exposition of religious truths in the vernacular. The leader of this ecclesiastical fundamentalism, if it may be so termed, was John Huss, who had been excommunicated and in defiance had appealed to a general council in order to vindicate the principles of Wycliffe. Huss was granted a safe conduct by Sigismund but soon after his arrival in Constance was arrested and charged with three main heretical positions: with denying transubstantiation; with teaching that the validity of the sacraments depended on the moral character of the priest; and with holding unsound views on the nature, discipline and organization of the church. Judged by the standards of the day his trial, which lasted from December, 1414, to July, 1415, was by no means unfair; but Huss could never yield to orthodoxy and so had to be publicly burnt. His death aroused the fiercest national passion in Bohemia, which was further exasperated by the council's similar treatment of the Bohemian nobleman, Jerome of Prague, who had championed the Bohemian party against the Germans in the university. "The Gospel which we have," said Luther, "has been paid for by the blood of Huss and Jerome." These acts aroused no controversy in the council, but the problem of reform was more contentious, and it is here that the influence of national politics upon that body is clearly marked. All the delegations were convinced that the luxury and expense of the papal court must be reduced, that something had to be done to diminish papal taxation, whether in the form of annates or of *servitia*, and that the volume of papal reservations, swelled by the successive enactments of the Avignonese popes, must be curtailed. Some progress was made by the first commission of reform in 1415–16, but the death of Bishop Hallam (in September, 1417) and the bitterness between the French and the English —the result of Sigismund's anti-French alliance with Henry V in the Treaty of Canterbury, made while the emperor was on his propaganda tour on behalf of the council—weakened English interest in reform. In consequence national animosities, increased by the accession of the Spanish to the council in 1417, worked with the complicated nature of the whole financial problem to prevent the formulation of any detailed conclusions. Only the famous five decrees of October, 1417, were promulgated, the first of which, *Frequens*, ordained that a general

council should be called five years after the dissolution of the Council of Constance and should be followed seven years after its close by a second; thereafter councils were to be held every ten years. Reform was left to the new pope, and certain specified recommendations were made to him. Martin V, however, was content to pass the inadequate decrees of March, 1418, and to make a series of concordats with the principal powers, involving for the most part his recognition of the actual status of papal finance in the various countries, along with certain modifications in favor of national demands for the reform of abuses in the central bureaucracy. The fact was that in their relations with the Avignonese papacy the principal countries of Europe had evolved a technique of mutual agreement and compromise which their rulers did not wish to upset. In the collation of benefices England had already secured much of what she wanted through the Statute of Provisors of 1390, and in the Ordinance of 1407 the seeds of Gallicanism had been sown in France. But in the realm of political theory the decree of April 6, 1415, to the effect that the council constituting and representing the Catholic church held its power immediately from Christ and could claim the obedience of every rank and dignity, papal included, is of fundamental significance.

The result of the Council of Constance was a papacy more hardened and ultramontane than before. Martin's relations with Archbishop Chichele of Canterbury, with James I of Scotland and with Portugal show that he was no reformer, and the publication of rules for his chancery perpetuated many of the abuses of the past. The council of 1423, convened at Pavia but adjourned to Siena on account of plague, he never took seriously, and the poor attendance gave him the opportunity to dissolve it. It was left to his successor Eugenius IV to face the situation caused by the failure of the church to suppress the Hussites in Bohemia and by the rising anxiety of Europe as a whole on the score of clerical abuses. The theory of popular representation in church matters was growing: universities like Cologne and Heidelberg were now centers of conciliar theory, and with the religious revival in northern Europe known as the *devotio moderna* a greater desire for regeneration was making itself felt.

The Council of Basel, which was in session from 1431 to 1448, gathered up these aspirations and seemed the great chance to induce a society, monarchical to the core, to return in spirit to the federal days of the early church. In constitution this assembly was more democratic than that of Constance. Voting went by committees, over which members of the various national delegations were equally spread, and the influence of the hierarchy was largely reduced, since the lower clergy had seats and voted. The stages in the life of the council were three. It was at its finest and most influential in the first phase (1431–34), when it was fighting under the presidency of Cardinal Giuliano Cesarini for its very existence against the determination of Eugenius IV to dissolve it. In this first stage the doctrine of conciliar government in the church received fundamentally important expression in the *De concordantia catholica* of Nicolas of Cues, later bishop of Brixen and cardinal (in his *Opera*, Basel 1565, p. 683–825). In this work, which helped to lay the foundations of liberal theories of sovereignty, he argued along truly mediaeval lines that the church was an organism and by implication did not consist of monarch and subjects, that the papacy was an administrative function only and could not contradict the decrees of the whole church assembled in the persons of its representatives. Against the fulminations of Eugenius the council held firm and acquired general prestige and admiration by its patient handling of the Bohemian situation and its invitation to the Hussites to state their case in public debate at Basel. But its early victory was thrown away by the extreme tactics of the French delegation under the leadership of Cardinal Louis Aleman, and in the second phase (1434–39) Eugenius was able to undermine the allegiance of many important persons and finally to drive the exasperated radicals into false steps which alienated Cesarini and thus deprived the council of its greatest moral force. Important among these blunders were the determination of the French radicals to secure upon French soil a meeting place for the prospective council which was to seek unity of the eastern and western churches and the council's assertion of its right to grant indulgences. But even more serious was the fact, which weighed upon the side of Eugenius, that the council was trying to grasp the whole governing activity of the church and undertaking administrative tasks for which only the Curia was fitted. These considerations led Eugenius in 1437 to break with the fathers at Basel, repudiate the decrees of the assembly and finally in September, 1437, to proclaim its dissolution.

In 1439 the council replied by the citation and "deposition" of the pope and the election of Amadeus of Savoy as Felix v. Meanwhile in 1438–39 Eugenius secured the holding at Ferrara and later at Florence of a new council attended by the Greek emperor and many orthodox prelates. The Greeks accepted the western doctrine of the procession of the Holy Spirit, the use of either leavened or unleavened bread in the Eucharist and the headship over all Christendom of the Roman pontiff. This resounding victory, which, however, never became actual, enabled Eugenius successfully to defy the Basel assembly during its last phase (1439–48), in the course of which the conciliar radicals, the Italians having now withdrawn, progressively forfeited the respect of Christendom. But some work of value had already been effected. A compromise had been arranged with the Bohemians in 1436 by the compacts of Iglau, reforming decrees had been passed which forbade reservations as unauthorized by canon law and which abolished annates and limited the number of cardinals; and some of the more important of these recommendations were accepted by the king of France, Charles VII, and embodied in the highly Gallican Pragmatic Sanction of Bourges of 1438. Yet the fact remains that the council that started with the firmest resolve and the highest spiritual and intellectual preparation broke up largely on account of jealousy between the Italian conservatives and the French radicals, the emperor Sigismund while he lived being unable by the force of his personality or advice to hold them together.

The conciliar movement restored unity but failed to reform the church. Of the highest interest as an experiment in international government, it served to show the weakness in practise of a representative system when matched against the centralized control of an absolute monarchy in fifteenth century Europe. It foundered upon the rocks of papal finance and national antagonism. Even Gerson was subject to patriotic irrelevance when he sought at Constance to secure the condemnation of Jean Petit's theories, while such a ruler as Henry v regarded the council merely as a useful place for ventilating his grievances against France. But the conciliar leaders did their utmost to secure peace and order in European society, and although they were not successful they gave an immense stimulus to the ideas of liberal constitutionalism which came later to the fore in Europe. In many ways the movement acted as the seed bed of liberalism.

E. F. JACOB

See: RELIGIOUS INSTITUTIONS; PAPACY; CANON LAW.

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CONCILIATION, INDUSTRIAL. The term conciliation is frequently used as a synonym for mediation. Properly speaking, however, mediation is a passive act of intervention between disputants by a third party, whereas conciliation represents an attempt to reconcile the disputants and bring them into agreement. A mediator is a go-between performing messenger service for the parties in dispute. He imposes neither his will nor his judgment upon the parties. A conciliator, on the other hand, makes suggestions and offers advice on the controversial issues. The term conciliation is sometimes also used as a synonym for direct negotiation or collective bargaining. Both mediation and conciliation are in sharp contrast with arbitration, which occurs when the differences in dispute are submitted to an outsider whose function is to render an award. Successful arbitration has, however, generally emphasized conciliation both as a means of arriving at the essential facts in a dispute and of preparing the minds of the contestants for the decision or award. In fact, mediation, conciliation and arbitration may all be used in the course of a single dispute between workers and their employers. The breakdown of joint negotiations may lead to mediation and conciliation, and their failure may lead to arbitration. Not infrequently the same person or group of persons serves successively as mediator, conciliator and arbitrator, although in theory the conciliator disqualifies himself as arbitrator by having made positive suggestions for settlement which were not accepted. Although mediation, conciliation and arbitration are generally thought to be performed by outsiders or neutral parties, both mediation and conciliation are frequently carried on by the interested parties themselves. In fact, most collective agreements between trade unions and employers provide for the joint adjustment of differences by conciliatory methods and in many instances provide for arbitration only if conciliation fails. As a rule legislative provisions for mediation and conciliation are accompanied by provisions for arbitration.

The machinery for the settlement of labor difficulties, whether created by agreement within the industry or by legislative enactment, is concerned with one of two types of disputes: differences over the interpretation of an agreement or differences over the renewal of the agreement. This machinery is either temporary, created for a specific dispute, or is permanent. Most governmental conciliation machinery is permanent, although provision is frequently made for the appointment of special conciliators to settle particular disputes of national importance. The degree of compulsion connected with conciliation varies from optional conciliation, under which the disputing parties are free to accept or reject proposals to meet for the settlement of differences and may decline the proffer of good offices by a third party, to compulsory conciliation, under which conciliation must be tried before a strike or lockout may occur.

The French *conseils de prud'hommes* were probably the earliest of modern bodies for the conciliation of labor disputes. Prior to the French Revolution there were boards of conciliation associated with the guilds which settled disputes arising over guild matters. When Napoleon visited Lyons in 1805, the silk manufacturers petitioned him for permission to reestablish some form of conciliation machinery for their trade. As a result, the first *conseil de prud'hommes*, or council of experts, was set up in Lyons in 1806, and soon after others were established elsewhere in France. At first there were no employees on the councils, but by 1848 their membership consisted equally of workers and employers. They were empowered only to settle individual, not collective, disputes and were restricted to manufacturing industries. Each council had two sections: one sat every day for two hours for conciliation purposes; the other, which met less frequently, arbitrated unsettled issues. France did not provide for the conciliation of collective disputes until the passage of the Voluntary Conciliation and Arbitration Act of 1892. Councils were established along the Rhine during the period of Napoleon's control, and when the French withdrew the councils remained and spread to other parts of Germany. Beginning about 1810 they were also established in Belgium, where, however, they never became as important as in France.

In Great Britain, although a few scattered short lived boards of conciliation with equal numbers of employers and workers existed locally in such industries as pottery, carpets and

silk as early as the eighteen thirties and forties, the first permanent board of conciliation was established in 1860 through the efforts of A. J. Mundella in the hosiery and glove trade of Nottingham. This board, which was made up of eleven masters and an equal number of operatives, was inspired by the example of the French *conseils* and existed for more than twenty years. Another famous board was established four years later through the efforts of Sir Rupert Kettle in the building industry at Wolverhampton. Whereas the Mundella board soon became a true board of conciliation, the Wolverhampton body added to the functions of conciliation the institution of a permanent arbitrator. These two bodies became models for many others established in Great Britain in the succeeding years. Legislation enacted by Parliament in 1824, 1867 and 1872 to promote the conciliation and arbitration of disputes was ineffective. Nevertheless, the Conciliation Act of 1896, which empowered the Board of Trade to investigate the causes of a dispute and to appoint mediators, conciliators or arbitrators, led to a widespread use of conciliation.

Effective legislation to promote the settlement of industrial disputes in the United States was first enacted in 1886 by the legislatures of Massachusetts and New York. The public boards which were set up in that year and those established later in other states settled many labor disputes by mediation and arbitration. Conciliation had already been practised without governmental aid for a decade or more in the coal and iron industries. But perhaps the most significant early American private conciliation system, outside the coal industry, was inaugurated in 1891 by an agreement between the International Molders' Union and the Stove Founders' National Defense Association. Since that year disputes have been settled by conferences between the officers of the union and the employers' association, and no strikes have occurred.

Provisions for conciliation and mediation have been greatly extended and are at present in operation in many countries. In addition to its long series of provisions beginning in the last century for the settlement of railroad labor disputes, the United States has also established conciliation machinery for other industries. The act of 1913 which created a federal Department of Labor empowered the secretary of labor to appoint commissioners of conciliation. The men and women attached to the conciliation service are trained in the technique of handling industrial disputes and are appointed to extend their good offices when disputes arise. They adjusted 70 percent of the 9098 disputes which they handled from 1914 to 1929 and were completely unable to adjust only 9 percent. This record shows, however, nothing of the quality of the settlements. These conciliators, like most conciliators, have generally been much more interested in securing an agreement peacefully than in the permanency or the justice of the agreement. About two thirds of the states have provisions for the promotion of mediation and arbitration.

Great Britain's Conciliation Act of 1896 has been supplemented and practically superseded by the Industrial Courts Act of 1919, which facilitates settlement by mediation and conciliation as well as by arbitration. In France the jurisdiction of *conseils de prud'hommes* was extended in 1907 from manufacturing to other industries. However, the *conseils* have been unequal to many problems of modern industry largely because they may only handle disputes arising out of existing contracts. The committees which operate under the Voluntary Conciliation and Arbitration Act of 1892, however, may take up other classes of disputes and have become of increasing importance. Under this act either party to a dispute may request a local *juge de paix* to appoint a conciliation committee; in case of a strike or lockout the *juge de paix* may take the initiative. If no agreement is reached, an arbitration court consisting of an equal number of employers and employees may be set up at the request of either party. If this machinery also fails, an umpire may be appointed if the disputants wish it.

In Germany the old system of conciliation was done away with by the order of 1923, which provides for permanent conciliation boards and state conciliators whose principal duty is to cooperate with the employers and employees in making collective agreements. They may intervene in a dispute on request of either party or on their own initiative. First they must attempt conciliation; if they fail in this the dispute must be submitted to a conciliation chamber consisting of the impartial chairman of the conciliation board and two representatives each of the employers and employees or to a chamber consisting of the conciliation commissioner and an equal number of representatives of the employers and employees appointed by the commissioner. If no agreement is reached, the

chamber must make a proposal which if accepted by the two parties has the validity of a collective agreement. If the proposal is rejected it may under certain conditions be made legally binding by the state conciliator or federal minister of labor. Disputes arising out of the interpretation of collective agreements are now largely handled by the labor courts. The local labor courts settle a considerable proportion of their cases by methods of conciliation.

Labor inspectors in Poland serve as mediators in many disputes. Norway, which had a system of compulsory arbitration from 1915 to 1923, has also had since 1916 a system of compulsory conciliation under which public conciliators are empowered to call disputants into conference before a stoppage of work may legally take place. In Denmark, if preliminary attempts at conciliation fail, government conciliators are authorized to draw up recommendations for the settlement of the dispute. The recommendations may be published after answers have been received from both parties. Governmental mediation and conciliation machinery exist in a number of other European countries, including Sweden, Finland, the Netherlands, Austria and Switzerland. Effective work for terminating controversies has been done in Canada in connection with its system of compulsory investigation and postponement of strikes under the provisions which require the boards of investigation to attempt the mediation of disputes.

Conciliation as well as compulsory arbitration has since 1895 been part of the New Zealand system of adjusting industrial disputes. Conciliation has been especially effective since the passage of legislation in 1908, and in recent years conciliation councils have settled the vast majority of New Zealand's industrial controversies. In Australia there has also been a growing demand for more conciliation and less arbitration. The Commonwealth Conciliation and Arbitration Act was amended in 1928 and considerably extended the scope of conciliation. It provided for the appointment by the chief judge of the arbitration court of conciliation committees composed of equal numbers of employer and employee representatives and a chairman with no vote. If an agreement is reached it has the force of an arbitration court award; if conciliation fails the matter must be settled by the ordinary arbitration machinery. Queensland and New South Wales have similar conciliation provisions. Governmental conciliation has also been recently adopted in the Orient as a result of growing importance of industrial disputes. Japan's Labor Disputes Conciliation Act of 1926 provides for the establishment of conciliation boards as controversies arise. In 1929 British India and China passed legislation for industrial conciliation and in addition the latter country provided for arbitration.

A relatively recent type of conciliation is that connected with organizations of workers employed by a single firm. Such organizations, variously called works councils, shop committees or company unions, may or may not be associated with independent trade unions. In Germany, where they are fostered by specific legislation, and in Great Britain, where their establishment has been promoted by the Ministry of Labour as part of the Whitley Councils plan, they are directly associated as a rule with trade unions. In the United States, on the other hand, they are not affiliated with trade unions and are bitterly opposed by them. Among the various functions of these plant committees is that of representing the workers in the adjustment of disputes with employers.

Far more important agencies of conciliation are those set up as part of the ordinary machinery of collective bargaining with trade unions. Trade agreements in many countries, particularly in Great Britain and the United States, contain provisions for the joint adjustment of grievances arising during the life of the agreements and for negotiating new contracts at their expiration. The systems of adjusting disputes in the anthracite and bituminous coal industries and in the men's clothing industry in the United States are especially well developed. In the former the procedure has been for disputes arising over the interpretation of an agreement to be referred to a pit committee representing the men at work in the mine. This committee consults with the mine boss. If no settlement is reached, the dispute is taken by the president of the subdistrict miners' union to the mine superintendent, and if the dispute still remains unsettled it is referred in writing to the state officials of the union and the officers of the operators' association. Provision is made in some states for arbitration if these fail to agree.

In the men's clothing industry disputes are first considered by the shop chairman, who is an elected representative of the workers, and the foreman. If not settled they are referred to a union deputy, whose entire time is given to the adjustment of grievances. He confers with the official handling labor relations for the firm,

and if no agreement is reached the dispute is submitted to a board for arbitration. Formerly the board consisted of an equal number of representatives from both sides and a permanent impartial chairman. At present the impartial chairman acts as sole arbitrator. His work consists chiefly of mediation and conciliation; only the most obstinate cases are submitted to formal arbitration. There is also a rarely used provision for an appeal from the decision of the impartial chairman to a higher board of arbitration. In both the mining and clothing industries there is additional machinery for making trade agreements through joint negotiations.

In conciliation the attitude of the contending parties is a significant determinant of procedure and results. When an agreement is sought through the method of conciliation rather than through arbitration it frequently indicates that neither side believes that an impartial umpire can be found. It also means that both sides prefer to avoid open conflict, at least for the present, but that at the same time neither party cares to surrender any of its bargaining strength. Both sides are aware of the possibility of resorting to a strike or lockout. Therefore, whether conciliation is being carried on by the parties to the dispute alone or with the aid of an outside conciliator, the relative bargaining strength of the rival parties is of outstanding importance. In fact, a large proportion of all types of conciliation, especially when no outsider is present, is nothing more than formalized collective bargaining. Each side in conciliation is likely to take an extreme position as a trading point and to recede from it only under pressure. This is particularly true when conciliation is resorted to but occasionally. Moreover, the type of leadership has much to do with the attitude taken during conciliation. At the outset, in any arrangement providing for conciliation, the parties are distrustful and are disposed to take hard and fast positions. Sometimes the provisions for arbitration in case of failure to agree accentuate this attitude because it appears to be easy to shift responsibility to the arbitrator, whose decision may be freely criticized by each side. Nevertheless, as the leadership becomes more experienced there comes a realization of ultimate responsibility and a tendency for each side to carry the burden of decision. The seasoned and well trained leader can see both sides of a situation. Conciliation may thus become a means of jointly considering the needs of an individual concern or of an entire industry. Naturally with this larger consideration the likelihood of an arbitrary stand on petty differences becomes very remote. It does not necessarily mean, however, that either side will surrender basic principles.

Conciliation appears to be especially effective as a method of settling disputes when it is carried on by means of permanent machinery. There comes to be a day to day balancing of forces which avoids the shock of occasional adjustment. Frequent contact between the two parties tends to promote mutual understanding and the possibility of peaceful relations in the future. Since joint negotiations are not always successful, however, a mediator is often capable of performing a valuable service by bringing the two sides together again for further conferences. Sometimes, by acting as a confidential intermediary, he may learn what each side will concede and may thus find common ground for an agreement. Often, because of the esteem in which he is held by the disputants, he may secure concessions which neither would grant to the other in his absence. An able conciliator frequently finds a basis of agreement which has remained undiscerned by the contesting parties. Tact, insight and the ability to inspire confidence appear to be the most valuable qualities of a good conciliator. Often his most important duty is to find a formula which will permit the contestants to accept a compromise and still retain their dignity and the confidence of their constituents. The conciliator's efforts are most likely to be successful if he is familiar with the trade or if he is a person of eminence in the community.

Arbitration through a permanent umpire or impartial chairman is generally associated with a system of conciliation and mediation. During the early years of the agreement in the men's clothing industry in the United States, for example, there was frequent recourse to formal arbitration by the impartial chairman. As a result a body of rules and precedents was established which has for some time been well known to the representatives of both sides. By studying the decisions of the arbitrator it is often possible to know in advance what kind of opinion is likely to be rendered in a given instance. Since both sides are aware of this the settlements by conciliation become more numerous. When the umpire has continued in office for a long time there is an increased demand for his services as adviser. Thus in time disputes in the industry

come to be settled more and more frequently by conciliation and mediation and less frequently by arbitration. Yet the existence of formal arbitration machinery is desirable for use as a last resort in case other methods fail to bring about a settlement. Furthermore, the dignity of arbitration proceedings helps to maintain discipline and respect for the trade agreement among both workers and employers.

Successful conciliation tends to strengthen trade unionism. In industries in which the workers possess no form of organization, conciliation must almost of necessity be confined to the grievance of an individual worker. Where the workers belong to shop committees established by employers, conciliation is generally confined to minor issues and the workers' bargaining power is weak. Full fledged conciliation is not likely to exist in the absence of independent trade unions. Just as the existence of trade unions generally results in machinery for conciliation, so the practise of conciliation in turn promotes unionism. Conciliation may result in the standardization of wages and conditions throughout a trade. Both the union and the organized employers, feeling the pressure of competition from the unorganized section of an industry, are likely to join in the effort to extend organization. Such efforts to extend the field of conciliation in order to standardize conditions have, when successful, resulted in the growth of unions. Their failure has occasionally resulted in the decline of unions. The regular utilization of conciliation machinery, besides strengthening the industrial status of trade unions, tends to make them more conservative in their conception of industrial problems and less aggressive in their actions. A union can hardly remain militant if it ceases to push its program beyond what it can obtain through conciliatory compromises with employers and if it gives up the use of strikes and other forceful methods. Both aggressive unions and employers accept conciliation when they are weak and resort to strikes or lockouts or threats to use force when they are strong.

The relative effectiveness of conciliation, mediation and arbitration in adjusting labor disputes is indicated in part by the following examples. From 1901 to 1925 inclusive, 4382 disputes were reported to the authorities of New York state. Of this number 41 percent were adjusted by means of conciliation (direct negotiation), 15 percent by mediation, 2 percent by arbitration and the remaining 42 percent were deadlocked or otherwise ended. From 1910 to 1924 inclusive, 72 percent of the labor disputes in Great Britain and northern Ireland which involved the cessation of work were settled by conciliation (direct negotiation), 8 percent by other forms of conciliation and by mediation and 6 percent by arbitration. Eight percent were ended by the return of the workers on the employers' terms without negotiations and the remaining 6 percent were terminated by other methods. These data bear out in general the results of many other investigations. Experience in all countries would seem to indicate that although none of this machinery can of itself remove the causes of industrial conflicts, industrial peace is more likely to prevail where emphasis is placed on negotiation and conciliation rather than on arbitration as a means of adjusting industrial disputes.

B. M. SQUIRES

See: ARBITRATION, INDUSTRIAL; COURTS, INDUSTRIAL; LABOR DISPUTES; COLLECTIVE BARGAINING; TRADE AGREEMENTS; INDUSTRIAL RELATIONS; INDUSTRIAL RELATIONS COUNCILS; EMPLOYEE REPRESENTATION.

Consult: Great Britain, Committee on Industry and Trade, *Survey of Industrial Relations* (1926) ch. v; Gilchrist, R. N., *Conciliation and Arbitration*, Bulletins of Indian Industries and Labour, no. 23 (Calcutta 1922); International Labour Office, *The Conciliation and Arbitration of Industrial Disputes: an International Survey* (Geneva 1927); Commons, J. R., and Andrews, J. B., *Principles of Labor Legislation* (3rd ed. New York 1927) p. 135–87; Barnett, G. E., and McCabe, D. A., *Mediation, Investigation and Arbitration in Industrial Disputes* (New York 1916); Knoop, Douglas, *Industrial Conciliation and Arbitration* (London 1905); Hicks, J. R., "The Early History of Industrial Conciliation in England" in *Economica*, no. xviii (1930) 25–39; Bloch, René, and Chaumel, Henry, *Traité théorique et pratique des conseils de prud'hommes* (Paris 1912); Pigou, A. C., *Principles and Methods of Industrial Peace* (London 1905); Clay, Henry, *The Problem of Industrial Relations and Other Lectures* (London 1929) chs. vii–viii; Cole, G. D. H., *The World of Labour* (4th ed. London 1919) ch. ix; Sorel, Georges, *Réflexions sur la violence* (5th ed. Paris 1921), tr. by T. E. Hulme (London 1916) p. 60–73; Suffern, A. E., *Conciliation and Arbitration in the Coal Industry of America* (Boston 1915); Portenar, A. J., "Prevention or Settlement of Industrial Disputes" in United States, Bureau of Labor Statistics, *Bulletin*, no. 479 (1928) p. 125–34.

CONCLAVE. *See* PAPACY.

CONCORDAT. The term concordat, which denotes any agreement, has come to be applied more specifically to an agreement entered into by a state, on the one hand, and the pope as head

of the Roman Catholic church, on the other, with a view to adjusting unusual conflicts of authority not amenable to ordinary political or ecclesiastical laws and ordinances. Such compacts may be negotiated with an equal degree of validity either at the Holy See or within the domain of the contracting state, the church being represented either by the papal secretary of state, the papal nuncio or a plenipotentiary extraordinary; the state by its permanent representative at the Vatican, its minister of foreign affairs or a special ambassador.

In countries where evangelical churches are predominant adequate means of establishing a demarcation of authority between church and state have usually been found without recourse to the device of the concordat. But in Catholic states, where the strength of the church organization has been conducive to misunderstandings between the civil and ecclesiastical powers, it has frequently been resorted to. In 1107 an agreement was signed in London which may be said with some justification to constitute the earliest use of the concordat. The Concordat of Worms, concluded fifteen years later with the German emperor, is more customarily cited as the original pact of this kind, although it consisted of two simultaneous acts, one by the pope and the other by the kaiser, instead of the single instrument, signed by both parties and constituting an express contract, which later became the more familiar type. The concordats with France in 1516 and 1801 are particularly significant, as well as that with Bavaria in 1817. Those with Austria in 1855 and Ecuador in 1862 are notable, despite their short duration, for the especially generous concessions made to the church. Since the World War such agreements have been made with Latvia (1922), Bavaria (1924), Poland (1925), Lithuania (1927), Portugal (1926), Italy and Prussia (1929). There has been evidenced recently, however, an increasing objection from certain quarters to the use of the term concordat because of its identification with a device which over a course of centuries has conferred upon the church such extensive privileges.

These privileges have taken a variety of forms. A concordat may grant state recognition exclusively to the Catholic church, which is thus given complete spiritual authority, if not over all citizens, at least over its own members. Likewise the state may concede the binding force of canonical laws, particularly those which result in restriction of marriage between Catholics and non-Catholics. Priests may be accorded among other privileges freedom from military service, and bishops a seat in the upper house in Parliament; while at the same time the state may disavow any right of interference with the church's maintenance of celibacy. A concordat almost invariably contains articles concerning the influence of religion or church officials on civil laws and institutions and, more specifically, concerning church influence in state schools. Moreover, the state may grant subsidies to parochial schools and thus assumes many financial responsibilities. It may make grants of land to the church, regular payments to bishops and chapters and contributions to the salaries of the clergy.

On the other hand, as compensating concessions to the states there are usually articles establishing the degree of allegiance owed by the church as well as the extent of civil participation in or supervision over internal ecclesiastical administration. Loyalty to the state has been stimulated by inserting into the church services prayers for temporal rulers, by exacting of bishops and priests an oath of allegiance to the government in power and by excluding from the ranks of the priesthood within a state any citizen of another state. When the establishment of orders and congregations has been subjected to ratification by the state, when there was in France a right of appeal from ecclesiastical to civil courts and when the promulgation of papal decrees within a state has been contingent on that state's permission, concessions of this latter type have not been made in concordats; but the pope has admitted even in the latest concordats that church appointments are open to influence by the state—at least to the extent that the nomination of a bishop may be objected to on political grounds. Moreover, the state in order to safeguard its rights against unfavorable interpretation of ambiguities in the concordat itself, has often added, against the protest of the church, explicit clauses, such as the Organic Articles of Napoleon, or made explanatory statements, as did Mussolini after the Concordat of 1929.

In an attempt at compromise the parties negotiating a concordat often include articles which each points to as concessions to the other, but which in reality confer certain advantages on both. An article, for instance, which provides for the teaching of the Catholic religion in state schools, whether through the agency of clerical or lay instructors, might well be considered a concession on the part of the state, since even in

the latter case there is presented to the church the opportunity of increasing its influence in the training of government teachers. Yet at the same time the article confers an advantage on the state, especially if the instruction is in the hands of state teachers, in that it is thus enabled to exert an influence on religious education and on the spirit of the church.

Contradictory theories of political philosophy as to the primacy of the temporal and spiritual powers have resulted in conflicting conceptions of the legal character of the concordat. The mediaeval "theory of privilege," which assumes the supremacy of the spiritual and the ascendancy of the pope over all princes, holds that the church in surrendering through the concordat certain rights to the state has made concessions which it may at any time revoke. The "theory of the civil law," on the contrary, holds that the power of revocation is peculiar to the state, since as the source of all rights it alone can be said to have granted concessions. Thus in France in 1789 and in 1905 the state acting on this theory abrogated the existing concordats and arbitrarily interfered with ecclesiastical life. A third theory, that of "contract," conceives the church and state as equally privileged parties. Even this theory, in spite of its wide acceptance at the present time, is contested, especially by upholders of the "theory of the civil law" and by jurists, who are skeptical concerning the legality of the concordat as an international compact, since one party to the agreement is not a sovereign state. Such an attitude, however, may be said to be unrealistic when it is borne in mind that few sovereign states today would hesitate to conclude compacts with powerful international economic organizations. There should, accordingly, be even less hesitation to negotiate enduring compacts with an international spiritual power such as the Roman Catholic church. Not infrequently, of course, concordats have led to renewed conflict and been abrogated, but, granted a mutual desire for peace, the concordat may still be a very useful *modus vivendi* amid the strained relations which still exist between the Catholic church and modern states.

HERMANN MULERT

See: PAPACY; RELIGIOUS INSTITUTIONS; CANON LAW.

Consult: Texts of the older concordats are found in *Raccolta di concordati*, ed. by A. Mercati (Rome 1919), and of the more recent ones in *Acta apostolicae sedis*, published monthly in Rome since 1909. For the Catholic side of the question see Ojetti, B., "Concordat" in *Catholic Encyclopedia*, vol. iv (1908) p. 196–203; Bierbaum, M., *Das Konkordat in Kultur, Politik und Recht* (Freiburg i. B. 1928). For the Protestant side see Mirbt, C., *Das Konkordatsproblem der Gegenwart* (Berlin 1927).

CONCUBINAGE might be described as marriage dissociated from juridic functions, more particularly in regard to property and succession. The relation is, except in regard to the latter aspects, almost as clearly distinguished from casual and fleeting sex relations as is marriage. The definition, connotation and status (legitimate or illegitimate, approved or reprobated) of concubinage depend necessarily upon the juridic conditions by which marriage is defined, and these vary widely in different cultures. Where these conditions are undeveloped no distinction exists between concubinage and marriage, as has been the case in many lower cultures and in some which are relatively advanced, as in ancient Japan. The distinction found in some lower cultures (Australians, Alfurs) between class rights of sexual access (group marriage) and individual economic marriage does not properly come under this head.

Unions in the contracting of which tribal customs have not been observed are even in the lowest cultures branded as illegitimate. Thus in matriarchally organized societies the removal of the woman to the man's home is condemned and resented and the union is regarded as invalid unless an adequate indemnity is supplied, but in patriarchal societies marriage which follows matriarchal usage (e.g. *al-motah* in Arabia) is in like manner reprobated as immoral. In many cultures (e.g. the Polynesian), the juridic economic functions of marriage being applicable only to the ruling and propertied classes, their alliances alone are treated as marriages while the bulk of the population are said to live in concubinage. The expenses of customary marriage celebrations are sometimes so great that they are dispensed with or indefinitely postponed by the poor, as is commonly the case among the peons of modern Mexico, who rear families in concubinage. While the relation of concubinage may be a substitute for regular marriage where juridic, economic or other obstacles preclude the latter, the term may also be applied to secondary unions contracted conjointly with regular marriage. Among many warlike tribes of low culture (Carib, Tupi) the position of women captured in war is clearly distinguished from that of ordinary wives as one of concubinage.

Among others, however (Amerinds, Polynesians), captured women are usually adopted into their captors' tribe and married in the same manner as other women. Purchased slaves occupy a similar position to that of war captives, and concubinage with bondwomen has played an important part in many cultures by the side of marriage. Sometimes, where matriarchal succession still obtains (Targi, west Africans), concubinage is particularly favored by the men as a means of evading matriarchal law and of transmitting their property to their own sons.

The extensive practise of the latter forms of concubinage has often had important racial effects, as among the Jews, the Berbers and the Turks. Likewise the tolerated concubinage of Europeans with native women in foreign countries has brought about races of half breeds. In the southern states of America, owing to the severity of the laws against it as well as the force of racial sentiment, concubinage with Negresses was seldom acknowledged and appears to have been rare among slaveholders and confined for the most part to the lower orders of white workers. Concubinage with native Indian women, although of little significance by comparison, was less uncommon than is usually supposed in the northern states and beyond the Appalachians during the seventeenth and eighteenth centuries.

The term concubine has frequently been used incorrectly in ethnological accounts, as when it has been applied to the sisters of the wife first married, on whom the husband has a juridic right and who occupy an equal status and sometimes bring dowries of their own. So also the term chief wife has been widely misused to suggest a distinction in polygamous families where that distinction does not exist. In most polygamous systems special emphasis is laid, as in Islam, on the complete equality of wives. The differentiation between a chief wife, secondary wives and concubines has taken place where patriarchal succession to titles and property has acquired importance and where the social rank of the heir's mother has come to be a matter of moment. In some cultures (Hebrew, Tartar, Chinese) children by secondary wives and concubines are through legal fiction assigned to the chief wife, whose position is usually due to superior social rank. A chief wife in those cultures is often interested in procuring concubines for her husband with a view to increasing her own fictitious fertility as a breeder of heirs. Among the Semites, Turks, Chinese and Dahomeians concubines who bear children to their masters cannot be sold. Systems of juridic monogamy combined with legal concubinage, which have developed out of equalitarian polygyny, represent an important stage in the transition from the latter to pure monogamy.

Concubinage, associated or not with marriage, was usual and general in archaic Greece and was legitimate and respected in the city-states of historical times. Marriage proper was defined by the position of the wife as a free born fellow citizen and by the property (dowry) which she brought to her husband, and thus legal concubinage was required to provide for union with a foreigner or with a freed or dowerless woman. Similarly in Rome under the republic the status of a concubine was legitimate and respected although it differed from that of a wife. The latter passed into the hand (*manus*) of her husband and her offspring followed his social rank and inherited his property, while the offspring of a concubine followed the rank of the mother. Since juridic marriage was originally applicable only to patricians, all plebeian unions and the union of a patrician with a plebeian were concubinage. Under Augustus the status of concubines was further protected by special legislation. The laws concerning adultery applied equally to marriage and concubinage. The legal relation of concubinage was thus very similar to that of morganatic marriage, as contracted by a prince with a commoner who is debarred from assuming his rank.

While Christianity vehemently condemned all sex relations unless consecrated by indissoluble marriage and exalted celibacy over the latter, it continued during the early centuries to sanction in practise the established Roman and barbarian usages. The celebration of marriage was usually dispensed with in the case of slaves and was not made compulsory even for freemen until the tenth century. Concubinage in conjunction with marriage and thus equivalent to polygamy continued to be common among barbarian rulers. The celibacy theoretically required of priests was mitigated by the virtual recognition of concubinage, the concession being facilitated by the early Christian practise of cohabitation in professed continence. This practise claimed a commendable character as a "trial of chastity" but merged by a natural gradation into the habitual concubinage of priests.

The tacit toleration of concubinage did not give place to general reprobation in Catholic and Protestant countries until after the Protestant Reformation. To the legal disabilities attaching to the relation, more particularly as regards the woman, became added the ruthless penalties of social condemnation and ostracism.

From being originally as legitimate a form of union as marriage concubinage thus became first illegitimate, then illicit and immoral. The latter attitude has in some instances been reflected in legislation, as in the anomalous applications of the Mann Act and of immigration laws in the United States, whereby all unlegalized unions are juridically regarded as prostitution.

As Lecky remarked, "when public opinion, acquiescing in their propriety [of concubinate unions], inflicts no excommunication on one or both partners, when these partners are not living the demoralising and degrading life which accompanies consciousness of guilt, and when proper provision is made for the children who are born, it would be, I believe, impossible to prove, by the light of simple and unassisted reason, that such connections should be invariably condemned." The ideal of economic independence for both sexes abolishes to a large extent the juridic grounds of the distinction between marriage and concubinage. With the transference of the regulation of sex relations from ecclesiastical to civic jurisdiction and of the considerations which govern them from dogmatic to social and utilitarian grounds, an inevitably increasing disposition has developed to regard unions as rightfully entitled to social recognition and respect when they do not pledge the partners to indissolubility and have no reference to the juridic requirements for the transmission of property.

ROBERT BRIFFAULT

See: MARRIAGE; MARITAL PROPERTY; FAMILY LAW; SOCIAL ORGANIZATION; RACE MIXTURE; WOMAN, POSITION IN SOCIETY.

Consult: Briffault, Robert, *The Mothers*, 3 vols. (London 1927) vol. ii, p. 307–24; Westermarck, Edward, *The History of Human Marriage*, 3 vols. (5th ed. London 1921) vol. ii, p. 38–51; Sumner, W. G., *Folkways* (Boston 1907) chs. ix–x; Parsons, E. C., *The Family* (New York 1906) ch. vii; Rossbach, August, *Untersuchungen über die römische Ehe* (Stuttgart 1853); Lecky, W. E. H., *History of European Morals*, 2 vols. (3rd ed. London 1877) vol. ii, p. 328–51; Lea, H. C., *History of Sacerdotal Celibacy*, 2 vols. (3rd ed. New York 1907); Flick, A. C., *The Decline of the Medieval Church*, 2 vols. (New York 1930) vol. ii, ch. xxvii.

CONCURRENT POWERS is a term applied in federal structures to the power to legislate in those fields where legislative action may be taken by either the federal government or the governments of the constituent units or by both. Thus in the United States it designates those powers which have been conferred upon the United States government by the constitution, but which may also be exercised by the states in the absence of federal action or, in some cases, with the express permission of the national government. In this sense the concurrent authority of the state is always subordinate to the superior authority of the nation; it is not concurrent in the sense that it is equal in power with the nation but it is merely an authority exercisable in a field where national action may replace state action.

The exercise of state power in unoccupied fields of national authority was discussed in the *Federalist* and was recognized by the United States Supreme Court as early as Sturges *v.* Crowinshield [17 U. S. 122 (1819)]. The term concurrent power, however, did not appear in the text of the Constitution of the United States until 1919, when the Eighteenth Amendment gave Congress and the several states "concurrent power" to enforce the prohibitions as to intoxicating liquors. The language of the Eighteenth Amendment would imply some equality of power between state and nation, but there is little doubt that in case of conflict national authority would control, for it is aided by another constitutional provision establishing the supremacy of the laws of the United States. Yet it seems equally clear that Congress cannot altogether exclude the states from action in the field of prohibition. Nation and states may each, "without interference by the other, enact laws to secure prohibition, with the limitation that no legislation can give validity to acts prohibited by the amendment" [United States *v.* Lanza, 260 U. S. 377 (1922)]. Each is subject to the terms of the amendment and the legislation of one under the terms thereof supplements the legislation of the other. Here, therefore, the power is concurrent in a broader sense than that defined above. But the power over prohibition is not concurrent in the sense that both state and nation must act to give effect to the prohibition.

In a federal system there must be some device for the distribution of powers between the central or national government and the units or states and some means of keeping each within its proper bounds. The Constitution of the United States determines the powers of the national

government, and the United States Supreme Court is the primary agency for the preservation of the balance between nation and states. The constitution enumerates certain powers as belonging to the United States, confers other powers upon the national government in general terms and forbids certain state actions. A few matters are exclusively within the authority of the nation, not because they are conferred in terms of exclusion but because their character is such that they may be exercised by only one authority, either on the ground that they are related to national sovereignty, as naturalization, or that any regulation must be uniform, as in a large part of the field of interstate commerce. Others are exclusively national because they are granted to the United States and expressly forbidden to the states, such as the power to declare and make war. In only a few cases, such as legislation for the seat of government, are the powers of the United States expressed as exclusive.

Where a power is not exclusively national for any of these reasons, concurrent state power may exist so long and so far as the national government does not occupy the field. Thus Congress has power to enact a general bankruptcy law. Such laws have been in force from 1800 to 1803, 1841 to 1843, 1867 to 1878, and since 1898. In the intervals the matter lay within state legislative power. Similarly, Congress has never completely exercised its power to regulate interstate commerce; concurrent state powers thus exist over matters of interstate commerce in which Congress has been inactive and which are not deemed by the Supreme Court to require absolutely uniform regulation. But no concurrent state power may be exercised in a field of national power if the nation occupies the whole field or indicates an intention to exclude state action. Not only may the national government thus exercise its own previously dormant powers, but in doing so it may encroach upon preexisting state powers. Thus as an incident to its power to regulate interstate railroad rates Congress may regulate the rates on purely domestic state commerce, which would otherwise be under state control. The Supreme Court has, however, in the child labor and other cases imposed limitations on such a process of extension of national power.

The extent of concurrent action by the states is steadily reduced as the national government more fully exercises its powers. It was probably within the power of the states to require safety appliances on all trains, interstate and intrastate, in absence of federal action. But the United States has regulated this matter as to all cars, both interstate and intrastate, as a means of protecting interstate commerce. The state's possibility of exercising power in this field ceases as to both types of commerce when the national government occupies the field. Withdrawal of federal action would permit state action again, at least as to domestic cars and probably as to those engaged in interstate commerce, and would thus increase the scope of concurrent power exercisable by the states.

Concurrent powers also exist in other federal structures such as Canada, Switzerland, Argentina, Australia, Germany and Brazil. In the main their governing principle is that federal legislation in concurrent fields is supreme. In Canada the British North American Act definitely limits concurrent power to immigration and agriculture; in these fields the provinces may legislate even after legislation by the dominion, provided there is no conflict. In the event of conflict the provincial laws are simply inapplicable and come into force again on the repeal of the ruling dominion law. The same automatic revival of state laws exists in Australia. In Germany, on the other hand, federal legislation nullifies all state laws, even, in the opinion of some authorities, laws in harmony with or duplicating the national laws. In that country, as in Brazil, the power of the central government to extend its authority by constitutional amendments without the consent of the states makes it possible to transform any existent state power into a concurrent or even exclusive national power.

WALTER F. DODD

See: FEDERALISM; CENTRALIZATION; STATES' RIGHTS; ADMINISTRATION, PUBLIC; LIQUOR TRAFFIC; INTERSTATE COMMERCE.

Consult: Dowling, N. T., "Concurrent Power under the Eighteenth Amendment" in *Minnesota Law Review*, vol. vi (1922) 447–79; Cushing, O. K., "Concurrent Power in the Eighteenth Amendment" in *California Law Review*, vol. viii (1920) 205–15; McBain, H. L., *Prohibition, Legal and Illegal* (New York 1928) ch. ii; National Prohibition Cases, 253 U. S. 350 (1920); Dodd, Walter F., *State Government* (2nd ed. New York 1928); Mattern, Johannes, *Principles of the Constitutional Jurisprudence of the German National Republic* (Baltimore 1928) ch. v; Keith, A. B., *Responsible Government in the Dominions*, 2 vols. (2nd ed. Oxford 1928) vol ii, p. 623–30; Kennedy, W. P. M., *The Constitution of Canada* (London 1922).

CONDEMNATION PROCEEDINGS.

See EMINENT DOMAIN; EXCESS CONDEMNATION.

CONDILLAC, ÉTIENNE BONNOT DE, ABBÉ DE MUREAUX (1714–80), French philosopher and economist. Condillac, younger brother of the abbé de Mably, is famous in the history of thought as the French expounder of Lockian sensationalism. The philosophy which in a desultory way Voltaire had endeavored to popularize in France Condillac developed with the concentrated purpose of a systematic thinker. Agreeing with Descartes, whose rationalism had formed the substructure of seventeenth century French thought, that all general ideas may be decomposed into simple elements Condillac then proceeded to demolish the Cartesian postulate that such simple ideas are innate. In his most original as well as his most influential defense of sensationalism, *Traité des sensations* (2 vols., Paris 1754), Condillac went so far as to assert that all so-called intellectual processes—memory, imagination, attention, judgment and reason—were nothing more than "transformed sensations." To explain this transformation Condillac had recourse to social experience, which created words whereby simple ideas could be first designated and then combined into general ideas. Condillac's anthropology, depending upon the hypothesis that the theory of human nature is closely linked with the theory of human knowledge and is to be derived from individual psychology, was borrowed by the *encyclopédistes*, to a great extent by Rousseau and in a modified form by the ideologues, particularly Destutt de Tracy. Through the writings of Taine his anthropology also penetrated into later nineteenth century thought. Condillac has been criticized, however, by the modern French school of sociology for sharing with all eighteenth century philosophy the tendency to regard society as a necessary but external condition of intellectual development.

As a corollary of Condillac's theory concerning the importance of language in the formation of ideas it followed that the necessary preliminary to the development of any science was the creation of its peculiar terminology, the definition of its principal concepts. In *Le commerce et le gouvernement* (Paris 1776) Condillac attempted to perform this task, which in his opinion the physiocrats had evaded, for the science of society or economics. Isolating, as the fundamental economic concepts, value, exchange and price he succeeded in constructing a theory of value derived from individual utility and of exchange derived from a comparison of individual utilities which marked an important advance over the crude notions of his contemporaries. He also anticipated later critics of physiocracy by maintaining that industry as well as agriculture represented productive enterprise. But since in the main body of his economic doctrine he reiterated the theories of Quesnay he was generally dismissed as a minor or at most an erratic physiocrat, until in the latter half of the nineteenth century Henry Macleod's enthusiastic dictum that Condillac was "infinitely superior to Smith" led to a reestimate of his contribution.

RENÉ HUBERT

Works: *Oeuvres complètes*, 21 vols. (Paris 1821–22). *Consult*: Lenoir, R., *Condillac* (Paris 1924); Baguenault de Puchesse, G., *Condillac* (Paris 1910); Lebeau, A., *Condillac économiste* (Paris 1903); Panhuysen, P., *Die Werttheorie des Abbé Condillac* (Mss. Cologne 1921), summarized in Cologne University, Wirtschafts- und sozialwissenschaftliche Fakultät, *Promotionen*, vol. iii (1921) 145–49.

CONDITIONED REFLEX, sometimes called conditioned response, is a term which forms the doctrinal keystone of the system of psychology known as behaviorism. It designates acquired or learned reactions to stimuli as contrasted with innate or instinctive ones, which are correspondingly called unconditioned reflexes or responses. Conditioned reflex first appeared as a technical term in an essay on *The Work of the Digestive Glands* by the Russian physiologist, I. P. Pavlov (English translation by W. H. Thompson, London 1902; Russian ed. 1897), who was studying the digestive process in dogs. In the course of his experiments Pavlov had observed that the mouths of his animals "watered" under a great variety of conditions. That they should invariably secrete saliva when the food was in immediate contact with the surfaces of their mouths was expected; such secretion was a primary, direct, unconditioned reflex. But they also secreted saliva at times upon merely seeing the food, its container or the person who brought it; they secreted saliva when they heard his footsteps or his voice, felt his hand or smelt his clothes. These responses were variable, indirect, secondary; their evoking stimuli were inconstant in their effect—i.e. dependent on conditions. At the outset Pavlov recognized these stimuli as "psychic," but since this concept involved the use of introspective analogies and ruled out experimental study and control he determined to regard the phenomena and their relations as external, to treat them and to study

them as responses varying with circumstances. Pavlov worked out a device for measuring the intensity of the response to an indirect stimulus by counting the drops of saliva secreted, which has become classic in the history of psychophysical experimentation. The American K. S. Lashley perfected a modification of this device which is applied to man. The tale of the number of drops of saliva secreted at the sound of a bell is now a part of the great tradition of psychology and the standard example of the conditioned reflex.

Overlapping Pavlov's work was that of another Russian, V. Bekhterev (*q.v.*), and that of a German, O. Kalischer. Bekhterev studied especially the defensive responses to painful stimulation of the skin; Kalischer studied motor reactions to the food reflex. Bekhterev called the conditioned responses he observed "associative," Kalischer called them "trained" or "acquired" (*Dressurmethode*). Since, however, Pavlov's work came first to the knowledge of American psychologists and provided a pat and workable first principle for the growing and important studies of animal behavior initiated by E. L. Thorndike and carried on by J. B. Watson, R. M. Yerkes and others, it was Pavlov's term "conditioned reflex" which became generally accepted in the English speaking world. It formulates the general observation that when a definite activity of the organism occurs at the same time with any external stimulus, or just after it, then that stimulus will call forth that activity another time. The indirect stimulus is a substitute, a symbol for the direct one it once accompanied or preceded and a signal for the activity that the direct one evokes.

The instruments of this substitution are the cells of the cerebral hemispheres, where all new nervous connections take place. According to C. J. Herrick in *Brains of Rats and Men* (Chicago 1926) the number of possible connections between two neurones in a human brain is 10 raised to 2,783,000 power. If this be the case both the precise determination and the endless variations of human conduct and culture may be accounted for. Determinations will follow from the specific character of the conditioned reflex; variations from the uncountable number of reflexes possible. As all learning is a matter of acquiring stable conditioned reflexes, human personality and social institutions become merely effects of conditioning, and by conditioning any ideal society or individual may be trained. "I am deeply and irrevocably convinced," says Pavlov, "that along this path will be found the final triumph of the human mind over its uttermost and supreme problem—the knowledge of the mechanism and the laws of human nature." Watson contends that training, conditioning, should be able to develop eventually any kind of infant into any kind of adult.

HORACE M. KALLEN

See: BEHAVIORISM; COMPARATIVE PSYCHOLOGY; CHILD PSYCHOLOGY; EDUCATIONAL PSYCHOLOGY.

Consult: Pavlov, I. P., *Conditioned Reflexes*, tr. from the Russian (Leningrad 1926) by G. V. Anrep (Oxford 1927), and *Lectures on Conditioned Reflexes*, tr. by W. H. Gantt (New York 1928); Thorndike, E. L., *Animal Intelligence* (New York 1898); Watson, J. B., *Behaviorism* (New York 1925); Bekhterev, V. M., *Obshchie osnovi refleksologii* (Fundamentals of reflexology) (3rd ed. Leningrad 1926).

CONDORCET, MARIE JEAN ANTOINE NICHOLAS CARITAT, MARQUIS DE (1743–94), French *philosophe* and revolutionary. Condorcet was born in Picardy of an old aristocratic family. His childhood and youth were spent in a society of nobles, soldiers and priests. Early in his career he became intensely interested in the political and social problems that were agitating France before the revolution; he repudiated his clerical and aristocratic ideas and became identified with the radical free thinking *encyclopédistes*. After the outbreak of the revolution he became a member of the municipality of Paris and later of the Legislative Assembly and the Convention. By temperament he was better fitted to be a "guide of opinion" than a revolutionary statesman, and his role in the Convention was at first rather futile and later pathetic. Although he was among the first to favor a republic after the flight of Louis XVI in 1791 he belonged neither to the Girondists nor to the Mountainists. He opposed the former because of their federalism and the latter because of their violence. During the Terror he was proscribed along with the Girondists and died in prison, presumably a suicide by poison.

Condorcet's intellectual labors covered nearly the whole range of the social sciences. Although not a writer or thinker of first rank he represents the synthesis of the intellectual movement in eighteenth century France. His fundamental ideas find their best expression in his most famous work, *Esquisse d'un tableau historique des progrès de l'esprit humain* (Paris 1795; Eng. tr. Baltimore 1802). The modern idea of social progress, or of the "unlimited perfectibility of man," was clearly stated and definitely de-

veloped by Condorcet. He viewed the history of mankind as a progressive evolution marked by successive stages in the advancement of knowledge and approximating ever more closely the ultimate aim of society, the achievement of absolute equality of rights—equality of the rights of individuals and equality of the rights of nations. Condorcet worked out a system of a social mathematics which would reduce the historical process to the operation of laws as "necessary and constant" as the laws of natural science. He was one of the first to proclaim the idea that the purpose of studying history was to discover these laws of social progress and through them to direct the future course and development of humanity.

In his *Essai sur l'application de l'analyse à la probabilité des décisions rendues à la pluralité des voix* (Paris 1785) he simplified probability calculus in order to facilitate its use in testing the justice of court decisions, the degree of correspondence to facts in decisions of legislative assemblies and the relative merits of electoral systems. Although he wrote much on economic problems and on politics he made no original contributions to these subjects. His discussions of political problems were in the manner of a constitutional lawyer as well as that of a political philosopher. He accepted the current views on natural rights and popular sovereignty and was a strong individualist. In his economic views he followed closely the doctrines of the physiocrats, especially those of Turgot.

Condorcet was more of a pioneer in other fields. He enthusiastically advocated woman's suffrage and the equal rights of men and women on the ground that, like men, women were "susceptible to moral ideas and capable of reasoning from them." He also was convinced of the equal intellectual capacity of the sexes except in the highest forms of science and philosophy. Unlike his radical contemporaries he had advanced views on the family. He favored equality of husband and wife before the law, civil marriage, divorce and birth control. Like all the *philosophes* he was violently anti-religious. He regarded religion as a gigantic system of hypocrisy operated by knaves who "frighten their dupes by means of mysteries." His hatred of Christianity flares forth in most of his writings but it is not clear whether he was a deist or an atheist. In the report on popular education which he submitted to the Legislative Assembly he recommended the establishment of a national system of free education of all grades with coeducation, instruction in science, physical education, special schools for gifted children, moral instead of religious instruction, and schools for adults. This report was the basis of the education law passed by the Convention and was the inspiration of the succeeding educational reforms of Napoleon, Guizot, Duruy, Ferry and Buisson.

Condorcet's writings, while voluminous, did not have a popular appeal. His style was turgid and rhetorical and his thought abstract. His suggestions were, however, exceedingly fruitful to others and were of particular importance in shaping the positivism of Comte and the socialism of Saint-Simon.

J. SALWYN SCHAPIRO

Works: *Oeuvres complètes*, ed. by A. C. O'Connor and M. F. Arago, 12 vols. (Paris 1847–49); *Correspondance inédité de Condorcet et de Turgot, 1770–1779*, ed. by Charles Henry (Paris 1883).

Consult: Robinet, J. F. E., *Condorcet* (Paris 1893); Alengry, F., *Condorcet, guide de la révolution française* (Paris 1904); Cahen, Léon, *Condorcet et la révolution française* (Paris 1904); Fabre, J., *Les pères de la révolution* (Paris 1910) bk. x; Morley, John, *Critical Miscellanies*, 4 vols. (London 1886–1908) vol. ii, p. 163–255; Flint, R., *Historical Philosophy in France and French Belgium and Switzerland* (New York 1894) p. 325–39; Bury, J. B., *The Idea of Progress* (London 1920) ch. xi; Schapiro, J. S.,. "The Esquisse of Condorcet" in *Essays in Intellectual History* (New York 1929) ch. x; Vial, F., *Condorcet et l'éducation démocratique* (Paris 1903); Caillaud, Eugène, *Les idées économiques de Condorcet* (Poitiers 1908); Todhunter, I., *History of the Mathematical Theory of Probability* (London 1865) ch. xvii; Sée, Henri, *L'évolution de la pensée politique en France au XVIII^e siècle* (Paris 1925) pt. v, ch. ii.

CONDUCT is a general term for the relation between the human organism and its environment when this relation is looked at from the point of view of the organism itself. What an individual suffers from the environment is not conduct, but the way he bears up under it or reacts to it is conduct. In spite of the apparent specificity of stimuli the organism's career is continuous and becomes, willy-nilly, something of a piece, although at times a highly variegated piece. Conduct is, in a word, the plotted curve of behavior. The fact of the curve is determined by the inherently active nature of the organism; but the form of the curve is determined by the nature of the environment. The ancient and persisting notion of instincts as the source of conduct has at least this permanent truth, that human beings are subject to classifiable internal urgencies. Even these pressures, however, cannot be adequately described without external

reference. The quests for food and for whatever shelter is indispensable become basic determinants of the form of behavior. But it is clear that, due to the helplessness of the human infant and its differentially long infancy, it is the social environment that early plays the major role in canalizing the amorphous native impulses. The social environment sets standards and invites judgment. The most simple judgment will be general and dualistic: action that is, or is not, done; conduct becoming, or unbecoming, a lady or gentleman. But these simple moral dualisms break up easily into cultural pluralisms; and age and sex standards get diversified into class, occupational and aesthetic standards approaching complete individualization as a limit.

The degree of stratification varies between primitive and civilized cultures, though perhaps not as greatly as was once supposed. Certainly sophisticated peoples are more custom bound than they like to admit; and it may well be, as Radin and others have recently argued, that the apparent homogeneity of primitive cultures gives way to a more differentiated pattern as civilized observers become more sensitive to both their own ignorance and the anthropological data. Nevertheless, as division of labor progresses and at last eventuates in industrial society, the number of subclasses of the great groupings operates to give a fluidity to conduct unobserved in primitive society or even in strictly agricultural societies. Throughout history religion has exercised a double influence: by its emphasis upon works it has followed "the reality principle" toward diversity; but by its emphasis upon faith it has sought through a formula to "save" the individual from disintegration and at the same time to maintain by the picture of a homogeneous society in an after life the actually dissolving social unity. A society characterized by minute division of labor witnesses also the recession of the influence of such religion as emphasized the brotherhood of man here and a common home with the father hereafter—a patriarchal or early group picture; and the rise of a philosophy of life that would make possible a total reintegration of the personality of highly specialized workers would mark the moral goal of modernity. Somewhere inside the former picture and this side the latter, conduct now runs in an age of science.

The feelings that cluster about occupational and other groupings, when these feelings become ideational, serve as standards. The most general of them hang over from earlier groupings as vague ways of sensing things, influencing overt behavior in all probability very little but making quite a difference in the tone of life: a present gentleman is ghost of a past "gentle" man, a present villain, of a past "villein." Actually canalizing the flow of energy far more than such general standards as honesty, chastity, holiness, etc. are the habits that come from overt education and conscious training. "Playing the game," "being a good sport," a "straight-shooter"—these point to the real standards of the living generation. In overt education—in school, in scouting, in church—the vaguer standards inherited from the past are always reaffirmed, but they are reaffirmed in a concrete setting that discloses what about them is possible, what merely ideal. Techniques and technologies as presenting opportunities for, and furnishing expectation of, success spell out another type of persisting pressure for the regimentation of action into conduct. The silent influence of the way people act—in distinction from what they teach—as detected at home, at school, at play, in the movies, in the press, is perhaps the greatest of all, because indirect and largely unconscious. These standards, just because they are ingrained as habit, become second nature in their dominance.

The complex standardizing process, though difficult to exhibit in brief psychological analysis, may be seen at work in historic examples. Sparta was able in an astonishing degree to ride over the inhibitions of competing desires and tendencies and to weave the energies of all its citizens into a single pattern. The silent forces of unambiguous approbation and equally unambiguous shame tended to keep the youths proud where the standard setting group thought they ought to be proud, cowed when inclined to deviate from unequivocal expectation. It is the final test of social determination of action that men think first of honor and second of liberty. The Spartan was a Spartan first and a man afterwards. Spartan success may easily be attributed to the military regimen, but it should be noted also that the regimentation began so early as to displace family interference. Stern discipline, military uniform and salute and the presence of an enemy may do much against odds. And where such discipline does not meet the expectation of preferential treatment which the family circle begets it is finally effective. Nowhere better illustrated than in the military is the fact that a common life, even though initially felt as against the will, eventually

breeds common sentiments. Behavior precedes ideas and in the long run always conditions them. If the environment, either physical or social, sets barriers too difficult to override, then activity, adapting itself ad interim to what is allowed, later contents itself with the residual course and at last breeds feelings that reenforce the stream of action, by now habitual. These feelings accepted as appropriate constitute standards.

On the road to this acceptance of standards as the etiquette of desire sanctions stand like stern sentinels. A sanction must itself ordinarily be accepted as a means before it can be effective toward an end. Compulsion there is in social control, of course; but compulsion gets its influence from the antecedent acceptance of it by the majority of people concerned. That is, it is the show of compulsion rather than the fact which ordinarily influences conduct. Illustrative of this is the working of such a stern sanction as ostracism in ancient Greece: powerful men accepted without a hostile gesture the verdict of expatriation and went quietly away from all that was dear to them—staying until public opinion changed or until they could themselves overwhelmingly override the forces that led them to accept their fate. The notable thing about sanctions, whether theological or physical or legal, is that when the show of force declines they lose progressively their own influence. The role of the state historically has been to maintain the conditions of compulsion for the regulation of conduct at its extremes. Underassertion of energy, overassertion of energy, crisscross assertion of energy—of these the state takes cognizance, though it is an acknowledgement of the essentially active nature of men that the state seldom uses force to stimulate men to act. Coercion may be used to turn action from one channel to another or to stop it altogether; but that men will and do act is the most dependable of assumptions regarding the human nature which when canalized issues as conduct.

Perhaps the greatest metamorphosis inside the field set by this discussion is the subsidence of intent from the realm of conduct. The state finds it progressively impossible to enforce standards upon thinking; where this change is most notable is in religion. Men were once held responsible for what they thought as well as for what they did. The almost complete recession of this attitude does not mean that character no longer counts, but that where it counts is in conduct. As purely private, if it ever be so, it may be enjoyed as a luxury. John Stuart Mill expressed well the influence here of the whole utilitarian movement in declaring that motive that does not change the intent and thus the ensuing consequences does not count in morality. The pragmatic movement, especially as represented by William James, furthered this tendency begun by deism and continued in utilitarianism by holding that only what makes a difference for conduct is proper ground for any distinction. This emphasis may be taken to mean, as by behaviorists, that intent and even consciousness as a whole is a function of doing, or it may be taken to mean that social control reaches the boundary of fruitfulness when it releases the springs of spontaneity that constitute the uniqueness of each individual.

T. V. SMITH

See: CUSTOM; TRADITION; CULTURE; ETIQUETTE; CONVENTIONS, SOCIAL; MORALS; ETHICS; CHARACTER; HONOR; SERVICE; CONFORMITY; COERCION; EDUCATION; BELIEF; PERSONALITY; BEHAVIORISM; INDIVIDUALISM; PRAGMATISM.

Consult: Dewey, J., *Human Nature and Conduct* (New York 1922); Mill, J. S., *Utilitarianism*, ed. by Ernest Rhys (London 1910); Radin, P., *Primitive Man As Philosopher* (New York 1927); James, W., *Principles of Psychology* (New York 1890); Watson, J. B., *Psychology, from the Standpoint of a Behaviorist* (3rd ed. Philadelphia 1929); Hobhouse, L. T., *Morals in Evolution* (4th ed. London 1923); Laski, H. J., *Grammar of Politics* (London 1925).

CONFÉDÉRATION GÉNÉRALE DU TRAVAIL, the General Federation of Labor, known by its initials as the C. G. T., has a position in France similar to that of the American Federation of Labor in the United States and of the Trade Union Congress in Great Britain.

Modern trade unions (*syndicats*) began to develop in France after the passage of the law of 1884 permitting trade union organization on a national as well as local basis. Within ten years there had come into existence about 2200 trade unions, including over 400,000 industrial workers. National trade unions had been formed by the typographical and the textile workers, by miners, railroad men and workers in several other industries. In fourteen cities there had been organized so-called *bourses du travail* (labor exchanges), which corresponded in a general way to the city central labor unions in the United States as these functioned prior to 1900 and which had been combined into a national federation. Since 1886 there had also been in operation a Fédération Nationale des Syndicats.

Because of the traditional intimate relations that bound the working class élite of France to the socialist movement, which at the time was split into five organizations torn by rivalries of doctrine and of leadership—not to mention the anarchists, who were also influential in some *syndicats*—trade union unity was impossible. It was in reaction to this disintegrating influence of socialism, particularly in the Fédération Nationale des Syndicats, that the C. G. T. was founded in 1895. It was reorganized in 1902 by consolidation with the Fédération des Bourses du Travail, then at the height of its influence, the *bourses* for a time representing a territorial union of local *syndicats* within the C. G. T. to supplement the industrial unions.

Factors which accelerated the process were the industrial prosperity of France, the turmoil of the Dreyfus affair, the continued socialist divisions due to the *cas Millerand*, and the efforts of the Waldeck-Rousseau government to win over labor by protective legislation.

From 1903 to 1906 the C. G. T. had a spectacular career. It took a leading part in strikes, carried on vigorous antimilitarist and antipatriotic propaganda and staged several antigovernment demonstrations. The climax was reached in 1906 when the C. G. T. organized a general strike movement for the eight-hour day, which threw France into fear of an immediate revolution. Elated with these activities the C. G. T. rejected an offer from the Socialist party for common action. Instead it adopted the so-called Charte d'Amiens, which stated clearly and definitely the ideas and programs of revolutionary syndicalism as an independent labor and social movement distinct from both socialism and trade unionism. Revolutionary syndicalism rejected all state and parliamentary action as tending to obscure the class struggle; criticized the policy of high dues, of benefits, of peaceful wage regulation and of collective bargaining; and urged the workers to use direct action, including sabotage and violence, and to prepare for the social revolution, which by means of a general strike would abolish private property and the state, and to organize a socialist society, of which the *syndicats* were to be the "cells."

After 1907 the French government under Clemenceau and Briand undertook to cope with the C. G. T. Clashes between strikers and the police became increasingly frequent and were often followed by the arrest of prominent C. G. T. members. As a result the C. G. T., although growing in membership from 203,000 in 1906 to 400,000 in 1912, declined in strength. A demand from the more conservative members for the abandonment of the "revolutionary romanticism" of 1903–06 and for a revision of policy was becoming more insistent at the outbreak of the World War.

At this time the C. G. T. under the leadership of its general secretary Léon Jouhaux, who is still in office, threw in its lot with the French government. Between 1914 and 1918 the C. G. T. became a recognized national institution, rendering great aid in keeping up the war morale of the workers. These war activities, however, caused a new division in its ranks. An antiwar minority appeared early in 1915, which participated in the Zimmerwald and Kienthal conferences of 1915–16 and which in 1917 hailed the Bolshevik revolution and became increasingly hostile to the official policies of the C. G. T.

Regardless of these divisions the C. G. T. profited by the great unrest of 1918–20, and its membership jumped to 1,200,000. It promoted a general increase in wages, an improvement in labor conditions and obtained the passage of an eight-hour law. Sections of the C. G. T., however, continued to be agitated over the issues injected into the European labor movement by the Third International and demanded that the C. G. T. pursue an aggressive policy of immediate social revolution for the formation of an International Soviet Republic. In opposition to them the official leadership of the C. G. T. fell back upon the Charte d'Amiens. In 1920 the miners and the railroad men were precipitated by the revolutionary minority into disastrous general strikes. In 1922 the revolutionary minorities, consisting of anarchists, communists and others, broke away and formed the Confédération Générale du Travail Unitaire (C. G. T. U.). In 1926 the anarchistic trade unions formed a separate organization, whose membership is small, known as the Confédération Générale du Travail Syndicaliste Révolutionnaire (C. G. T. S. R.). This division has persisted and the French labor movement continues to be divided between two major central organizations. In 1929 the C. G. T. claimed 640,790 members and the C. G. T. U. 409,595 members.

At the present time the C. G. T., although weakened by the rival C. G. T. U., is still the representative national labor organization of France. It has the affiliation of the strongest and oldest trade unions. It claims to be true to the

principles of the Charte d'Amiens. The policies and methods of the C. G. T., however, differ markedly from those of pre-war years. The C. G. T. at present not only takes a friendly attitude toward the Socialist party of France but also works in cooperation with the French government. Although pacifist it no longer carries on its pre-war antimilitaristic and antipatriotic propaganda. It is largely concerned with its program of immediate reforms, first formulated in 1918 and revised in 1924 and again in 1927, which deals with financial stabilization, better housing, the eight-hour law, social insurance, family wages, paid vacations and immigration. It was instrumental in promoting the passage of the social insurance law which went into effect on July 1, 1930, and which provides for sickness, maternity, invalidity, old age and life insurance. In this social role the *syndicats* now stress the gradual development of workers' control in industry and take an active part in the work of the Superior Economic Council, which was established by administrative decree by the Herriot government in 1925 and which is in process of becoming part of the legal system of France. Internationally the C. G. T. is a member of the International Federation of Trade Unions and of the International Labour Office and cooperates with the French government in the League of Nations. These policies, however, are now under attack from the more radical minority, which has recently been gaining influence as a result of the strained economic situation and which is demanding a return to the aggressive methods of syndicalism.

In form of organization the C. G. T. is partly geographic and partly industrial. Geographically its local trade unions now form departmental federations, one for each of the departments of France. Industrially the local trade unions are combined into thirty-five national trade unions which differ greatly in organization and policies and which are allowed wide autonomy in their internal affairs. The C. G. T., however, has important powers, such as that of calling general strikes. The governing body of the C. G. T. is a national committee composed of one delegate from each national trade union and one from each departmental federation. The executive organs are an administrative commission of thirty-five members and a confederal bureau consisting of a general secretary and four associates.

LEWIS L. LORWIN

See: LABOR MOVEMENT; TRADE UNIONS; SOCIALISM; SYNDICALISM; ANARCHISM; DIRECT ACTION; GENERAL STRIKE.

Consult: Clark, M. R., *A History of the French Labor Movement (1910–1928)*, University of California, Publications in Economics, vol. viii, no. 1 (Berkeley 1930); Lorwin, L. L., *Syndicalism in France*, Columbia University, Studies in History, Economics and Public Law, no. cxvi (2nd ed. New York 1914); United States, Labor Policies Board, *Report on Labor and Socialism in France* (Washington 1919); Louis, Paul, *Le syndicalisme français* (Paris 1924), and *Histoire de la classe ouvrière en France de la révolution à nos jours* (Paris 1927); Monatte, Pierre, *Left Wing Trade Unionism in France* (London 1922); Oualid, William, "The Effect of the War upon Labour in France" in *Effects of the War upon French Economic Life*, ed. by Charles Gide, Carnegie Endowment for International Peace, Division of Economics and History, Preliminary Economic Studies of the War, no. xxiii (Oxford 1923) p. 135–91; Paraf, Pierre, *Le syndicalisme pendant et après la guerre* (2nd ed. Paris 1923); Martin Saint-Léon, Étienne, *Les deux C.G.T.* (Paris 1923); Weill, G. J., *Histoire du mouvement social en France, 1852–1924* (3rd ed. Paris 1924); *La confédération générale du travail et le mouvement syndical* (Paris 1925), official book published by the Confédération Générale du Travail to commemorate its thirtieth anniversary; Picard, Roger, *Le mouvement syndical durant la guerre*, Carnegie Endowment for International Peace, Division of Economics and History, Social and Economic History of the World War, French series, vol. xxxi (Paris 1927).

CONFESSION. The social history of confession reaches back into preliterate society, where it appears as part of the magic rites performed to ward off the consequences of violation of customs and tabus. Among the Badagas of southern India when a man dies an elder of the tribe recites the sins which may have been committed and lays the list upon a buffalo calf to be carried away. Among the Babylonians a man recited before the gods all the possible sins that he might have committed knowingly or unconsciously and dispelled them by magical incantations. The same practise is prescribed in the Egyptian *Book of the Dead* as a preparation for the journey of the soul into the future life. The sins mentioned are repudiated by magic formulae in which the potent names of the gods are spoken to destroy all evil deeds. The Greek mysteries were rites in which the first step of initiation was purification by confession. The beginning of all mystical illumination is through purgation by fastings, vigils and declaration of sins. In primitive Buddhism self-examination and confession were practised. Twice a month the monks gathered and were exhorted not to dissemble their shortcomings. The categories of offenses were read

and the monks were called upon individually to confess their faults. In the early stages of culture the confession of sins is largely a magical performance rather than a moral experience. When the gods have come to be regarded as something more than vengeful spirits and are thought to exercise moral judgment, confession gains ethical import, although magical attitudes persist. Confession of the definitely moral type appears in the Bible in the confessions of Jacob (*Genesis* XXXII: 10), of Achan (*Joshua* VII: 20) and of David (*II Samuel* XII: 13), which are expressions of the consciousness of the violation of recognized law and of personal rights. On the Day of Atonement the high priest annually made confession for the whole people by placing the sins of the community on a scapegoat. After the Babylonian exile the liturgical confession arose among the Jews not so much from a sense of individual sin or the imperfection of human nature as from desire for amelioration of the general conditions of life. Judaism gives conspicuous importance to repentance as a means of atonement.

Examples are numerous of the alleviation of punishment as a result of the confession of guilt. In the Chinese penal code a man who has committed an injury which can be repaired by restitution or compensation may be pardoned if he surrenders himself voluntarily and acknowledges his guilt to a magistrate before it is otherwise discovered. In the Laws of Manu guilt is exculpated if confessed. Aristotle recognized the influence of confession of guilt in the tempering of the wrath of the one injured or offended.

The doctrine of forgiveness, prominent in the New Testament, implies confession of sin and repentance. The converts of John the Baptist confessed their sins. The parable of the prodigal son turns on his confession and his change of attitude. "Confess your faults one to another," is the injunction of James. The power of pardon was apparently lodged in the congregation (*Matthew* XVIII: 18; *John* XX: 23), and this involved confession before the whole church, a practise which has reappeared in some modern sects, such as the Free Methodists. John Wesley, who believed in the therapeutic value of confession for banishing irregular or illicit fancies, organized "band societies" which met once a week and before which each member stated the faults he had committed in thought, word or deed and the temptations he had felt since the last meeting.

The development of the confessional extended over several centuries. It was not until the close of the second century that the Christian churches began to mark out for special reprobation the mortal sins of murder, idolatry and adultery. The guilty person was required to make public confession and to perform penitential exercises and was excluded from the communion for life or until readmitted after long discipline. The list of mortal sins was increased during and after the fifth century to all crimes which the Roman law punished with death, exile or severe bodily penalty. Leo I in the middle of the fifth century substituted private confession to the priest for public confession before the congregation. The modern system of confession developed from the practise in monasteries and nunneries of confessing transgressions of the rules of the order to the superiors and from the habit of seeking advice from priests in secret confessions. The Council of Châlons in 813 recognized the equal validity of individual private confession and confession to a priest. It was an open question as late as the twelfth century whether all mortal sins should be confessed to the priest. The fourth Lateran council in 1215 ordained that all must confess their sins at least once a year to their parish priest. The final form of the doctrine and practise was fixed in the Council of Trent in the sixteenth century, which extended the list of sins to include all sins, even sins of thought, which separate the soul from God. After baptism the only remedy for mortal sin became confession to a proper priest.

Confession is prescribed in the ritual of the Roman Catholic, the Greek, the Russian Greek, the Coptic, the Syrian and the other oriental churches and is obligatory in most of them. In the Lutheran church auricular confession continued after the Reformation but was later displaced by general confession and absolution. The Church of England employs general public confession, which is used by each member in private for his own sins, followed by public absolution. Particular sins are to be acknowledged to him who is aggrieved, and if the sinner still cannot gain satisfaction he is invited to make confession to a minister. A sick man may make private confession if he feels the need of it to relieve his conscience. Auricular confession although not the general practise never disappeared from the Church of England. It has increased since the middle of the nineteenth century but continues to be the subject of sharp

discussion. The other large Protestant bodies, the Presbyterian, Methodist, Congregational and Baptist, definitely reject auricular confession but retain in effect the general confession and encourage individuals to make secret confession to God and to seek forgiveness through prayer.

The value of the confessional to the church is found in the support it gives to established doctrine and to the maintenance of established moral standards. Modern psychology has tended to strengthen appreciation of its value and to broaden the conception of its function in relieving the mind of the penitent from the conflicts and repressions characteristic of the sense of sin. Nervous strain and many forms of hysteria due to the consciousness of wrongdoing are overcome by making confession of their causes, especially to one who is believed to have power to give absolution. But confessions do not disclose and rarely interpret deep rooted repressed unconscious factors.

Confession in a secular setting has developed greatly under the influence of modern psychology and through various forms of psychotherapy in connection with the regular practise of medicine. This is due largely to the influence of Sigmund Freud and his school, although the value of confiding fears and other effects of repressed complexes to a physician or minister is recognized quite independently of Freud's theories. The technique of psychoanalysis is in reality a method for aiding the patient to reveal his inner conflicts in order to objectify and thus escape them and also to discover means for establishing a better integration of personality.

EDWARD SCRIBNER AMES

See: MAGIC; RELIGION; RELIGIOUS INSTITUTIONS; MONASTICISM; PRIESTHOOD; MORALS; PSYCHOANALYSIS.

Consult: Hobhouse, L. T., *Morals in Evolution* (3rd ed. London 1915) p. 441–58; Sumner, W. G., and Keller, A. G., *The Science of Society*, 4 vols. (New Haven 1927–28) vol. iv, p. 599–604; Lea, H. C., *A History of Auricular Confession and Indulgences in the Latin Church*, 3 vols. (Philadelphia 1896); Hopkins, J. H., *The History of the Confessional* (New York 1850); Pinches, T. G., Baikie, J., and Suffrin, A. E., "Confession" in Hastings' *Encyclopaedia of Religion and Ethics*, vol. iii (Edinburgh 1911) 825–31; Wittels, Fritz, *Freud and His Time*, tr. from German ms. by Louise Brink (New York 1931) ch. x.

CONFISCATION. The concept of confiscation started from a specific legal connotation and then underwent a process of transformation until it has finally become a kind of philosophical concept referring to a set of phenomena which are found wherever politically organized communities exist. Instead of a clear concept narrowly confined to one legal system we have a vaguer concept of more or less universal application. Speaking historically, we find that politically organized communities have repeatedly transferred a great deal of private property to the public treasury without offering the deprived individuals adequate compensation. We also find that such confiscatory acts tend to multiply at times of revolution when the existing legal order is undergoing a sudden change. The theorists of all forms of state absolutism tend to "justify" such acts by considering them as rights, privileges or prerogatives of the sovereign or of the state. In order to check the abuses to which such a justification may be put the theorists of all forms of individualism have tended to deny such justification by making the individual's right to his property inviolable, calling it a "natural right." Confiscation then appears to be one of the concepts which rationalize the factual limits of the sphere of so-called fundamental legal rights.

It is a far cry from such a general concept to the very distinct purpose for which the word *confiscatio* was originally coined. As the position of the *princeps* developed in imperial Rome, each transfer of property to his treasury (*fiscus*) was called a *confiscatio* in order to distinguish it from transfers to the public treasury (*aerarium populi romani*). The claims of the *fiscus* were apparently collected through administrative procedure and the goods liable to confiscation were *bona vacantia* (free goods), *caduca* (heirless goods), *bona damnatorum* (goods of the condemned). Besides these rights the *fiscus* collected taxes from an ever widening sphere. Even the collection of the rents from imperial farms, as in Egypt, was a *confiscatio*. In all these instances the substitution of the *fiscus* for the *aerarium populi romani* was quite gradual, beginning in the imperial provinces presumably by mere usurpation. All that we have spoken of so far are instances of legal *confiscatio*. But the struggles attendant upon the succession to the imperial office often resulted in extensive confiscations in the historical sense. The confiscations of Alexander Severus are a notable example. In fact if not in name, such confiscations were analogous to the large scale expropriations of the proscribed during the time of the decay of the republic.

The Roman concept of *confiscatio* underwent a complex transformation when used in the Germanic kingdoms of the early Middle Ages. It would certainly seem unjustifiable to assume that the mere occurrence of the word meant that the Roman institution had reappeared. It is hardly questionable in the light of Brunner's work that the actual situation in connection with which the concept of *confiscatio* is used in the tribal laws of that period (e.g. *Lex salica* 60, 3) is rooted in a more ancient legal usage. Ancient outlawry (*Friedlosigkeit*), making the outlaw a common enemy of the community, deprived a person of his property, or rather such person became incapable of holding any property at all. This is clearly evident in the custom of wastage (*Wüstung*), the utter destruction of the house and all belongings of the outlaw. It was a matter of blotting out the memory of the breaker of the peace as far as possible. The Roman concept of *confiscatio*, resting upon the late Roman concept of absolute private property, could not possibly have prevailed in communities which thought of property only as rights, as attributes of personal relations. Consequently the legal concept of *confiscatio* has not gained any but passing significance in European systems of law. Feudalism, however, produced everywhere legal institutions which imply confiscation in the modern sense. Many minor offenses were punished by the confiscation of some part of a man's estate, beginning with his personal property and ultimately including his real estate. Confiscation thus became one of the major sources of income for feudal lords of all ranks. Only in a few cases like the *crimen laesae majestatis* was the right of confiscation attributed to the king, with the result that as the king's power grew, a growing number of offenses were included under this head, just as had happened earlier in the case of breaches of the king's peace. But it must be remembered that these feudal confiscations are the natural consequence of a system which tended to treat all governmental functions as personal privileges and in which an individual might therefore acquire a vested interest (*jus quaesitum*). Such vested interests (*wohlerworbene Rechte*) became the battle ground between the *princeps legibus solutus* and the feudal lords as well as the ecclesiastical and municipal corporations. The gradual ascendancy of the king is associated with an increasingly Roman interpretation of *confiscatio* and the late sixteenth and early seventeenth centuries saw, partly as a result of the religious wars, more wholesale confiscations than any preceding period. The hope of the future lay first in drawing a clear distinction between governmental functions and private property, and secondly in insisting upon popular control of the *fiscus* and the *domanium*. Although these two steps had been taken by the more highly developed city-states in the fifteenth and sixteenth centuries, these essential aspects of the *Rechtsstaat* were not fully realized in territorial states of continental Europe until the nineteenth century.

The development in England is perhaps even more instructive. Forfeiture and escheat were the primary legal instrumentalities upon which confiscatory acts were based. But the legally significant aspect was that a criminal had lost his right to hold property; the problem as to what happened to the property after the criminal had lost it, which was the perplexing thing under Roman law with its strictly individualistic concept of property, did not particularly concern the English law, which treated property as a right derived from and dependent upon the personal relation between lord and vassal. In the early thirteenth century when the king was attempting to gain a right to the land of all felons, Magna Carta distinctly stated that the king had no such right in the case of ordinary felony; but it recognized his claim in the case of high treason. It was inherent in the rivalry between king and lower lords that the right to seize such forfeited or escheated goods and lands should become a matter of extensive controversy in which the analogy of the Roman *confiscatio* was used to bolster up the king's claims, particularly since the king was in a vague way identified with the politically organized community. High treason involved a breach of the king's peace and therefore later that of the oath of ligeance (*juramentum ligeantiae*). The possibilities of increasing the king's revenue by claiming a breach of the king's peace with its attendant confiscations produced recurrent attempts to include more and more felonies under this category, which led to a statutory definition of high treason in the reign of Edward III. Still it remains rather misleading to translate forfeiture as *confiscatio*. Attention is focused in forfeiture upon the fact that the perpetrator of a crime has lost his rights. It deals with the problem of a person who has an impaired legal status, not with the problem of a person who has a status beyond the law, like the Roman *princeps*. The difference becomes

very apparent in what Blackstone calls the only ground for forfeiture: the principle that all property is derived from society. But forfeiture does not necessarily imply transfer of property to a public authority at all (e.g. securities may be forfeited to the creditor under certain conditions). In view of this fact Blackstone attempts to draw an interesting distinction between the two concepts, calling confiscation a type of forfeiture in which the property forfeited accrues to the crown. But this distinction has not been accepted by many later writers particularly since other forms of forfeiture were rapidly becoming obsolete. In the nineteenth century the distinction was construed by some authorities to be that confiscation follows upon forfeiture. The person by his felonious act forfeits his property, and the government thereupon appropriates it. Obviously, such a view implies an attempt to combine the common law solution of a common law problem with the Roman solution of a Roman problem. Others have maintained that confiscation has no place in common law countries because forfeiture is "the technical and appropriate term." This sort of notion goes together with the general proposition that the idea of an absolute power or public authority has no recognized place in the common law. Although it would be false to deny the significance of this idea, it is well to recall that the purely natural necessities of political existence have obliged men believing in this idea to seek more respectable subterfuges in such legal instrumentalities as forfeiture, escheat, alienation, eminent domain and the like in their efforts to legalize what were in fact confiscations. The heyday of such confiscations was in England as elsewhere the sixteenth and seventeenth centuries, when the struggle between the crown and the church and later between the crown and the "heretics" gave wide opportunity for appropriating property upon the ground that it had been forfeited by abuse or by treason. A notable instance is the dissolution of the monasteries under Henry VIII. We have in these acts a typical illustration of the way in which legislative supremacy may be used for what is in fact an employment of force in expropriating individuals or corporations obnoxious to the community. It ought to be borne in mind, however, that Henry and his parliaments did by no means originate such confiscatory measures; under Henry IV the Commons petitioned more than once for the confiscation of church property, and in 1414 the alien priories had been "granted" to Henry V. After Wolsey's fall Henry had by an act of Parliament received the spiritual authority of the pope and the confiscations continued to be carried out under the cloak of ecclesiastical reform. Another striking instance of wholesale confiscations in English history may be found in the acts of Cromwell on behalf of the Commonwealth, particularly in Ireland. The Cromwellian Settlement transferred the property of land in two thirds of Ireland to new owners. In England too the parliaments of the Commonwealth again and again resorted to confiscating the estates of alleged malignants in order to meet the expenses of army and navy, but since the "glorious revolution" the tendency in England has until rather recently been to avoid confiscation under no matter what legal disguise.

In order to find instances of large scale confiscations one would have to follow the path of empire. And even the use of the legal instrumentalities which once served the purpose of confiscation has been circumscribed by increasingly narrow limits. Juries in Blackstone's time were already averse on grounds of public policy to imposing forfeitures. The nineteenth century saw them disappear almost entirely. Not quite the same statement can be made for France or Germany; in fact, the French Revolution and its aftermath witnessed confiscation on a considerable scale. The idea of the inalienable right of the community to all goods was insisted upon, but its application was made first of all to the possessions of the clergy (not private property, strictly speaking) which were declared to be *biens nationaux*. The large estates of the nobility, either guillotined or émigré, were another fertile field for confiscatory activities, or, as one now begins to say, nationalization. In the meanwhile the successful struggle for independence of the United States of America had made traitors of loyal subjects of the crown; and since there remained no crown to which their forfeited estates could revert, the concept of confiscation was suddenly revived. And when in addition the American constitution went far toward establishing an absolute and individualistic concept of private property, confiscation began to acquire a new significance as a legal concept. American courts, however, not familiar with the notion of a *fiscus*, have usually spoken of the public treasury. American judicial decisions have gone through very gradual development characterized by much groping tentativeness. Certainly such definitions as that of the

much cited Ware *v.* Hylton (3 U. S. 199), "To confiscate is to transfer property from private to public use," would make confiscation a very broad category indeed. It has consequently been urged that confiscation should not be used to describe the legitimate exercise of the tax power or of eminent domain or the condemnation of private property as prize under the international law of war. But it seems doubtful how a distinction of this variety can be drawn successfully. At any rate, the confiscation acts of the Civil War period were enacted by Congress in the exercise of the war powers. These acts authorized the seizure, condemnation and forfeiture of property used for insurrectionary purposes (for their construction see 74 U. S. 454; 78 U. S. 268; and others).

In recent years much has been heard concerning confiscatory measures in connection with attempts to achieve government regulation of commercial activities. By exploiting the unhappy historical associations of the concept some designate the loss of property as confiscation even when it is not transferred to the public treasury at all, while others who actually advocate the transfer of large amounts of property to the public treasury employ the more appealing word nationalization. This idea is very important in contemporary socialistic thought and indicates the close relation which such thought has to some form of state absolutism.

The problems which have arisen since the World War in this connection offer a fitting conclusion for any discussion of confiscation in the sphere of international law. Although the peace treaties rendered lip service to the principle of inviolable property rights, the methods which they provided for compensation were widely considered to be tantamount to partial confiscation. Next, the establishment of the dictatorship of the proletariat in Russia not only entailed the confiscation of the estates of adherents of the old regime but the abolition of private property as such. In the newly created states various constitutional measures were taken which amounted to confiscation of much landed property, since the compensation amounted usually to only a small percentage of the pre-war value. Germany, which after the war set out upon the path of general nationalization, scarcely got beyond the stage of discussing possible steps. Yet it is not without significance that articles 153, 155 and 156 of her constitution envisage confiscatory legislation. An important direct application of this power is seen by some in the obligation placed upon German industry under the Dawes plan. Indirectly the legislation regulating the rents charged for dwelling houses was in effect a confiscatory measure. Similar legislation was also enacted in England and Austria. Moreover, it deserves to be noted here that the depreciation of a currency, such as occurred especially in Russia, Austria, Germany, Italy, Spain and France, may have the effect of depriving certain people of their property; and in so far as the public treasury receives income by this process, inflation is a form of confiscation. Yet it is difficult to check judicially, because the right of coinage is a prerogative of the sovereign. Still, the International Law Association resolved that "it is contrary to the principles of International Law to deprive a foreigner, or a member of a protected minority, of the fundamental rights to which he is entitled as owner, through indirect ways which, though not in law, but in fact, lead to an expropriation without real compensation." In the light of the facts this resolution seems a pious wish rather than living law. Even in the United States the due process of law clause of the constitution is ineffective against the constitutional amending power as well as against any legislation implied in the enforcement of a constitutional amendment, particularly when there is involved in the minds of many citizens a moral issue. Certainly the owners of saloons, whether citizens of the United States or not, were deprived of their property without just compensation, no due process of law being allowed. In view of all these tendencies it strikes one as curious that the International Law Association should have resolved that "it is generally recognized by the constitutions, civil codes or common law of civilized States that private property may not be expropriated without compensation," and that "in so far as the question of the immunity of private property from confiscation arises in international relations, the same principle is generally accepted." It is highly objectionable to make the extent to which abstract and absolute property rights are recognized the criterion of civilization. Did the United States become less civilized by passing the prohibition amendment? Moreover, it seems more in keeping with the legal traditions of the European past to insist that the extent of a person's rights is dependent upon his status in the community. In the long run international law cannot fulfil its functions if it attempts to codify where

municipal law is in a state of great flux. If the inviolability of private property were used as a standard, the adjective "civilized" could probably not be awarded to any nation. Obviously, this is absurd. It is wiser to content oneself with saying that it is a recognized principle of all nations that property rights shall not be transferred by action of the public authorities from one private individual to another nor shall they be transferred to the public treasury except for a publicly known and constitutionally sanctioned purpose. If aliens own such confiscated property, the public treasury of the government under which they live should probably be recognized as successor to their rights. Such a statement would indicate the nature and limitations of confiscation within the modern state.

CARL JOACHIM FRIEDRICH

See: STATE; SOVEREIGNTY; NATURAL RIGHTS; PROPERTY; TAXATION; ALLEGIANCE; ATTAINDER; ESCHEAT; EMINENT DOMAIN; EXCESS CONDEMNATION; DUE PROCESS OF LAW; POLICE POWER; WAR; REQUISITIONS, MILITARY; ALIEN PROPERTY.

Consult: Hirschfeld, Otto, *Die kaiserlichen Verwaltungsbeamten bis auf Diocletian* (2nd ed. Berlin 1905); Lear, F. S., "Crimen laesae maiestatis in the Lex romana wisigothorum" in *Speculum*, vol. iv (1929) 73–87; Brunner, Heinrich, *Forschungen zur Geschichte des deutschen und französischen Rechts* (Stuttgart 1894) p. 444–81; Gasquet, F. A., *Henry VIII and the English Monasteries* (rev. ed. London 1899); Butler, W. F. T., *Confiscation in Irish History* (London 1917); Davis, A. M., *The Confiscation of John Chandler's Estate* (Boston 1903), and *The Confiscation Laws of Massachusetts* (Cambridge, Mass. 1907); Sumner, Charles, "Graphic History of Confiscation from the Scriptures Down to Our Own Times" in *Works*, 20 vols. (Boston 1900) vol. ix, p. 53–69; Nicholas, S. S., *Habeas Corpus, the Law of War and Confiscation* (Louisville, Ky. 1862); Day, L. N., *The Constitutionality and Legality of Confiscations in Fee* (New Orleans 1870); Coudré, Paul, *Nature juridique de la confiscation en matière de contributions indirectes* (Epinal 1909); Anderson, C. P., *Inviolability of Private Property against Confiscation* (New York 1927); Clark, J. R., and Martin, W. F., *Status of Ex-enemy Property* (Clifton, N. J. 1925); McBain, H. L., *Prohibition Legal and Illegal* (New York 1928); The International Law Association, *Report of the 34th Conference* (1926) p. 227–76; Feilchenfeld, E. H., *Public Debts and State Succession* (New York 1931) §§ 299–308.

CONFLICT OF LAWS.

HISTORICAL AND THEORETICAL ASPECTS. Generally speaking, the conflict of laws is that branch of jurisprudence which comprises the principles for determining the rights of persons in private international relations. Upon the continent the term private international law is used as synonymous with the term conflict of laws.

In the time of the Greek city-states at least, it became evident that foreigners and foreign transactions could not be governed by considering the local law alone. In order to maintain useful foreign intercourse account had to be taken of foreign law, and this was done by inter-municipal treaties granting "justice" to the citizens of different cities. Rome in dealing with foreigners in the city developed a *jus gentium*, which was supposed to be derived upon principles of equity from common foreign law sources but was in no sense a conflict of laws, as foreign law was not applied as such. The foreigner was not regarded as the subject of another sovereign and as such entitled to that sovereign's law but rather as an estray who could not have the benefit of the *jus civile*, which governed the relations of Roman citizens. The *jus gentium* is thus to be regarded as a special common law intended for the free individuals of all nations. When the imperial law of Rome became widely extended because of the growth of the empire, many survivals of the older law maintaining themselves as provincial customs caused difficulties. Several solutions of such questions are contained in Justinian's *Digest*.

The coming of the conquering barbarian tribes among the Romans created a new problem. Because they were conquerors they could not be treated as intruders and judged by the *jus gentium*. But since the theory had already been developed that a Roman citizen was entitled to be judged by the Roman law wherever he might be, this privilege was now naturally assumed by the barbarians, and the so-called regime of the personality of law became established under which members of different races had the right to be judged by the law of their birth. This personal, racial system of law was inevitable under the conditions of dissolution which marked the decline of the Roman Empire and accorded well with the necessities arising from the frequent migrations of the Germanic tribes. Bishop Agobard of Lyons wrote in the middle of the ninth century that it happened frequently that of five persons meeting in one room each lived by a different law. Where the population was very mixed, a custom became established of making a *professio juris* in the case of each closing of a legal transaction. But since legal relations were not complicated, a few simple rules sufficed: inheritance was governed by the decedent's tribal

law; composition for crime was determined according to the criminal's law; and in contracts each party was ordinarily bound by his own law. Fundamentally, however, the regime of the personality of laws represented a conflict of legal systems rather than of particular laws.

With the greater and greater intermingling of races and the growth of local customary law under the influence of feudalism, which, based upon land holding, tended naturally to emphasize law of place, the conception of the territoriality of law became established in the later Middle Ages. But it should be remembered that the process of transformation was very gradual. Territoriality at first certainly had little in common with the modern conception of territorial sovereignty. Personal law was held precious throughout the Middle Ages, and it was rather the practical impossibility of determining personal origin that caused the law of place to prevail ultimately. If laws conflicted, they were the conflicting laws not of sovereign and independent states but of particular localities. Thus it always appeared less necessary to confine the force of laws to the boundaries of the places where they first originated.

The modern jurisprudence of the conflict of laws may be said to have had its first origins in Italy, where growing trade and manufacture were being protected by city-states. The Roman law was the common law of the peninsula, but each city had its own *statuta* derogating from this imperial law in many aspects and hence giving rise to conflicts. Since the study of Roman law had undergone a great revival in Italy, Bartolus, who may rightly be regarded as the founder of the modern science of the conflict of laws, resorted to the texts of Justinian's *Digest*. His work is particularly indicative of the fact that, while feudalism was disintegrating, the principle of territorial sovereignty had not yet become established. The growth of commerce made it convenient for a person not to lose his rights of personality as a result of mere temporary residence for the purposes of trade. Bartolus held that, while the universal Roman law was also for the benefit of strangers, the *statuta* were restricted to local operation; from this followed the leading principles that a statute which affected persons only would not operate against foreigners, that a statute which affected things would operate against both foreigners and citizens and finally that a statute which related to the person would follow him wherever he went.

Meanwhile in France the provincial *coutumes*, derived from the tribal laws, had developed as local laws under the stimulus of feudalism. As in Italy, the region in which each governed was small but there existed also the actual overlordship of the king with his own law for his own fiefs. Intercourse between the different provinces called for a solution of conflict between laws, accentuated by the fact that unlike the *statuta* the *coutumes* because of their sharp differentiation from the Roman law were no longer regarded as mere exceptions to it but as the true law of the provinces where they prevailed. For while politically parts of the same country these were distinct units for the purposes of law administration. In a sense they constituted a federal nation, and thus the problem of conflict they presented was distinctly modern. The territoriality of the customs here almost entirely superseded the personality of law; but since the provinces were not entirely independent states, domicile was substituted for tribality in the law of personal relations. This development is clearly shown in the so-called French statutists of the sixteenth century, especially Dumoulin and d'Argentré, who developed from the Italians the theory of the statute personal (the law that accompanied the person and governed him wherever he went) and the statute real (the law of the land). Naturally, there could be great difference of opinion regarding the type to which a statute belonged. The kinship between the theory of real and personal statutes and the Bartoline views is manifest, and indeed the former theory has been erroneously attributed to Bartolus; but if he used the phrases, they meant to him simply statutes relating to things and statutes relating to persons—the terms in themselves had no jurisdictional connotation. While Dumoulin remained greatly under the influence of the Italians, d'Argentré, who was a feudal provincial lawyer, regarded almost all the customs as "real," accepting only perforce the Italian views of the exterritorial effect of status and capacity.

Due to the waning of feudalism in France the territorial doctrine of d'Argentré fell upon barren ground there. It was, however, carried to its logical conclusion in Holland in the seventeenth century. The confederated Dutch provinces, practically autonomous states, jealous of each other's independence and power, welcomed a doctrine which served to repel any encroachments on their laws. The early Dutch writers rejected all ideas of statutes, personal or

real, and leaned more and more to the theory that each state applied its own law to the solution of a legal transaction in which conflicts of laws were involved. The principal writers, John Voet and Ulric Huber, thus fully accepted the territoriality of law. Yet, since it was necessary often to apply foreign law, they invented the doctrine of comity (*q.v.*), whereby rights acquired in another state were recognized only as a matter of grace. The principle of the sovereignty of states, proclaimed by the Treaty of Westphalia in 1648 as cardinal in public international law, was thus introduced into the conflict of laws, as well as the idea of juridical monopoly by the political state.

In England, where the common law had developed as the general custom of the whole realm, the necessity for developing a doctrine for solving conflicts did not arise early. But when it did, toward the end of the eighteenth century, English judges naturally turned toward the Dutch writers. The reception was assisted doubtless by the fact that William III was not only king of England but *staatholder* of Holland. But fundamentally it was due to the fact that the insular and feudal common law had a territorial character. A solution of conflict of laws became even more imperative in the American colonies after independence, when each retained its own laws and interstate trade and social intercourse steadily increased. When Story, writing in 1834 the first treatise in English on the conflict of laws, found comparatively little in decided cases, he turned to Huber, partly because of his accessibility to him in translation but largely because the Dutch school's intense territoriality of feeling accorded better with the genius of the common law than the French school's theory of statutes. The work of Story has come to form the basis not only of the American but of the English conflict of laws. The term comity, imported by him into Anglo-American law, was stated by him to mean the comity of the state, not the comity of the courts. While the state was not bound to recognize rights accruing under foreign law, no principle has been imbedded more firmly in Anglo-American law as a matter of practise. Unless contrary to the public policy of the state of the forum rights of foreign origin have been enforced in the same way as in the case of similar rights of domestic origin. The respect for vested rights in America, particularly as a result of constitutional limitations, has had a great effect in upholding them even when they have been of foreign origin; indeed, a theory of vested rights has become substituted for comity in the conflict of laws under the common law. Dicey was important in the later development of the conflict of laws in England. A recent form of the territorial theory in the United States has been the "local law theory" enunciated by Cook and Lorenzen, according to which there is no right in the state of the forum until it is created by the court in deciding a case, although in order to do justice the forum usually creates for the parties a right as nearly as possible identical with the right created by the state in which the transaction took place.

Fundamentally speaking, there are three modern theories of the conflict of laws. The territorial theory prevails in common law countries. The statutory theory of the mediaeval authors prevails in France, Belgium, Italy and Spain, the countries which were thoroughly Romanized. Their past experience with personal law has made a personal solution of conflicts seem natural from the time of their achievement of unified, national law. No incongruity has been felt in supposing an actual contest for supremacy between the law of the land and the law of the person. On the whole, the doctrine has been accepted that the personal law of a party to a transaction accompanied him when he went abroad and prevailed in everything that had a predominantly personal aspect; while anything that predominantly concerned the country where a transaction took place was governed by the statute real. This has, however, been greatly modified by the development of a principle of public order, which holds that every transaction, although predominantly personal, in which a question of public order of the place of transaction is concerned is governed by the law of that place. Another exception lies in the principle of the autonomy of the will, according to which voluntary juridical acts are governed by the law with respect to which the parties intended to contract.

Under the statutory theory difficulties of *renvoi* have been often prominent. They arise when the law to which a question of conflicts has been referred in turn refers the solution back to the first law or sometimes even to a third law. If, for instance, the law of state X refers the right to an inheritance to the law of state Y, the decedent's last domicile, while the law of Y refers it back to his national land, X may accept the *renvoi* and determine the inheritance by its own law or refuse the *renvoi* and send it back to Y,

whereupon the process might continue forever. The solution that has been most favored is the acceptance of the first *renvoi*.

The third of the chief modern doctrines represents an international view of the conflict of laws. It is held particularly in the Netherlands and Germany. The doctrines of private international law have been regarded as having a supranational sanction similar to that of public international law. It is conceived that a single body of principles exists, binding on all nations, by which the necessity for any choice between two sets of independent laws is obviated. Beginning with the work of von Bar, the theory was highly developed by Zitelmann. The more recent work of Frankenstein, an ingenious doctrine of primary and secondary statutes, seems to turn toward the French school.

The desire for a world law is natural in a country as small as the Netherlands which nevertheless has a considerable foreign commerce. The conception of an overlaw constraining the local law and operating by its own power is readily understandable in Germany, where order and authority have seemed all important since the experiences of post-Napoleonic days. Generally the international view represents a reaction against the maintenance of the principle of sovereignty in the determination of individual legal rights. Its adherents have the conviction that no scientific system of the conflict of laws can be evolved upon such a basis. The protest is also directed against those differences of law which have been accentuated since the French Revolution by the intense feelings of nationality which then began to prevail.

The doctrine of nationality in the conflict of laws has had a great vogue. Under the statutory theory nationality has been substituted for domicile as governing personal rights in western Europe, and international conferences to devise a solution for the resulting difficulties have proved vain. The nationalist doctrine of Mancini became the basis of an Italian school of the conflict of laws which taught that the law of a nation was applicable to all its citizens wherever they might go. The attitude is significant in view of the Italian striving for a homogeneous national state. But the Italian school has awakened responses also in France, Belgium, Germany and Spain. Indeed, since the World War the nationalist view has gained ground generally in Europe. It is always stimulated by war. In the United States and the British Empire, however, traditional policy has not been affected. The absence of a uniform national law for all the states within the union or the empire has rendered inconvenient the application of the principle of nationality.

The modern mobility of population, increased by the World War and its resulting mingling of populations, is likely to have a profound effect upon the development of the conflict of laws. More than ever not only commercial rights but civil rights have to be adjusted. Conflicts in the law governing international marriage and divorce particularly demand solution. It is unfortunate that the views held of the conflict of laws in the two great systems of modern law, the common law and the civil law, have heretofore made it impossible to reach agreement.

JOSEPH H. BEALE

MODERN RULES. In modern times, when persons of different states have a multitude of relations with each other of a business or social character, an especially vast number of legal problems arise in the conflict of laws. The content of the conflict of laws is by no means fixed. In its broader sense it may include all legal problems where the operative facts touch more than one state and do not fall within the domain of international law, without reference to whether they belong to public or to private law. Some writers include in the subject therefore criminal law in its international aspects. Others include the subject of taxation. More commonly, however, the term is used in a narrower sense so as to include only problems of private law and matters relating to the jurisdiction of courts. The many differences in the modern rules of the conflict of laws may be regarded as illustrative of the divergencies of fundamental conceptions.

If the operative facts in a given case have occurred in one state and suit is brought in another, the first question is whether the courts of the second state have jurisdiction. Between some countries the rules in this regard are defined more or less by international treaties, but in the United States they are to be found exclusively in the existing statutes and decisions of the courts. Anglo-American countries give free access to their courts irrespective of the nationality of the parties litigant, whereas in France a wide divergence exists between the rules applicable to French citizens and those applicable to foreigners. In suits arising in the field of obligations (contracts, torts and the

like) there is a fundamental cleavage between Anglo-American law and that of other countries. Anglo-American law allows an action in contract or tort to be brought provided only the defendant was duly served within the state in which the action is brought, without reference to where the contract was made or the tort committed. It is not necessary that the subject matter of the litigation or the parties themselves have any connection with the state of the forum. In extreme cases, however, where such a suit is obviously brought for the purpose of oppression or for some other improper reason, the court upon application of the defendant may decline to exercise jurisdiction. In the absence of personal service no valid personal judgment can be rendered in the contemplation of Anglo-American law. To this rule there are some exceptions; the principal one is that submission to the jurisdiction of the court by the defendant is sufficient. Obviously these rules tend to favor the party who brings the action. Continental law, on the other hand, ordinarily compels the plaintiff to sue the defendant at the latter's residence. Personal service within a state does not constitute a basis of jurisdiction.

Suits relating directly to the title of land must be brought in Anglo-American law in the state where the land is situated. Questions directly concerning the family relation must ordinarily come before the court of the domicile. Jurisdiction with respect to questions of succession must be obtained at the domicile of the decedent with respect to personal property and at the situs with respect to real property. In other countries, under the doctrine of universal succession the courts of the decedent's domicile frequently have jurisdiction with respect to all classes of property.

The question of the jurisdiction of courts may arise also in connection with the enforcement of foreign judgments. Much difference of view exists as to whether such a judgment must have satisfied the jurisdictional requirements of the state in which the judgment was rendered or those of the forum or those of both states. Anglo-American courts will not enforce foreign judgments unless there has been compliance with their own notions of jurisdiction.

Assuming that the court has jurisdiction in a cause of action having foreign elements, the question is whether the rights of the parties shall be determined with reference to the provisions of the local law of the state in which the suit is brought or whether the law of some foreign state with which the cause of action has some connection shall be considered. This problem is frequently referred to as that of the choice of law. This general problem raises a host of questions in each of the branches of private law. The modern writers on the conflict of laws may be divided into two main groups, depending upon whether they seek to derive the rules of the conflict of law from international law or maintain that these rules have a national basis like the rest of the rules of municipal law. Anglo-American law, belonging to the second group, takes the view that the law of each country or state consists of two parts—one dealing with the municipal law of contracts, torts, property and the like and the other with the rules of the conflict of laws which control with respect to such subjects, if the situation before the court is not a domestic situation but one involving a foreign element.

It proves extremely difficult to find satisfactory legal solutions of conflicts if the facts concern more than one system of law. With respect to contracts it is frequently said that the law of the place where the contract is made controls its validity (*lex loci contractus*). According to this view the nature of the particular contract is of no consequence nor the connection of the contract or the parties with a particular state. The only question would be as to where the contract was technically made. Thus, if a letter of acceptance was mailed by accident in a particular state, the laws of such state would irrevocably control the legal rights of the parties. For this reason many courts prefer to have a more flexible rule. They look to the surrounding circumstances, from which they try to ascertain the law with reference to which the contract must be deemed to have been made.

In the matter of torts Anglo-American courts generally look to the law of the place where the tort was committed. In case of negligent conduct the tort is deemed committed in the state in which its consequences took place. If death results, it is the law of the place where the injury was received rather than the state in which the death occurred that governs.

Property questions are generally determined with reference to the law of the place where such property is situated (*lex rei sitae*). As regards real property the law of the situs governs in Anglo-American law even with respect to matters relating to conveyancing. The validity of a deed therefore, as regards both capacity

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and formality, is subject to that law. In the matter of formalities, however, statutes frequently allow the deed to be executed in the mode customary at the place of execution. Executory contracts relating to land are governed in this country generally by the ordinary rules applicable to contracts; the situs of the land is not taken as decisive.

In the matter of personal property the rule that the law of the situs controls has been established only within comparatively recent times. In earlier years, when the importance of personal property was not great and it was generally in the immediate possession of its owner, it was axiomatic that the law of the domicile controlled (*mobilia personam sequuntur*). Today, however, the courts look more and more to the actual situs of personal property in determining the legal relations of the parties with respect thereto. If the law of the situs allows a transfer of title to result directly from the agreement of the parties without delivery of the chattel, the validity of the contract will be determined by the ordinary rules governing contracts.

Upon death the descent of real property is controlled by the law of the situs, whereas the distribution of personal property is governed by that of the domicile of the decedent. The law of the domicile has not been supplanted in this respect. Its retention may be justified perhaps on the ground that it renders the administration of estates upon death more simple. In other than Anglo-American countries, in which all property goes to the heirs upon principles of universal succession, the devolution of the whole estate may be subject to the law of the domicile or the national law of the decedent.

Wills disposing of real and personal property are governed in England and in the United States, in the absence of statutory provision to the contrary, by the law governing such property in case of intestate succession. By statute wills are frequently rendered valid as regards formal execution, if they satisfy the law of the place of execution. By some statutes wills are sustained if they satisfy either the formalities prescribed by the law of the testator's domicile at the time of execution or those of the forum.

Within the domain of the law of persons and domestic relations (family law) the law of domicile plays a preponderating role especially in Anglo-American law. In other countries the law of nationality has sometimes been substituted for that of domicile. These matters are often referred to as relating to status. In many countries the capacity of a person to enter into legal relations is deemed to be a part of status. The disability imposed upon a person by his personal law is deemed to be for his protection, which should not be lost by going into another state. In business matters, however, the courts of such countries do not always live up to this mode of reasoning; for in the interest of security in commercial transactions parties under disability under their personal law are held on their contracts entered into within the state if they had capacity to bind themselves under the local law, at least if the other party was ignorant of the fact that he dealt with a person from another state. In the United States it has been found inconvenient, in view of the migratory character of its population and the uncertainties connected with the subject of domicile, to determine the capacity of parties in commercial transactions with respect to the law of their domicile. It has been abandoned therefore in favor of the law governing contracts in general.

The validity of a marriage is everywhere determined as to the mode of celebration by the law of the place of celebration. In other respects it is generally governed by the personal law of the parties, although in the United States the law of the place of celebration governs. The policy of upholding marriage has inclined American courts to look to this law rather than to the law of the domicile of the parties, which would invalidate a marriage if the provisions of the law of the domicile of either party before the marriage were not satisfied.

Legitimacy is generally governed by the personal law of the parties; in the United States by the law of domicile. The same rule is applicable to legitimation. Troublesome questions arise if the parties in question have different domiciles or where there has been a change of domicile between the time of the birth of the child and the act subsequently relied upon for the purpose of legitimation. Adoption is governed by similar principles. If adoption takes the form of a judicial proceeding and the parties have different domiciles, such proceedings may generally be brought in the state in which either the child or the adoptive parent is domiciled.

The effect of marriage upon the property rights of the parties is determined in the United States as regards real property by the law of

the situs. Personal property owned by the parties at the time of their marriage is controlled in this particular by the law of the domicile at the time of marriage. Subsequent acquisitions of personal property, while the parties retain the original matrimonial domicile or after the acquisition of a new domicile, are said to be controlled by the law of the domicile of the parties at the time of such acquisition. In the decided cases, however, the property has generally been situated in the state of the domicile. Where it is not so situated, it has been suggested that the law of the situs should prevail. On the continent and in England it is deemed to be in the interest of society that the matrimonial property rights of the parties should be subject to one law throughout their married life without regard to any change of domicile or nationality or the nature of the property as real or personal. There is a tendency on the continent to apply the law of the husband's nationality at the time of the marriage. In some countries, as in France, the law goes so far as to prohibit the parties from changing by any subsequent agreement the matrimonial property regime adopted at the time of the marriage.

A divorce will be granted in the United States if the petitioner satisfies the law of the forum as to residence and grounds for divorce. A married woman may obtain a divorce on these conditions, although the husband is not before the court and is not domiciled in the state of the forum. But under English and continental law a married woman is not allowed to acquire a separate domicile. A divorce will not be granted in continental countries unless the personal law of the parties recognizes divorce and a cause for divorce under such personal law exists.

The relations between guardian and ward are subject to their personal law, that is, in Anglo-American countries, to the law of their domicile. The powers of a guardian are in Anglo-American law strictly local. The disability imposed upon a person of age by the appointment of a guardian is likewise local in its operation and does not follow such person into another state. The civil law countries follow a different doctrine.

So far as procedural matters are concerned all countries apply the law of the forum. Justice cannot be administered except in the mode that is customary at the forum. Although the guiding principle is clear, it is, however, not always easy to draw the line between matters that are procedural and those that are substantive. For example, are matters relating to the burden of proof, to presumptions, to the statute of limitations and to the statute of frauds to be governed exclusively by the law of the forum on the ground that they are procedural? In Anglo-American law the courts have gone very far in this direction, but the more recent tendency is more moderate.

To all the above rules there are many exceptions or qualifications. The principal one is that the application of foreign law will be refused if it would shock the conscience of the court or conflict with some provision of the local law which the courts deem mandatory even with respect to situations that occurred outside the territorial limits of the state. For example, a contract valid in the state where it was made and where it was to be performed may not be enforced in another state if it arose out of a gambling transaction, if the kind of gambling involved is condemned by the law of the forum. In England, but not in the United States, a tort committed in another state will not be enforced if it would not constitute a tort under the local English rules. If a divorced person, prohibited by the law of the state of his domicile to remarry for a certain length of time, does so in another state, the former state may not recognize the marriage although validly celebrated according to the law of the latter. A state condemning chattel mortgages as against public policy may and probably will decline to recognize such mortgages validly executed in other states after the property is brought within its jurisdiction.

So far as the United States is concerned the conflict of laws is further greatly complicated by the fact that the states are restricted by some provisions of the federal constitution in their freedom to choose their own rules of the conflict of laws. The principal limiting clauses are that each state give full faith and credit to the public acts, records and judicial proceedings of every other state; that no state deprive any person of life, liberty or property without due process of law; and that the citizens of each state be entitled to all the privileges and immunities of citizens in the several states. Under the full faith and credit clause and the due process clause of the constitution, with or without supporting legislation on the part of Congress, it would be possible for the Supreme Court of the United States to impose upon all courts of this country its views as to what the rules of

the conflict of laws should be, but thus far it has declined to exercise such power. As regards the choice of the ordinary rules of the conflict of laws the Supreme Court appears disposed to give to the state courts entire freedom except where it is necessary to check legislation which is deemed especially obnoxious.

Another source of complication in the United States arises from the coexistence of state and federal courts. Although a given factual situation has arisen in some other state or country, a federal court may decline to look to the law of such state or country and apply its own rules on the ground that the particular matter is one of general instead of local law. On this ground the federal courts have refused to enforce stipulations against negligence by carriers contained in bills of lading issued in foreign countries, although such stipulations were valid under the law of the foreign country.

Attention has been called to but a few of the problems presented by the subject of the conflict of laws. These problems will disappear as uniformity in the municipal law of the different states and countries is achieved. Some progress in the direction of such uniformity has been made in the United States in the field of commercial law, but relatively little in other fields. As between the nations of the world strenuous efforts have been made to get some degree of uniformity in matters most directly affecting foreign commerce, such as in the law of bills and notes, sales, carriers, shipping and the like, but the difficulties in the way are still very great. Other efforts have related to the unification of the rules of the conflict of laws in the different countries. Among the continental countries some progress has been achieved in this direction through the conventions at The Hague on private international law. As a result of the recent codification of the subject at the Pan-American Conference in Havana a similar development has taken place in Latin American countries. The Anglo-American point of view, however, is so different from that of other countries that England and the United States find it difficult to join in such attempts at unification. So far as the latter country is concerned, the restatement of the conflict of laws by the American Law Institute may constitute a unifying influence, but it is hardly to be expected that it will affect materially the law of other English speaking countries.

ERNEST G. LORENZEN

See: INTERNATIONAL LAW; JURISDICTION; ROMAN LAW; CUSTOMARY LAW; COMMON LAW; SOVEREIGNTY; COMITY; FULL FAITH AND CREDIT CLAUSE; COURTS; DOMICILE; CONTRACT; FAMILY LAW; INHERITANCE; NATIONALITY; UNIFORM LEGISLATION.

Consult: For general history and bibliographical sources: Meili, Friedrich, *Das internationale Civil- und Handelsrecht* (Zurich 1902), tr. by A. K. Kuhn (New York 1905); Beale, Joseph H., *A Treatise on the Conflict of Laws*, vol. i– (Cambridge, Mass. 1916–). For France: Lainé, Armand, *Introduction au droit international privé*, 2 vols. (Paris 1888–92); Pillet, Antoine, *Principes de droit international privé* (Paris 1903). For Germany: Bar, Ludwig von, *Theorie und Praxis des internationalen Privatsrechts*, 2 vols. (2nd ed. Hanover 1889), tr. by G. R. Gillespie (2nd ed. Edinburgh 1892); Zitelmann, Ernst, *Internationales Privatrecht*, 2 vols. (Leipsic 1897–1912); Frankenstein, Ernst, *Internationales Privatrecht*, vols. i–ii (Berlin 1926–29). For Italy: Fiore, Pasquale, *Diritto internazionale privato*, 4 vols. (4th ed. Turin 1901–09). For Spanish America: Bustamente y Sirvén, A. S. de, *Tratado de derecho internacional privado*, vol. i– (Havana 1896–). For England: Dicey, A. V., *A Digest of the Law of England with Reference to the Conflict of Laws* (4th ed. London 1927). For the United States: Story, J., *Commentaries on the Conflict of Laws* (8th ed. Boston 1883). For local law theory: Lorenzen, E. G., "Territoriality, Public Policy, and the Conflict of Laws" in *Yale Law Journal*, vol. xxxiii (1924) 736–51; Cook, W. W., "The Logical and Legal Basis of the Conflict of Laws" in *Yale Law Journal*, vol. xxxiii (1924) 457–88; Sloovère, F. J. de, "The Local Law Theory and Its Implications in the Conflict of Laws" in *Harvard Law Review*, vol. xli (1928) 421–52. For doctrine of *Renvoi*: Lorenzen, E. G., "The *Renvoi* Doctrine in the Conflict of Laws" in *Yale Law Journal*, vol. xxvii (1918) 509–34, with appended bibliography. For various other phases: Dodd, E. M., Jr., "The Power of the Supreme Court to Review State Decisions in the Conflict of Laws" in *Harvard Law Review*, vol. xxxix (1926) 533–62; Jitta, D. J., "The Development of Private International Law through Conventions" in *Yale Law Journal*, vol. xxix (1920) 497–508; Valery, J., "The World War and Its Effects on Future Private International Law" in *Harvard Law Review*, vol. xxxi (1918) 980–1010 and 1064–88.

CONFLICT, SOCIAL. Social conflict results from the conscious pursuit of exclusive values. In the widest sense of the word conflict is conscious competition, and competitors become self-conscious rivals, opponents or enemies. The individual members of society are always widening or narrowing the sum of their claims on society for life, liberty of movement, property and deference. For the most part the relative position of the individual in relation to the current values is controlled by influences of which he is unaware. But in some measure everyone believes that his personality can and should be protected from the encroachment of

others and that it can be aggrandized at the expense of others. Conflict may involve the defense of what one already has or the acquisition of what one has not; and acquisition may mean the taking away of that which pertains to another or the appropriation of that which another would like to have. The defensive, destructive and obstructive aspects of conflict become entangled with one another in every crisis.

Exclusive values may be pursued by means which vary from physical violence to persuasion, thus including the whole armory of instrumentalities for social control. Conflict among men differs from the struggle for survival among animals in the diversity of the means employed. Each animal species is bound by its structure to a small number of highly stereotyped means of coping with a conflict situation, but so plastic is the nature of man that rich variations are discoverable within the human species. The place of physical combat is usually taken by argument, admonition, ridicule, litigation and the manipulation of surrounding circumstances; and these are functions of the cultural setting in which conflicts occur. Although the instinctive nature of man is in principle non-social and in important particulars antisocial, man is capable of socializing his destructive impulses to a very high degree.

It may be considered a truism that social conflict is a mode of registering, and often a mode of consummating, social change. Conflict is acute where change is swift, and here the vested interests and sentiments of the old order stand out against eager pressure from the new. A crisis may "clear the air" and bring about a willingness to come to terms with the requirements of reality. Mobs, strikes, boycotts and wars have not infrequently led to a more permanent organization of interests, and social tension has often subsided after prolonged agitations and protracted litigations. After a "stand" the legionaries of the old may retire with honor from the field and leave the new in full command. Occasionally a crisis results in the obliteration of one or both contending parties.

That a particular conflict will produce a relatively abiding settlement is no foregone conclusion; it is often said that issues are never decided, they are only superseded. National cleavages push religious cleavages into the background, and class divisions threaten national unity. But behind the clash of armor and argument are the silent processes of social life, which redefine the value pyramid and eventually display themselves in new frontiers of strife and controversy. Innovations in the technique of production and the resulting enrichment of the adventurer and impoverishment of the beneficiary of the older order fit up the stage and rehearse the characters for the next act in the social drama. Against the prominent practises and symbols of the present order accumulates a mass of repressed hostility, and from within the framework of society itself there springs the dialectic of its alteration. Certain realignments may suddenly appear, as when an instant and overwhelming threat to a common value looms in the immediate foreground and men combine against it where they have been unable previously to combine for anything else. The whole catalogue of contrasts between individuals furnishes possible lines of separation, but the zones of conflict at a given phase of culture are circumscribed by geographical position and by the incidence of social change within the institutional structure. Not only the parties but also the modes of conflict are prearranged by the conventions of the group.

The thinkers of the last century were so aware of the clash of nation, culture, party and industry, so impressed by the biological struggle for existence, so struck by the mechanical analogies drawn from the study of flying particles, that they were disposed to take the fact of conflict too earnestly. Usually their philosophies were used to support some militant program on the part of those who had grown impatient of sublimated forms of social settlement. Even the philosophy of the democratic state was strongly tinctured by this ruling preoccupation with the fact of conflict.

In a certain sense the "philosophy of compromise" is in itself a curb on the tendency to resort to coercion rather than discussion; but from another point of view it is fatalistic and negativistic, for it seems to concede in advance that there is no truly inclusive set of social aims in relation to which local differences may be conciliated. A compromise is by its very nature a crazy quilt in which everyone can identify his patch; he can find consolation for his disappointment by reflecting that everyone else is disappointed too. In some quarters the philosophy of compromise has tended to pass over into a philosophy of integration. The solution of a conflict by integration is a redefinition of the interests involved; the parties cannot identify their "wins and losses." Such a conception is affirmative and challenging to those who hold

social power, for it dares suggest that perhaps no social conflict is so serious that creative intelligence may not economically resolve it. Men who are in the center of wars, feuds and elections usually develop a cynicism which springs from their own incapacity to exercise much control over the course of events. The philosophy of integration is a philosophy of hope, but its effective application depends upon its timely, that is to say upon its preventive, application.

One of the most pervasive patterns of thought conceives of conflict in personal terms. But there is a way of thinking which transcends social conflict and prepares the road for collaboration in the mobilization of effort against the non-human enemies of man. More men are killed by pathogenic bacteria than perish from bullets, yet the imagination of mankind has not yet been kindled against the invisible enemies of the species. It may be that the manipulation of collective opinion for the sake of raising the prestige of science will contribute toward the achievement of this sense of unity of man with man. It may be possible to dramatize the plight of man as a lonely adventurer adrift on a speck of dust in the unplumbed vastnesses of celestial space and thus to arouse a sense of the ludicrousness of internecine strife and place a premium upon sublimated forms of conflict.

If mankind succeeds in reducing fighting to a minimum on behalf of collective entities like states and classes, will personal rivalries increase? Historically liberty has often been sacrificed to authority in the presence of a violent common threat. Rivalries for personal distinction have been directed to more than personal ends, through the identification of the individual with the fate of a collective symbol. If conflict declines in its most peremptory collective forms, it is thinkable that the expenditure of human energy on long run ends might diminish. The fighting crisis provides a fairly definite standard for measuring the value of human effort. The measurement of economic efficiency, however, is at least as definite, although it has historically failed to inflame the imagination of the community. Wherein lies the superior claim of fighting to be considered sacrifice? Crises of fighting are intermittent; they are dramatic and they mean the gratification of very powerful primitive desires. The production of wealth is a continuing problem and it involves the relative subordination of impulse to the calculation of interest. It may be that in the American cult of prosperity we have the evolution of a social objective which may eventually have much of the powerful sanction which clings to military action; although it may be that the dramatization of the struggle for prosperity will always fail to gratify human impulses, which, to find sublimation, will have to be diverted into vicarious orgies of popular art and sport.

HAROLD D. LASSWELL

See: SOCIAL PROCESS; COMPETITION; CLASS STRUGGLE; VIOLENCE; WAR; CHANGE, SOCIAL; COMPROMISE; DISCUSSION.

Consult: Simmel, Georg, *Soziologie* (3rd ed. Munich 1923) ch. iv; Ratzenhofer, Gustav, *Wesen und Zweck der Politik*, 3 vols. (Leipsic 1893); Gumplowicz, Ludwig, *Der Rassenkampf* (2nd ed. Innsbruck 1909); Sorel, Georges, *Réflexions sur la violence*, Études sur le Devenir Social, no. iv (3rd ed. Paris 1912), tr. by T. E. Hulme (New York 1914); Marx, Karl, *Das Kapital*, 3 vols. (Hamburg 1890–94), several English translations; Davie, M. R., *The Evolution of War* (New Haven 1929); Treitschke, Heinrich von, *Politik*, ed. by Max Cornicelius, 2 vols. (Leipsic 1897–98), tr. by Blanche Dugdale and Torben de Bille (London 1916); Oppenheimer, Franz, *Der Staat* (Frankfort 1907), tr. by J. M. Gitterman (Indianapolis 1914); Catlin, G. E. G., *A Study of the Principles of Politics* (London 1930) ch. v; Mosca, Gaetano, *Elementi di scienza politica* (2nd ed. Turin 1923); Adams, Brooks, *The Theory of Social Revolutions* (New York 1913); Pareto, Vilfredo, *Trattato di sociologia generale*, 3 vols. (2nd ed. Florence 1923); Follett, M. P., *The New State* (New York 1918), and *Creative Experience* (New York 1924); Freud, Sigmund, *Das Unbehagen in der Kultur* (Vienna 1930), tr. by Joan Riviere as *Civilization and Its Discontents* (London 1930).

CONFORMITY, according to its dictionary definitions, implies an initial difference which is molded into similarity or sameness. It presupposes a model or standard serving as a mold to which the conformist conforms. His attitude is one of considered and voluntary submission, adaptation and compliance; his purpose is to bring about a harmony of himself with the model. It is assumed, first, that the conformist is plastic and active, the model rigid, passive, inert; and, second, that the conformist is always an individual or a minority, the model always a majority, community or group, with its folkways, fashions, conventions, institutions and mores.

These assumptions are not altogether true. Occasions arise, especially under conditions of crisis and change, such as great natural catastrophes, important inventions like that of automatic machinery, or political revolutions, when the standard or model is an individual or a minority (the Russian Communist party, the

Young Turks) and when it is itself as plastic and active as the conforming majority. Again, fashions are set by individuals (the beaux of the eighteenth century, for example), and what is *de rigeur* is always the initial practise of a small group to which it does not matter and which makes the change because it is bored. Inertia in small groups or in society as a whole relaxes the force that transforms them inwardly, so that even "static" societies do have a history. In point of fact, the standard or model changes in itself and is changed by the conformist in conforming. The action involves a mutual give and take, and the total result is never a mere repetition of the same but a *tertium quid* somewhat different from both. For example, the conformation of the Roman Catholic establishment in the United States to the mores of the American social-political order has set up in that church practises (condemned in the encyclical *Pascendi dominici gregio*, September 8, 1907, as the heresy of Americanism) and views on the relations of church and state which the Curia cannot accept.

The drives making for conformity are various, ranging from immediately felt discomfort in the sense of one's own difference to a fear for one's property, reputation or life. Anxiety is usually a component of such drives although their play presupposes a certain degree of security, for where insecurity is felt to be radical, revolution is as likely as conformity. Conformity is never reflex, automatic and spontaneous; it is purposeful action, taken contrary to preference or belief, an acquiescence with reservations and not to be confused with the unconscious processes of conformation and assimilation resting upon suggestibility. Infants and children cannot be said either to conform or not to conform, since they have only wishes and impulses but not beliefs, preferences or convictions from which they might choose to deviate. Conformity begins where conscious choice can be made of action contrary to belief. One does not conform to the folkways and mores in which one grew up; one only dissents from them, as the Mormons did when they were openly polygamous. But one can conform to folkways and mores of an alien civilization, as do missionaries who naturalize Christianism by adapting its rituals, myths and symbols to those of the infidels they are saving. Orientals conform when they adopt the dress, table manners and sex ways of occidentals. And vice versa. Aliens who "naturalize" themselves conform.

This points the significance of conscious choice in conformity. Historically, the term and its derivatives stand out in connection with church and state, institutions in which doctrine and statute bulk most large. "Nonconformist" is an ecclesiastical term; when the dissenter conforms, John Locke asked in his *Second Letter on Toleration*, does he do so upon reason or conviction? "Conforming" then consisted in adhering to the established church as required by the Acts of Uniformity of 1551–59 and 1662, which prohibited all other ecclesiastical allegiance. If in order to stay in his church a man doubtful of these doctrines nevertheless acquiesces in the Virgin Birth or the literal inspiration of Scripture or papal infallibility, he conforms. The Maranos who practised Christianity but believed in Judaism were conformers. Galileo and Descartes were conformers. The agnostic or freethinker who sends his children to Sunday School conforms.

A similar situation exists in relations between individuals and groups and the state. It is conformity to obey the law merely because it *is* the law. The convinced wet who lives dry conforms. Italian acquiescence in Fascist rule is conformity. The service of Russian intellectuals under communism is conformity. Every way of "getting on the bandwagon" is conformity.

Is then conformity merely another name for hypocrisy? No. Hypocrisy is intentional deception regardless of coercion. Conformity is voluntary adjustment to a social environment over which one has no control. It is reaction to explicit or implicit coercion. If it be evil, it is necessary evil. Its synonym is compromise. From the point of view of all the interests involved in the process conformity is such a making of terms with what cannot be overcome that the different, the variant, by submitting to regulation and modification preserves itself, is not totally destroyed. By conforming the weaker integrates itself with the stronger and joins its qualities to those of the whole. The process becomes dangerous where it leads either to complete repression or extirpation of those qualities. Then ensue individual hypocrisy, political corruption, social disorder and secret revolutionary movements which ultimately become open and combative dissent. Normal conformity both conserves the variant and modifies the type. Thus pacifism is a social variant. Its influences upon the conventional attitudes toward war and peace have been due not to the irreconcilable but to the conforming pacifists. These have suffused public policy with a new sentiment and given a novel

objective to international relations. By compromising with the passions that make for war they have to a slight extent opened up a way to the control of those passions.

HORACE M. KALLEN

See: SOCIETY; SOCIAL PROCESS; CULTURE; BELIEF; COERCION; COMPROMISE; OPPORTUNISM; CUSTOM; LAW; CONVENTIONS, SOCIAL; FASHION; ASSIMILATION, SOCIAL; CIVIL LIBERTIES.

Consult: Morley, John, *On Compromise* (new ed. London 1923); Parsons, E. W. C., *Fear and Conventionality* (New York 1914); Holt, E. B., *The Freudian Wish and Its Place in Ethics* (New York 1915); Cooley, C. H., *Social Organization* (New York 1909), and *Social Process* (New York 1918).

CONFUCIANISM. This term, invented by European writers, covers roughly what is implied in the Chinese word *ju-kiao* (the teaching of the *ju*). Confucius (Kiung Tzu 551–479 B.C.) was one of the paid public teachers (*ju*), more or less similar to the sophists of ancient Greece, who were common in China during the sixth and fifth centuries B.C. He spent many years of his life as a public official, was a historian of importance and did his great work as a teacher. Not a philosopher in the ordinary technical sense, he was concerned with drawing up a set of rules for human conduct rather than with the elaboration of theories.

In later times because of the tremendous influence of the school of Confucius the name *ju* came to be used to denote his followers as distinguished from Taoists and Buddhists. And *ju-kiao* became synonymous with the religion of the Confucianists of all ages, including the teaching of Confucius and his early followers as well as the later developments.

Confucius although under the influence of sixth century naturalism was historically minded and a cautious thinker and found it difficult to discard all traditional values. His philosophy was a compromise. Whereas Lao Tzu's naturalism was radically nihilistic, denying God and knowledge, Confucius taught agnosticism, worshiping the gods and spirits "as if they were present." Lao Tzu condemned government, advocating laissez faire; Confucius opposed only "bad" government and tried to formulate correct principles of governing. Whereas Lao Tzu condemned civilization and knowledge as leading to evildoing, Confucius exalted the importance of learning and education as against abstract thinking. Whereas Lao Tzu was highly individualistic, Confucius based his moral philosophy on human relationships—the relation between father and son, between man and wife, between elders and the young, between friend and friend and between ruler and subject.

Confucius has been called the father of Chinese history, not because he was the first known author of a history of his native state but because of the importance he attached to preserving and studying the literary records of the history, institutions and traditions of the ancient Chinese. These records, notably the Book of Odes, the Book of History, the Book of Change and the *I Li*, became the "Old Testament" of Confucianism. The *Analects*, which record his sayings and those of his disciples, the Book of Mencius (Meng Tze 372–289 B.C.), and a few other works of uncertain authorship (e.g. the Book of Filial Piety and the *Chung Yung*) form the "New Testament" of Confucianism.

Confucius founded no religion. Contemporary testimony is to the effect that his immediate followers were frankly atheistic. Nevertheless, they laid the basis for a religion on thin precepts of filial piety. They taught three grades of filial piety: the highest ideal was to glorify one's parents by one's own effort and action; next, not to degrade their name; and lastly, to give them support and comfort. "Our body is inherited from our parents. How dare we carry on this inheritance without reverence? It is undutiful for a son to live irregularly, to serve his government unfaithfully, to conduct public duties dishonestly, to be unfaithful to his friends, or to be cowardly on the battlefield. Any one of these five failures in life will bring disaster or dishonor to his parents. How dare we live without reverence?"

Filial piety becomes a real religion when one is taught "not to move one step without thinking of one's parents, not to utter one word without thinking of one's parents." The memory of parents took the place of reverence for a deity usual in other religions; conduct was to be guided by the sense of responsibility to them or to their memory. Morality was to radiate from this sense of reverence and love for one's parents. "He who loves his parents hates no man; he who reveres his parents is discourteous to no man." Thus was founded the religion of Confucianism without a belief in God or the gods.

But the religious beliefs of ancient China soon began to creep into this new religion, which because of its highly intellectual character could make no mass appeal. As Judaism survives in Christianity through the Old Testa-

ment, so the old religious ideas and practises of ancient China were perpetuated through the ancient pre-Confucian classics preserved and taught by the Confucian school. When the Emperor Wu Ti (140–87 B.C.) elevated Confucianism to the position of the national religion of the empire, it had already incorporated all the traditional beliefs and superstitions of ancient China which such naturalistic philosophers as Confucius had tried to destroy or to purify.

The cardinal doctrine of Confucianism as a state religion was the idea that the God of heaven is teleological and that the "will of God" may be influenced by the action of man, in particular by that of the emperor. As a philosopher of the second century B.C. expressed it, "the action of man, when it attains a certain level of goodness or of evil, will flow into the universal course of heaven and earth and will cause reciprocal reverberation in their manifestations." Evil acts of the government will bring forth warnings from God in one of two forms: catastrophic phenomena, such as earthquakes and mountain slides, or strange anomalies, such as eclipses of the sun and comets. Whenever such a catastrophe or anomaly occurred, it became the duty of the Confucian scholar to interpret its meaning and present a memorial of warning to the emperor. Since these natural phenomena were often capable of diverse interpretations, there developed a science of Confucianist casuistry, to the exposition of which the great historian Pan Ku (32–92 A.D.) devoted over two hundred pages in his History of Han (bk. xxvii).

Absurd and superstitious as this new Confucianism was it nevertheless had its humanizing effects. It was the only means by which the scholarly class in an age of absolute despotism could fight tyrannical rulers and check their powers in the interest of the people. In their political thought Confucius and Mencius were socialistically inclined. Both laid down principles of humanitarianism and benevolent rule by the wisest members of society in a sort of Kantian republic. Confucius opposed price raising by private or fiscal monopolies and favored government regulation of prices, loans, free granaries, aid to transportation and state relief for orphans and the aged in addition to private charities. Taxes were to be equal and universal. Confucius approved an income tax and opposed customs tariffs. Mencius in particular stressed the importance of heeding the voice of the people. He devoted much attention to the problem of land distribution, conservation through closed seasons and other aspects of economic life. He laid down the doctrine that when crime is the result of poverty punishment is improper and that responsibility for such crime rests with the ruler. The later Confucianists carried on this tradition and from time to time brought about political and economic reforms on principles laid down by Confucius and Mencius.

An important distinction between Confucianism and many western philosophies and religions on their political side is the universality of its doctrine; the object of government is the entire earth and all its inhabitants, not any single local or national group. Another difference is the attitude toward consumption and production. While Confucius lays down many regulations for facilitating the latter he reflects in his attitude toward the former the ideal of satisfying the pressing needs of all before permitting increased consumption by privileged individuals, an ideal which was typical of the family-agrarian economy of China.

During the mediaeval period Confucianism was not thought of as a religion, for in this respect it had long been overshadowed by Buddhism and Taoism. But it continued to produce the scholars, officials and statesmen who carried on the functions of the government and the state. It played a part similar to that of Greco-Roman culture in mediaeval Europe, with the important difference that while in mediaeval Europe the scholar had no way of social advancement except through the church, the Chinese system of civil service examinations enabled the Confucianist scholars themselves to control the channels of civil and social advancement. Buddhism for the salvation of the soul, Taoism for contemplation but Confucianism for the ordering of society and government.

From time to time Confucianist scholars attempted to rid China of Buddhism. The famous writer Han Yu (768–824), for example, proposed this formula of persecution: "Restore all monks and nuns to lay life, burn their books and convert the monasteries to human dwellings." In 845 the government actually carried out a most drastic persecution of Buddhism, destroying over 40,000 monasteries and forcing over 260,000 monks and nuns to return to lay life. But Buddhism soon recovered and its great masters, the *Zn* (*ch'an* or *dyana*), continued to influence the nation's religious and intellectual life for several centuries.

The moral and political philosophy taught by Confucius and Mencius was simple as compared to the complicated machinery of Buddhist psychology, logic and metaphysics. For over eight hundred years Confucianism produced no original thinker of first importance. It occupied itself with practical affairs, having yielded speculative thinking to the Buddhist schools. After long centuries of Buddhist domination there arose under the Sung dynasty a new Confucianist philosophy whose chief representatives were the brothers Ch'eng Hao (1032–85) and Ch'eng I (1033–1107), Lu Kiu-yuan (1139–92), Chu Hi (1130–1200) and Wang Yang-ming (1472–1528). They sought to work out a Confucianist cosmology, psychology and logic as the basis of a moral and political philosophy, which has become known as neo-Confucianism.

Neo-Confucianism is classical Confucianism reinterpreted in the light and under the influence of the Buddhist and Taoist mediaeval religions and contains many elements taken from them. Unlike classical Confucianism it is esoteric and speculative; it exalts meditation and quietism. Its attitude toward moral questions is far more rigorous and puritanical than the humane teachings of Confucius and Mencius. While it made no protest against the system of concubinage and the vogue of foot binding which was arising at the time, its great teachers condemned the remarriage of widows. "To die of starvation is a very small matter but (for a widow) to lose chastity is a very great sin."

Despite these marked traces of mediaeval heritage neo-Confucianism represented the historic tendency of China seeking liberation from the otherworldliness of mediaevalism and a return to the more practical problems of the individual, family and the state. It represented the movement to secularize thought and society. Its esoteric meditation, its study and speculation, were not directed to the attainment of arahatship or Taoist longevity but to the perfection of the individual so he might be better fitted to serve society and the state.

Although neo-Confucianism was at first persecuted by the government because of its uncompromising opposition to some political leaders of the time it spread rapidly and gained a great following. Buddhism and Taoism ceased to command the interest of the intellectuals and gradually died a natural death, surviving today in China merely as the superstitions of the ignorant. Since the fourteenth century Confucianism, patronized by the emperors, has become the orthodox moral and political philosophy of the educated class. For over five hundred years, from 1400 to 1900, the commentaries of Chu Hi on the Confucian classics were used in all schools and all civil service examinations. Written in lucid and simple language, these texts have had tremendous influence in popularizing the moral and social teachings of the Confucian school as reinterpreted by the Sung philosophers and they have colored all Chinese institutions.

Neo-Confucianism developed in a united empire of absolute rule and as a political philosophy failed to grasp the democratic spirit of classical Confucianism and tended to strengthen the hand of despotism. One of the Sung philosophers said that "parents can do no wrong"; by analogy this dictum has become the unconscious basis of a political philosophy that emperors can do no wrong. In this sense neo-Confucianism has well deserved centuries of imperial patronage. It has been responsible, on the one hand, for long periods of comparative political stability and, on the other, for a lack of political and intellectual freedom.

In the early years of the twentieth century there were some attempts to revive Confucianism and reinterpret it in the light of modern life and thought. After the founding of the Republic of China there was a feeble movement to establish Confucianism as a state religion (partly in the hope of using it as a bulwark against foreign influence) or, failing that, to make it the national system of moral teaching in all schools. But these efforts soon ceased and by an order of the ministry of education official sacrifices at the temple of Confucius were officially abolished in 1928.

From China Confucianism spread to Korea and thence in the third century of the Christian era to Japan. Official schools were opened in the seventh century, and later Confucius attained the stature of a divinity. While its cultural influence was great, Confucianism as a cult never attained the mass support given to Buddhism in Japan. An essential transformation of Confucian teachings took place on Japanese soil, where the importance attached to the family as the institutional basis of life and to filial piety as a virtue were translated into an emphasis on the institution of the state and loyalty to the ruler.

HU SHIH

See: RELIGION; ETHICS; SECULARISM; ANCESTOR WOR-

SHIP; GOVERNMENT, section on CHINA; BUDDHISM; TAOISM.

Consult: TRANSLATIONS OF CONFUCIANIST TEXTS: Legge, James, *The Chinese Classics*, 8 vols. (Oxford 1893–95); *Texts of Confucianism*, vols. iii, xvi, xxvii and xxviii of *Sacred Books of the East*, ed. by F. M. Müller, 50 vols. (Oxford 1879–1910); Steele, J., *The I Li*, 2 vols. (London 1917).

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CONFUCIANISM IN JAPAN: Knox, G. W., *The Development of Religion in Japan* (New York 1907) p. 138–96; Inouyé, T., "Confucianism" in Okuma, S., *Fifty Years of New Japan*, tr. by M. B. Huish, 2 vols. (New York 1909) vol. ii, ch. iii.

CONFUCIUS. *See* CONFUCIANISM.

CONGRESSIONAL GOVERNMENT is a term commonly used to describe that type of government which separates the executive from the legislature and makes each independent of the other. The best example of congressional government is that found in the United States. It is frequently called presidential government but under either name is in striking contrast to cabinet government, which has an executive chosen by and responsible to the legislature.

Little conscious intent underlay the development of congressional government in the United States. Many of the results of the evolution were not only unanticipated by the framers of the constitution but have not been striven for by later statesmen. Montesquieu, as Madison said, was the oracle who was cited in the Federal Convention. The French political philosopher, misinterpreting transitional constitutional developments in Great Britain, ordained the separation of governmental powers to prevent tyranny. Colonial experience seemed to support this principle. The theory of checks and balances was generally accepted. Consequently Congress and the executive were made independent of each other.

The draftsmen of the constitution were sincerely anxious to prevent the tyranny of majorities and that purpose underlies the constitutional arrangements which were set up. As *The Federalist* (no. li) declared, while all authority would be derived from the people "the society itself will be broken up into so many parts, interests and classes of citizens that the rights of individuals or of the minority will be in little danger from interested combinations of the majority." Thus the House of Representatives was to be elected by the people with suffrage qualifications determined by the states. The senators were to be elected by the state legislatures. An electoral college, the members of which were to be chosen as the states should see fit, was to choose the president. Judges were to be appointed by the president and confirmed by the Senate. The terms of office were arranged so that gusts of passion would be ineffective—a four-year term for the executive, a two-year term for representatives, a six-year term for senators with one third of the membership elected every two years and life tenure for the judiciary. It was expected that the House of Representatives, fresh from the people, would be more powerful than the Senate and that the upper chamber would be a sort of executive council to act with the president.

These provisions have not been copied in their entirety by countries (principally those in Latin and South America) which have based their political institutions on the congressional model. An executive independent of and not chosen by a legislature, which cannot be dissolved before the expiration of its constitutional term, is sufficient to warrant the description "congressional government." The arrangements cited, however, have been decidedly influential in determining the character of congressional government which the United States has had.

One arrangement quite unexpected by the framers of the constitution—the development of

political parties with elaborate organizations—has been equally influential. These parties, to adapt Bagehot's description of the British cabinet, have been the buckle which fastens or the hyphen which joins the American executive and legislature. Needless to say, the buckle can be and sometimes is more powerful than the things which it fastens. For congressional government in separating president and Congress has meant that political parties are organized outside of the government and that they are able to dictate decisions to its several branches.

In the eighties there was much discussion of the possible introduction of cabinet government in the United States. The leader in this debate was Woodrow Wilson, who in an article written while he was an undergraduate at Princeton University had argued for the introduction of the cabinet system under the constitution. Strongly influenced by Walter Bagehot and applying the doctrines of *The English Constitution* (London 1867, rev. ed. New York 1911) to American conditions Wilson amplified his argument in his *Congressional Government*. In this book he showed more clearly than had any previous writer the difference between the theory of the constitution and the reality of the government. For the first time he stressed the point that congressional government means committee government. His proposal was for the gradual development of a constitutional tradition that a cabinet should resign if it failed to have the confidence of the House of Representatives. If this were done the president would of course become more of a figurehead and approach the position of a titular executive. Manifestly also the House would be more powerful than the Senate since, as British experience has demonstrated, a cabinet cannot serve two masters (although politics in France sometimes suggests the contrary principle).

The only concrete result of this advocacy was a report by a Senate committee that members of the cabinet be given seats in Congress but without votes and without any obligation to resign if their proposals were rejected or their acts censured. Similar proposals are still made outside of Congress but with more and more infrequency and with little official support. That administrative efficiency would be increased and congressional information be made more exact if cabinet members appeared in Congress seems almost certain. Although the good might be meager it is difficult to see how any harm would result. The suggestion, however, excites enthusiasm neither in the executive departments nor in Congress. The executive is reluctant to consent to the annoyance which congressional appearances would entail. Congress has a curious idea that the presence of secretaries would be an encroachment on legislative prerogatives. It is maintained also that speaking ability would come to be a qualification for cabinet appointments. Non-insistence on such a qualification does not seem to have made the administrative gifts of American cabinet members superior to those of ministers in a cabinet system which requires some measure of prowess in the parliamentary arena.

An indictment of congressional government, in theory at least, can contain many counts: (1) there is no effective leadership like that which a legislative assembly gets from a cabinet executive; (2) deadlocks are possible; (3) responsibility is confused; (4) with the executive not appearing to answer for itself to the House and the Senate, Congress is inclined to attempt to control administration by minute legislative regulations; (5) lobbies are encouraged because they can bring pressure on individual legislators and need think of the executive only with respect to a possible veto; (6) local interests are considered more important than national policies; (7) the electorate can never vote when issues are ripe for submission but must wait until the calendar says that an election is due; (8) blocs which influence and even determine legislation are encouraged to a far greater extent than under cabinet government; (9) the ability of legislators may be lower because they cannot look forward to cabinet preferment.

Despite these serious theoretical defects, however, one can hardly say that the United States has lost greatly in efficiency because it has had congressional rather than cabinet government. It may be, as Lord Bryce once suggested, that the Lord looks out for infants, lunatics and the United States; but American problems and conditions have been somewhat unusual. Federalism would have made cabinet government more difficult than it is in a unitary system. To be sure, Canada and Australia have responsible cabinets, but in the former country there is no federal upper chamber and in neither is there the range of economic and sectional problems to be found in the United States. As a federal second chamber the American Senate would have refused to become a secondary chamber. Nor is it easy to see how a cabinet

system could successfully function without impairing the American doctrine of judicial supremacy.

Congressional government, finally, makes the presidency the one great prize of American politics. Control of Congress is relatively unimportant. A group of representatives or senators belonging to a third party, advocating their own proposals and influencing legislation, is rarely striven for. Such a group would be impotent in comparison, say, with the Independent Labour Party in Great Britain before the war. Parties in the United States amount to little or nothing unless they have a chance to secure the presidency. Congressional government is thus decidedly hostile to the growth of third parties. Not the opinions of the electorate but the structure of the government is the great bulwark of the two-party system.

The result is an unreality of political issues. Cabinet government in the United States, on the other hand, would undoubtedly mean a large number of sectional and other parties. Cabinets would almost certainly have to be coalition cabinets. The theoretical advantages of cabinet government would dwindle as they do on the continent of Europe where the multiple party system is common. A courageous president—for example, Roosevelt or Wilson—can give Congress much of the leadership which it needs. Parties and politicians can allow the electorate to pronounce on real issues instead of on a hodgepodge of carefully phrased evasions. In short, in analyzing a particular form of government one should not be unmindful of William Penn's dictum: "Governments, like clocks, go from the motion men give them; and as governments are made and moved by men, so by them they are ruined too."

LINDSAY ROGERS

See: GOVERNMENT; LEGISLATIVE ASSEMBLIES; SEPARATION OF POWERS; EXECUTIVE; CABINET GOVERNMENT; PARTIES, POLITICAL; COMMITTEES, LEGISLATIVE; BLOC, PARLIAMENTARY; FEDERALISM.

Consult: Wilson, Woodrow, "Cabinet Government in the United States" in *International Review*, vol. vii (1879) 146–63, and *Congressional Government: a Study in American Politics* (new ed. Boston 1925); Lowell, A. L., *Essays on Government* (Boston 1889) no. i; Snow, Freeman, "A Defense of Congressional Government" in American Historical Association, *Papers*, vol. iv (1890) 309–28; Dicey, A. V., "A Comparison between Cabinet Government and Presidential Government" in *Nineteenth Century*, vol. lxxxv (1919) 25–42; Ford, Henry J., *The Rise and Growth of American Politics* (New York 1898); MacDonald, William, *A New Constitution for a New America* (New York 1921); McBain, Howard Lee, *The Living Constitution* (New York 1927); United States, Senate, 46th Cong., 3rd Sess., *Reports*, no. 837 (1880).

CONIGLIANI, CARLO ANGELO (1870–1901), Italian economist. He studied under Cossa and Ricca Salerno and while still young was chosen to fill the chair of political economy in the University of Modena, where his career was short but most successful. Of an enthusiastic and generous nature, he actively encouraged many fruitful projects to aid the laboring classes and was a constant champion of freedom of conscience. His writings on controversial economic questions are thorough and vigorous. His first work, *Teoria generale degli effetti economici delle imposte* (Milan 1890), discusses the knotty problem of the shifting and incidence of taxation, with conclusions based on the theories of the Austrian school. Invited by Wollemborg to study the question of the revision of the local tax system, he published a voluminous and scholarly work, *La riforma delle leggi sui tributi locali* (Modena 1898). In this work he discusses with acumen the problems relative to the taxation of provinces and communes, with constant reference to the legislation and financial institutions of the most advanced countries, and adds concrete recommendations for a comprehensive reform. In the scientific reviews he wrote numerous articles on the subjective basis of exchange, profit, capitalistic economy, unemployment, the labor movement and various financial questions, which were collected after his death and published as *Saggi di economia politica e di scienza delle finanze* (Turin 1903) with a preface by Professor Graziani.

CAMILLO SUPINO

CONJUNCTURE, a term borrowed from German economic literature, may be broadly defined as the totality of uncontrollable and variable market conditions. Denoting originally an astrological or astronomical conjunction the word came to be used in seventeenth century Germany in the sense of a meeting of circumstances or events. Later its use became restricted to business circles, where it signified the temporary condition of the market, and was adopted from them by writers on economic subjects. The history of this term in German economics is illustrative of the evaluation through which that science has passed.

Lassalle, who appears to have been the first

economist to use it, Schäffle and Wagner emphasize in employing this term the independence of the totality of market conditions from the actions and aspirations of the economic agents. The assertion of the dependence of business men upon conditions not of their making involved a criticism of the atomism of classical economics, for the latter ignored the organic interdependence of economic processes and maintained that all profits are earned gains. It is interesting that when the term appeared in English economics at the end of the century it was given a restricted interpretation. J. S. Nicholson identified conjuncture profits with gains due to luck or audacity, while Alfred Marshall in his discussion of profits, earnings and quasi-rent attached significance only to changes in conjuncture or the environment and the opportunities which the latter offers.

With the spread of the historical descriptive method of economic study and an increase in the number of monographic studies of the various aspects of conjuncture in Germany, the concept suffered a slight but significant change in meaning. The emphasis now was not on the independence of the market from the individual but on the incalculable variability of market conditions, which in the simultaneous oscillations of supply and demand presented a puzzling problem from the point of view of equilibrium economics.

Because of its vagueness the term has proved susceptible to a number of interpretations to suit the particular needs of the theoretical constructions in which it has been incorporated. Sombart, for example, means by conjuncture the strictly economic causative factors in the market situation, thus eliminating the incidence of natural forces and of social conditions. W. Röpke, on the other hand, understands by conjuncture the sum total of conditions which affect through the market, and only in so far as they thus affect, the profit yield of private enterprises. Finally, statistical economists use the term to distinguish unpredictable transitory economic changes from changes of a fundamental, long run character or from regularly recurring oscillations such as steady seasonal variations. In this sense conjunctural fluctuations are contrasted with structural transformations. The term is also employed in combination with a number of restrictive modifiers in such phrases as general conjuncture, special conjuncture, price conjuncture, credit conjuncture and the like.

While this term is widely used in German speaking countries, Scandinavia and Russia, in the American and English literature the term cycle is uniformly preferred with the result that the emphasis is placed not on the congeries of conditions displaying variability but on the character of the external manifestations of this variability. This difference in emphasis is to be explained in part by the earlier development of the statistical study of this subject and by the persistence in economic theory of the abstract isolationist approach in English speaking countries.

SIMON KUZNETS

See: BUSINESS CYCLES; ECONOMICS; MARKET; EQUILIBRIUM, ECONOMIC.

Consult: Röpke, W., *Die Konjunktur* (Jena 1922) ch. i; Wolff, H., *Lehrbuch der Konjunkturforschung* (Berlin 1928) chs. i–ii.

CONNOLLY, JAMES (1870–1916), Irish revolutionary socialist and nationalist. Connolly professed two creeds not usually found in combination: revolutionary socialism and intense nationalism. His early life was devoted to socialist propaganda in Great Britain, where he was associated with the Social Democratic Federation; in Ireland, where he founded the Irish Socialist Republican party in 1896 and edited its organ, the *Workers' Republic*, from 1898 to 1903; and in the United States, where from 1903 to 1910 he was associated successively with De Leonism, the Industrial Workers of the World and the Socialist party. In 1910 he finally returned to Ireland and in 1913 became prominent as James Larkin's right hand man in the great Dublin strike of the Transport Workers' Union. In the uprising of 1916 Connolly was leader of the Citizen Army; he was wounded, taken prisoner and executed.

Connolly's sympathies with the working class dated back to his youth, when he had seen and felt much poverty in the industrial districts of Great Britain. Two forces appeared to him to be the engines of exploitation of the weak; the Irish working class, oppressed by both capitalism and imperialism could not, in his opinion, be free until both had been destroyed. The principal point of his creed was that a mere political revolution without a social revolution would be of no advantage to the Irish working class.

Connolly disliked and distrusted the official Irish nationalist leaders, who represented the middle class which had "bowed the knee to

Baal." He believed that "only the Irish working class remain as the incorruptible inheritors of the fight for freedom in Ireland," and he therefore sought by his action in the uprising of 1916 to identify the causes of socialism and Irish nationalism. He was more of a socialist Fenian, however, than a Fenian socialist. His social ideal included the reattainment of what he believed to be the communist elements in the old Gaelic tribal system to replace the capitalistic landlordism maintained by English power.

GEORGE O'BRIEN

Important works: *Labour in Irish History* (Dublin 1910), and *The Reconquest of Ireland* (Dublin 1915), reprinted as *Labour in Ireland* (Dublin 1917), with an introduction by Robert Lynd.

Consult: Clarkson, J. D., *Labour and Nationalism in Ireland* (New York 1925); Ryan, D., *James Connolly, His Life, Works and Writings* (Dublin 1924); McKenna, L., *The Social Teachings of James Connolly* (Dublin 1920).

CONQUEST may be defined as the forcible political superposition of one group upon another. It is to be distinguished from mere displacement, which takes place when a weaker group is driven from its territory by a stronger group which then occupies the vacated territory without political conquest of the weaker peoples. Displacement is a function primarily of the superior material culture and superior fecundity of the displacing group. In displacement biological and cultural factors are dominant and political aspects are minor or secondary.

One of the most striking examples of large scale displacement in modern times is that of the Indians of North America north of Mexico by peoples from northwestern Europe. This involved incidentally some very insignificant examples of conquest of Indian tribes by the white colonists, but typically the Indian aborigines retained their political integrity or sovereignty while at the same time they were excluded from participation in the social and economic life of their white neighbors. This story of displacement in upper North America is in striking contrast to the actual conquest of native peoples in Mexico, Peru and other great sections of Latin America, where the aborigines were not displaced and today still make up racially the bulk of the population.

The Japanese displaced the Ainu aborigines of Japan through a process very similar to that followed in the displacement of the North American Indians by the Europeans. Only in negligible instances was there in Japan any actual conquest of Ainu groups and absorption of the Ainu population. An example of prehistoric displacement, evidenced by ethnographic phenomena, is that of the Negroid peoples of the Malayan islands. The Malay Archipelago, the Philippines and Formosa were once inhabited by the Negroid Negrito peoples. The Malaysian occupation of these territories began perhaps about 1000 B.C. and proceeded gradually until today the Negritoes survive only in ethnographic "pockets," principally on the islands of Palawan and Luzon in the Philippines. There does not appear to have been any conquest of the Negritoes by the Malays nor any appreciable absorption of the Negrito peoples.

The simplest type of conquest is exemplified in the building up of empires of what we may call the king of kings type in the early Mesopotamian valley in the era when the Sumerian cities flourished (*c.* 3500–3000 B.C.). When one city-state conquered others it required of the conquered cities merely that their kings recognize the overlordship of the king of the conquerors and pay to the conquerors a stipulated annual tribute which was fixed in a sense by agreement. The conquered city retained its autonomy except in matters concerning foreign affairs and was bound to assist the overlordship in a military way.

Conquest of a similar simple type is found in some of the "leagues" and empires of the early Mediterranean peoples (*c.* 700–300 B.C.). The leagues and the empires cannot be sharply differentiated from each other, since they were of similar pattern. Various cities were bound to the city possessing the hegemony by separate treaties of alliance. Some of the treaties left the allies relatively free, while others placed them in hopeless subjection, although nominally autonomous except in foreign affairs. The Peloponnesian League, in which the hegemony was vested in Sparta, included subject allies as well as free allies who had entered the league of their own volition. The Latin League under the hegemony of the Roman city-state was of a comparable type. When Rome extended her hegemony over the whole of Italy south of the Apennines, the same league pattern based on separate treaties was retained. The Carthaginian Empire appears to have been similarly constituted. The Athenian Empire grew out of a free league of states, in which Athens gradually rose to greater and greater power until most of the allies were subject allies. When the Spartans for a brief period became dominant over the many

city-states of this Athenian Empire, the system was for the most part retained, although Spartan garrisons and supervisors (harmosts) were placed in many of the subject cities. A rather comparable imperial pattern in modern days is presented by the relation between England and the autonomous native states of India. These states are bound to England by treaties, but their kings must acknowledge the king of England as emperor or overlord. Consider also the American "empire" in which Cuba and other Latin American states are virtually subjected through treaty.

The king of kings type of empire gradually gave way in Mesopotamia to a new type, perfected at last under the Assyrian supremacy (*c.* 750 B.C.). Conquered areas were deprived of local autonomy and even of their old identity; the kings of the conquered states were removed; the conquered states were arbitrarily aggregated into provinces which were governed by provincial governors appointed by the conquering king or emperor as his personal representatives and removable at his will. A fundamentally similar pattern of administration of conquered peoples was evolved by Rome when her empire reached beyond Italy, and was adopted for the administration of the Chinese Empire upon the completion of conquest by the Ts'in dynasty in 221 B.C.

In addition to displacing the local governments the Assyrians at times colonized groups of undoubted loyalty among the newly conquered and settled groups of the conquered among Assyrians and other loyal groups. The captivity of the Jews is a well known example. An exactly similar device of cross colonization was used by the conquering Incas of aboriginal Peru, by the conquering Iroquois of North America and by the conqueror Powhatan of old Virginia in North America.

Displacement of the upper ruling class of the conquered by the conquerors took place in the conquests of the ruling classes of the Pictish western highlands and islands of Scotland by the Dalriad Irish ("Scots"); of these Irish by the Norwegian vikings; of the Frankish rulers of present day Normandy in France by related groups of Norse; of England by these Normans; of the western provinces of the Roman Empire by various Teutonic groups; and of Peru and Mexico by the Spaniards.

The problem of the cause of conquest is primarily the problem of the motives of the conquerors. Generally a group is led to attempt conquest through a desire on the part of its ruling class to increase its revenues and to satisfy a love for glory. The former is probably the more important and has no doubt often operated without the latter. Occasionally, no doubt, other motives have played some part. An offensive may often have been taken primarily because it was, paradoxically, the best defense. For example, trade routes already controlled might appear to be in danger and policy might require in a particular case a measure of aggression against the source of danger. The United States today is aggressive in defense of the Panama Canal and the Nicaraguan canal route, building its empire chiefly by the treaty or league method. Religious propaganda might enter into the motives of conquerors, as in the case of Charlemagne's conquest of the Saxons, the Spanish conquest of Latin America and the conquests of the Arabs. But religious propaganda is probably undertaken on a large scale from motives of self-glory, and in the story of the Spanish conquest of Latin America it appears to have been in fact secondary to a desire for revenues.

Although cultural forms or institutions have spread and do spread without conquest, conquest has the effect of accelerating the process of diffusion. For example, the Spanish conquests in the Americas unquestionably effected a great acceleration in the diffusion of Old World culture to the aboriginal Americans; and the Roman conquests in Europe likewise helped the spread of Mediterranean culture to the regions conquered and even beyond—to Ireland and Pictland.

This diffusion need not be evaluated as a diffusion of "superior" institutions. The success of conquerors historically has often been due to actual superiority in material culture, military technique and political organization. But it has often been due merely to events of good fortune which may be described as accidents. In any case, superiority in political and military technique or in material culture alone, as was evidenced in the relation of the Spaniards to the Incas and Aztecs, does not necessarily imply superiority in institutions. Material culture, military technique and political organization may be objectively compared, but evaluation of good and bad or inferiority and superiority in other institutions is generally merely a matter of subjective likes and dislikes. For example, the Latin speech spread by the Spanish conquerors in the Americas is not, objectively considered, superior to the Aztec language. The Moslem religion spread by the Arabs is not, objectively

considered, superior to the Christian religion, which it so widely displaced.

Frequently conquerors instead of spreading their own culture adopt the general culture of the conquered. Thus the Norse conquerors of what became Normandy gave up most of their own culture, including their language, for the Latin culture of France; and in what became France before the Normans the Teutonic Franks and Burgundians surrendered most of their own culture, including their language, to adopt that of the Romans. When the Latinized Normans conquered England they effected a permanent diffusion of much of Latin culture in England but gave up their Latin speech for that of the conquered. The Mongol and the Manchu conquerors of China are other examples.

The acceleration in the diffusion of culture effected by conquests is, however, incidental to the prime political effect of conquest and is of decidedly secondary importance in culture history. The principal effect of conquest is political—the consolidation of the territories and peoples of conqueror and conquered. Conquests have been the dominantly important cause of the development of political consolidation.

Consolidation may nevertheless be accompanied by a political disintegration. For example, while the conquests of the Teutonic peoples in the provinces of the western Roman Empire enlarged numerous small Teutonic states they brought at the same time disintegration of the great Roman Empire in the West, an incomparable disaster in European history. Conquests in eastern Europe and western Asia by Finnic and Turkish peoples effected a progressive contraction of the Roman Empire in the East.

The expansion of states, like the diffusion of culture, has often proceeded without the intervention of conquest. The modern German republic is an example of integration effected since the Napoleonic era primarily through a peaceable process, and the union of colonies which resulted in the United States was peaceably effected. But for the maintenance of the integrative process in the United States during the nineteenth century expansion it was necessary for the North to conquer the South in the Civil War, and most of the earlier work of German integration was the consequence of the Napoleonic conquests. Conquest has sometimes cost much and sometimes very little in bloodshed and devastation. On the whole its effect has been benign, widening the areas of peace. For example, after more than five hundred years of constant war between independent Chinese states the conquering king of the state of Ts'in brought all China under his rule and established an empire in 221 B.C. which then governed some 50,000,000 people and some million square miles. For more than two thousand years this empire survived, widened its boundaries, expanded its population to 275,000,000, living in peace within its borders, and contributed as much to human culture as any comparable large section of the world up to the industrial revolution. The conquest by Spain of the aboriginal peoples of what is now Latin America initially cost something in life and happiness, but ended the innumerable wars of the native peoples for the most part and created a *pax romana* for the New World. When Spanish rule ended and the present Latin American states were established, the new imperialism of the United States with its Monroe Doctrine fortunately appeared to help keep peace. The conquest by England in the 1640's of the tribally organized Celts of Ireland and in 1745 that of highland Scotland were bitter affairs, but they too ended forever the constant bloodshed incident upon the separatism of the Celtic regions. The story of the ever widening area of empire in Mesopotamia and its adjacent territories is one of the expansion of peace. The English conquest of India ended sectional warfare among a people who now number about 350,000,000. However often great integrations have disintegrated, the tendency of political development has been toward the establishment of greater and greater states. Conquest has been an outstandingly important factor in this expansion, which has brought with it an expansion of the reign of peace and progress for peoples. This, therefore, is in large part the principal and ultimate effect of conquest.

Conquest has figured in social theory chiefly in the theory of social origins. Gumplowicz, building in part on ancient ideas, developed the theory that the state or political organization and social stratification of social classes originated together in early society by reason of the conquest of one group by another. Class struggles within historic groups he considered to be the consequence of the survival of the original hostility of conquered and conqueror. Ratzenhofer, Ward and Oppenheimer have been the most noteworthy adherents of the Gumplowiczian theory, but only Oppenheimer has modified it to any extent, injecting into it his theory that private ownership of land also was a

consequence of the original conquests. The ancient theory of a social compact persisted into modern times as a rival to the conquest theory of origins. Other theories explaining origins without conquest have been propounded, notably by Novicow, Frazer, Perry and the present writer. An eclectic theory championed by Lowie suggests that, while the state and social classes may sometimes have originated without a conquest, in other regions or among other peoples conquest may have been the originating factor.

W. C. MACLEOD

See: EMPIRE; IMPERIALISM; COLONIES; MIGRATION; JIHAD; CENTRALIZATION; CULTURE; AUTONOMY; MASS EXPULSION; WAR; INTERNATIONALISM.

Consult: MacLeod, W. C., *The American Indian Frontier* (London 1928); Girard, A., "L'évolution de l'idée de conquête" in *Revue philosophique*, vol. xcviii (1924) 278–300; Lameire, Irénée, *Théorie et pratique de la conquête dans l'ancien droit* (Paris 1908); Rolin, A., "La guerre juste et le droit de conquête" in Académie Royale de Belgique, Classe des Lettres, *Bulletin* (1902) 507–31. A bibliography and discussion of conquest in social theory will be found in MacLeod, W. C., *The Origin of the State Reconsidered* (Philadelphia 1924), and in Lowie, R. H., *The Origin of the State* (New York 1927).

CONRAD, JOHANNES (1839–1915), German economist and statistician. The son of a landed proprietor, he engaged at first in practical farming and later studied natural science at the universities of Berlin and Jena. Under the influence of Bruno Hildebrand he became seriously interested in economics, took his degree in the social sciences at Jena in 1864 and decided to pursue an academic career. In 1872 after four years of teaching at Jena he went as professor to Halle, where he remained for the rest of his life. After 1872 he assisted, and in 1878 succeeded, Hildebrand as editor of the *Jahrbücher für Nationalökonomie und Statistik*, frequently referred to as Conrad's *Jahrbücher*. He was one of the editors of the monumental *Handwörterbuch der Staatswissenschaften*, being particularly active in preparing the second and third editions. In both of these publications he attempted to attract as collaborators practical economists and administrators, including public officials.

Conrad was chiefly interested in problems of agrarian policy and agricultural statistics. His doctoral dissertation, a historical and statistical refutation of Liebig's thesis on the exhaustion of the soil, was followed by a study of German agricultural statistics and of the light they shed on crop yields and costs. Later he published articles criticizing Rodbertus' proposals regarding agricultural credit and opposing the system of entail (*Fideikommiss*) as leading to the growth of latifundia. Above all Conrad was concerned with the subject of agricultural protection, an important public issue in Germany at the time. He was not an opponent of protection in principle and eventually even favored moderate grain duties, but he stressed the necessity and practicability of self-help on the part of farm and estate owners. His views strongly influenced the policy of Chancellor Caprivi and led to a reduction of agricultural duties in the commercial treaty with Austria in 1892. In addition to this major interest Conrad studied also current price statistics and the statistics of German universities.

Conrad was not given to abstract thinking in either economics or statistics. His writings, most of which appeared in the *Jahrbücher*, display a practical viewpoint uninfluenced by the dogma of any particular school. His greatest gift was perhaps his ability as a teacher. At his lectures as well as in his seminar he assembled and stimulated a large number of distinguished students, many of whom were foreigners, particularly Americans. The textbooks which grew out of his lectures were for two decades the most widely used manuals in Germany. His *Leitfaden zum Studium der Nationalökonomie* (Jena 1901, 6th ed. 1919) and some volumes of his *Grundriss zum Studium der politischen Ökonomie* (4 vols., Jena 1896–1910; 11th ed. of vol. i, 10th ed. of vol. ii, 9th ed. of vol. iii, and 4th ed. of vol. iv, Jena 1923–25) passed through many editions during his lifetime; revisions of both were edited after Conrad's death by A. Hesse.

GUSTAV AUBIN

Consult: Diehl, K., in *Jahrbücher für Nationalökonomie und Statistik*, 3rd ser., vol. xlix (1915) 737–62; Hesse, Albert, in *Mitteldeutsche Lebensbilder*, vols. i–iv (Magdeburg 1926–29) vol. iii, p. 497–506; Elster, L., "In Memoriam" in *Handwörterbuch der Staatswissenschaften* (4th ed. Jena 1923) vol. i, p. v–ix.

CONRAT (COHN), MAX (1848–1911), German jurist. Conrat spent the greater part of his life as professor at Amsterdam. With his *Das Florentiner Rechtsbuch* (Berlin 1882) he entered upon the field of early mediaeval law, to which he devoted the remainder of his life. With this work he also began his opposition to the so-called continuity theory of a science of post-classical Roman law, then in the ascendancy under the influence of Fitting. His view at first

attracted little attention. Reasserted with elaborate proofs in the introduction to his succeeding work, an edition of the *Epitome exactis regibus* (Berlin 1884), a massive piece of research, it was overthrown with respect to this particular document by one remark of Fitting's to the effect that it contained some material from Jacobus, the pupil of Irnerius. Nowise daunted, in 1889 Conrat published in two parts the first volume of his *Geschichte der Quellen und Literatur des römischen Rechts im früheren Mittelalter* (Leipsic), his greatest work. It is a mine of information, seven times the scope of the corresponding portion of Savigny's *Geschichte des römischen Rechts*, but due to paucity of references and conciseness of style it is somewhat difficult to use. Preparatory to a second volume Conrat entered upon the scientific editing of post-classical sources, a labor that aside from excursions into mediaeval ecclesiastical law occupied the remainder of his life. Twelve years intervened before the first of these editions, the *Breviarium alaricianum* (Leipsic 1903), appeared, a delay due in part to the unnecessary translation of this code into German. Realizing his mistake Conrat published the *Lex romana canonice compta* (Amsterdam 1904) in the original. Editions of the West Gothic *Die Entstehung des westgothischen Gaius* (Amsterdam 1905) and *Der westgothische Paulus* (Amsterdam 1907), which are editions of the West Gothic Gaius and Paul, were his last major works in early mediaeval Roman law. At his death he was preparing a new edition of the first volume of his *Geschichte* and working upon chapters of the second, fragments of which were published by H. U. Kantorowicz in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, romanistische Abteilung* (vol. xxxiv, 1913, p. 13–45). Conrat's stupendous activity in an almost untouched field was practically disregarded by his contemporaries, perhaps in part due to the fact that in all his works he failed to acknowledge the research efforts of others. The materials and their interpretation were all that interested him, not the personalities engaging in the research. Since his death, however, the source materials he collected and the theories he expounded have received considerable attention. As Kantorowicz has said, future scholars in this difficult but fascinating period of early mediaeval law "must build upon Conrat's foundations, with Conrat's materials and according to Conrat's methods."

A. Arthur Schiller

Consult: Kantorowicz, H. U., "Max Conrat (Cohn) und die mediävistische Forschung" in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, romanistische Abteilung*, vol. xxxiii (1912) 417–83.

CONRING, HERMANN (1606–81), German scholar. He was of astonishing versatility, and at the University of Helmstedt he taught medicine as well as philosophy and political science. In medicine he is known for the part he took in propagating Harvey's discovery of the circulation of the blood. His broad interest in moral and political science, based upon the Aristotelian ideal, led him to epoch making results in jurisprudence, political science, history and economics. In jurisprudence he was the founder of the history of German law in his *De origine juris germanici liber unus* (Helmstedt 1643), in which he exploded the myth that the Roman law had been introduced into Germany in 1135 by a constitution of Lothar III. He showed not only that the reception had not taken place until the fifteenth century but also that it had not prevented Germany from developing a common law adapted to national needs. He also opposed the theory of natural law then coming into favor. With his *Examen rerum politicarum potiorum totius orbis* (1662) he founded the German "university statistics," the old descriptive political science which preceded the more numerical "political arithmetic" of Graunt and Petty. Indeed, he had begun in 1660 in a lecture, *Notitia rerum publicarum*, to describe a large number of states according to the four Aristotelian categories of *causa finalis* (state purposes), *materialis* (population and national economy), *formalis* (state forms), *efficiens* (state government). Conring's work thus shows that Achenwall can only qualifiedly be called the "father of statistics." As a political economist he was rather averse to mercantilism. He gave particularly close attention to public finance as in his *De aerario* (Helmstedt 1663), *De vectigalibus* (Helmstedt 1663) and *De contributionibus* (Helmstedt 1669). His skill in method is revealed particularly in his treatment of the problem of population. He put questions which only later statistical investigation has been able to answer. It was no exaggeration, considering the manifold character of Conring's work, that Meibom should have called him *saeculi miraculum*.

Reinold Zehrfeld

Works: *Opera omnia*, ed. by J. W. Goebel, 7 vols. (Brunswick 1730).

Consult: Marx, K. F. H., "Zur Erinnerung der ärzt-

lichen Wirksamkeit Hermann Conrings" in Königliche Gesellschaft der Wissenschaften zu Göttingen, *Abhandlungen*, vol. xviii (1873) 3–51; Stobbe, O., *Hermann Conring, der Begründer der deutschen Rechtsgeschichte* (Berlin 1870); Moeller, E. von, *Hermann Conring, der Vorkämpfer des deutschen Rechts* (Hanover 1915); Stintzing, R. von, and Landsberg, E., *Geschichte der deutschen Rechtswissenschaft*, 3 vols. (Munich 1880–1910) vol. ii, ch. xx; Goldschlag, N., *Beiträge zur politischen und publizistischen Tätigkeit Hermann Conrings* (Berlin 1884); Lenz, Georg, "Conring und die deutsche Staatslehre des 17ten Jahrhunderts" in *Zeitschrift für die gesamte Staatswissenschaft*, vol. lxxxi (1926) 128–53; John, V., *Geschichte der Statistik* (Stuttgart 1884) p. 52–87; Roscher, Wilhelm, *Geschichte der Nationalökonomik in Deutschland* (Munich 1874) ch. xiv; Zehrfeld, Reinold, *Hermann Conrings Staatenkunde* (Berlin 1926).

CONSALVI, ERCOLE (1757–1824), Italian cardinal and statesman. Consalvi first became prominent in the church during the crisis which followed the French invasion of Italy and the captivity and death of Pius VI. As secretary of the conclave which met in Venice in 1799 he secured the election of Pius VII, by whom he was then named cardinal and secretary of state. Consalvi immediately began to manifest those preeminent abilities as statesman and diplomat which were to guide the church safely through the pontificate of Pius VII (1800–23), one of the most critical periods in its history. It was he who ultimately negotiated the Concordat of 1801 with France, who induced Napoleon to recognize Roman Catholicism as the "religion of the majority" and to consent to the deposition of the constitutional clergy. The antagonism between Napoleon and Consalvi which was aroused by these negotiations increased during the following years and reached its climax in 1808 when Napoleon abolished the pontifical government and forced Consalvi to retire completely from political life. He emerged in 1814 to meet the allied sovereigns at London and later to represent the papal government at Vienna. Through his amazing diplomatic skill Consalvi was able to obtain the restoration of the Marches and the Legations to the papacy. But having failed to keep Austria from the left bank of the Po or to secure the restoration of the Holy Roman Empire he delivered at the close of the conference his famous *Protestatio* against the powers. After Vienna he continued his policy of combating foreign interference. Using his personal charm and tact to keep the powers conciliated he refused to take part in the system of intervention, and both at Verona and Troppau vigorously protested against it. During these years Consalvi turned once more to the reorganization of the papal government which he had first attempted on a grand scale in 1800. He furthered the centralization initiated during the French occupation, struggled with the chaos of papal finances and tried to introduce order into judicial procedure. He met with only partial success and when he retired in 1823 the great economic and social problems of the papal government continued to harass more liberal reformers. Consalvi's *Memoirs* have been published (2 vols., Paris 1864, 2nd ed. 1866) as well as several volumes of his correspondence.

FREDERICK B. ARTZ

Consult: Fischer, E. L., *Cardinal Consalvi* (Mayence 1899); Ranke, L. von, "Cardinal Consalvi und seine Staatsverwaltung unter dem Pontificat Pius VII" in his *Historisch-biographische Studien* (Leipsic 1877) p. 1–180; Rinieri, I., *La diplomazia pontifica nel secolo XIX*, 5 vols. (Rome 1902–06) vols. i–v; Dwyer, J. J., "Cardinal Consalvi" in *Dublin Review*, vol. clxxvi (1925) 211–38; Nielsen, F. K., *Pavedömmet i det nittende hundredaar*, 2 vols. (2nd ed. Copenhagen 1895–98), tr. as *The History of the Papacy in the XIXth Century* (London 1906) vol. i.

CONSCIENTIOUS OBJECTORS. A conscientious objector is one who passively resists the effort of some social group, usually the state, to compel him to do something against which he holds conscientious scruples. The behavior of the conscientious objector is purely defensive and non-aggressive and is often, although not necessarily, a result of pacifistic views.

During its first three centuries of existence the Christian church was opposed to war and other forms of violence. Christian opposition to war early expanded into a denial of the rightness of all coercive action on the part of the civil power. Thus arose that form of conscientious objection which has been designated as political non-participation. Sects such as the Amish Mennonites, who are typical political non-participants, refuse to vote or hold office under any government. The church herself later became identified with the state, with the result that conscientious objection to governmental coercion has been transmitted to the modern world by a line of obscure peace sects. The Albigenses, Waldenses, Bohemian Brethren and Moravians carried on the early Christian tradition of non-violence from the Edict of Constantine to the Reformation. Outstanding among the post-Reformation groups are the Mennonites, Dunkers, Schwenkfelders, Shakers, Quakers, Molokans and Dukhobors. These groups, together with a few more recent religious movements such as the

Christadelphians and International Bible Students, constitute most conscientious objectors of the religious type in modern times. Of the non-religious type the conscientious objection of the high school youths of Australia and New Zealand to cadet training before the World War is an outstanding example.

The World War brought into prominence various types of objectors. In addition to the religious objector opposed to war in general there was the socialist objector who was opposed to the war on international and humanitarian grounds, and especially because it was held to be the work of capitalistic interests arraying the masses against one another. Some socialist objectors, however, expressed their willingness to participate in a war of the proletariat against capital. A third type, the individualist objectors, often called "absolutists," denied the right of government to force the citizen to fight or do anything else contrary to his own conscience. Their objection was directed at conscription in and of itself, regardless of the righteousness of the particular war or of war in general. It is this third group of objectors on whom considerable attention was centered during the war. Many objectors accepted non-combatant service without compromising their conscience, but not so the individualist objector. In Germany those refusing non-combatant service were commonly declared insane. In France, where there was no legal recognition of objectors, they were put to death as deserters. In both Great Britain and the United States, where conscription systems were put into effect, certain exemptions were allowed but did not include the individualist objector. In Great Britain, whose first compulsory military service act was passed in January, 1916, provision was made for exemptions "on the ground of a conscientious objection to the undertaking of combatant service." Of approximately 16,000 conscientious objectors it is estimated that some 1350 refused to perform any service ancillary to the military and in consequence served repeated imprisonments at hard labor for the same offense.

In the United States the Selective Draft Act of May 18, 1917, explicitly granted the right of exemption to any person "found to be a member of any well recognized religious sect or organization at present organized and existing, and whose existing creed or principles forbid its members to participate in war in any form, and whose religious convictions are against war or participation therein, in accordance with the creed or principles of said religious organization." Thus there was no provision for the individualist objector, exemption being limited to the religious objectors, who, furthermore, were liable to such non-combatant services as the president might specify. Nevertheless, the peace sectarians, who were sent to army camps as a necessary consequence of Draft Board routine, were frequently later sent to prisons along with the non-religious objectors.

The very act of sending the objectors to army camps made it impossible for the government to deal with them except by assuming that they were soldiers in the military forces, which was the very thing the so-called "absolutists" declared themselves morally unable to be. The government persisted until the end of the war and afterward in its endeavor to break the will of the objectors, and general amnesty was never declared as it was in most of the countries of Europe. Many of the religious objectors accepted non-combatant service of one kind or another, and 1200 were furloughed to agriculture. The Friends (Quakers) of Great Britain organized reconstruction work in the war devastated areas of France; American Friends later joined the movement, and ninety-nine American religious objectors were furloughed to the Friends Reconstruction Unit in France. Finally, out of the original 3989 persons who claimed exemption in the United States only 450 "absolutists" were left and they formed the bulk of those sent to prison by court martial. They were sent along with soldiers of criminal type; they were measured and tested by psychiatrists upon the legal fiction that they were criminal delinquents, whereas many of them were simple minded, sincere and harmless. This situation was the result of the government's will breaking policy and its dependence upon psychological and psychiatrical specialists for handling a problem that was essentially one of sectarian group life and culture patterns and understandable only by the methods of historical, anthropological and social science.

Testimony is not wanting to show that the absolutist conscientious objectors found their bitterest opponents in religious leaders of almost every kind. The Federal Council of Churches of Christ in America, the separate denominational establishments and the Y. M. C. A. all neglected to bespeak mercy for the conscientious objectors, much less to defend them, while they suffered under excessive prison sentences. This attitude of organized religion reflects the almost univer-

sal hostility of the public toward conscientious objectors. Even the policy of the administration and the army was far less bitter than that of the popular newspapers and their readers, whose severe criticism of the government's alleged leniency hampered its efforts and condemned its results. This popular hostility was followed after the war by widespread admiration for the reconstruction work done by religious objectors and by an extraordinary revulsion against war on the part of the great Christian denominations.

The conscientious objector has always stood as a most difficult challenger of the political state's claim to absolute authority over its citizens. Conscientious objection is itself simply a special case under nonconformity, and heresy is another aspect of the same thing. The list of conscientious objectors therefore includes most of the intellectual and moral innovators in human history. The future role of conscientious objection is momentous and problematical. As a solution to the conflict between the state and the allegiance of the individual Laski suggests a future state in which the rights of the minority and the judgments of conscience will be respected and wherein the state will receive the individual's allegiance "only where it commands his conscience."

CLARENCE MARSH CASE

See: OBEDIENCE, POLITICAL; COERCION; CONSCRIPTION; PASSIVE RESISTANCE; SECTS; INDIVIDUALISM.

Consult: Case, C. M., *Non-Violent Coercion: a Study in Methods of Social Pressure* (New York 1923); Ballou, Adin, *Christian Non-Resistance* (new ed. Philadelphia 1910); Leeds, Josiah W., *The Primitive Christian's Estimate of War and Self Defense* (New Vienna, O. 1876); Elkinton, J., *The Doukhobors: Their History in Russia, Their Migration to Canada* (Philadelphia 1903); Gandhi, Mahatma, *Young India 1919–1922* (New York 1923), and *Young India 1924–1926* (New York 1927); Graham, J. W., *Conscription and Conscience* (London 1922); Hobhouse, M. H., *'I Appeal unto Caesar': the Case of the Conscientious Objector* (London 1917); Thomas, N. M., *The Conscientious Objector in America* (New York 1923); Kellogg, W. G., *The Conscientious Objector* (New York 1919); United States, War Department, *Statement concerning the Treatment of Conscientious Objectors in the Army, Prepared and Published by Direction of the Secretary of War* (Washington 1919); Hartzler, J. S., *Mennonites in the World War, or Non-Resistance under Test* (2nd ed. Scottdale, Pa. 1922); Jones, Rufus M., *A Service of Love in War Time* (New York 1920); Ramus, Pierre (Grossmann, R.), *Friedenskrieger des Hinterlandes* (Mannheim 1924); *The Individual and the State: the Problem as Presented by the Sentencing of Roger N. Baldwin* (n. p. 1918); Laski, H. J., *Authority in the Modern State* (New Haven 1919); United States, Library of Congress, *List of References on Conscientious Objectors*, Select List no. 201 (1917).

CONSCIOUSNESS. No concept has played a more important role in the growth of the philosophical sciences than that of consciousness. In fact the characteristic of modern philosophy is the clear recognition of the problems that may be called problems of consciousness. With the famous proposition *cogito ergo sum* consciousness was heralded into the arena of philosophical argument, where it has since remained one of the central figures. While the principal interest of the social sciences lies in special applications of this concept in the field of social psychology, a clear definition of the broader concept is essential. A very general definition such as that in the *Encyclopaedia Britannica*, "consciousness in its widest sense denotes mental experience of every kind," does not go far, however, since it transfers the inquiry to the meaning of the words mental and experience. To give a definition of consciousness that is not merely verbal is impossible unless it is the result of a complete system of metaphysics.

The concept of consciousness is historically rooted in certain philosophical problems. The manifold objects and events that make up our total experience fall into two classes: those that are objects in the proper sense of the word, i.e. things and events which are not part of me but surround me, attract me, satisfy me and so forth; and those events which are events of myself. There is a house, a lake, a wild beast; but here am I, glad to be back at home, struck by the beauty of the lake, afraid of the dangerous animal. This classification, which distinguishes between physical and mental objects, is as a rule fairly clear cut and pervades all experience. Out of it, because of the intimate relation between mind and consciousness, arises a preliminary definition of consciousness as the sum of all mental objects in the sense of events that belong to me, my feelings, thoughts and wishes. This definition, by which mental phenomena are defined with reference to a specific characteristic that distinguishes them from the physical phenomena, while it has remained unformulated for a long time, is the oldest; it has been revived in a highly elaborated form by Franz Brentano.

Another root of the concept is grounded in a different set of facts. In observing behavior we are struck by the difference between acts of which we are aware and those which we do unwittingly—in sleep, in a swoon or during a narcosis. We call these latter acts unconscious

as opposed to our ordinary conscious acts and then discover that even in our normal waking life we do a great many things unconsciously. In this latter sense consciousness becomes synonymous with awareness, and this concept further developed with regard to the object of this awareness assumes the more specialized form of "the mind's awareness of its own processes." Apart from other difficulties this definition takes the processes of the mind for granted, whereas according to the first definition the mental processes are what we call consciousness. Nevertheless, this definition has had far reaching consequences. Since it arises from the opposition not of the mental and the physical but of conscious and unconscious acts, it introduces the concept of the unconscious; and since the distinction between the conscious and the unconscious appears to be not absolute but of degrees, new concepts have bridged the gap that separates the fully conscious from the totally unconscious, viz. the subconscious and the co-conscious.

Another concept of consciousness is related, in its simplest form, to the fact that the world as we perceive it depends not only upon the world as it is but also on the observer. The blind man cannot see, he does not even know what color is; we can double the number of things seen by pressing on one of our eyeballs or by becoming intoxicated. These observations, while they were probably made at a remote time, need not inevitably lead to a concept of consciousness; primitive people believe that what the medicine man sees in a state of trance or intoxication is even more real than what the normal members of the tribe can perceive. Greek philosophy, however, did develop the subjectivity of the sense qualities; this was clear in the minds of Democritus and Plato. Since Locke it has become a central fact in philosophy. But once our perception had lost its character of complete objectivity and become at least in part a matter of consciousness, it was a natural transition to see perception in its totality as conscious. Berkeley drew this consequence: *esse est percipi*; everything is consciousness, the house yonder no less than my joy of coming home. Thus the distinction between the physical and the mental on which the first notion of consciousness rested is invalidated, with the effect that within experience everything is conscious. But by becoming all inclusive the concept of consciousness has lost all significance. No problem is any longer solved by assigning a certain part to consciousness, since all facts belong there; whereas the whole trend of thought with which we are concerned at the moment originally arose in order to clear up difficulties, to remove conflict within our experience. To avoid making it thus a meaningless concept a change in the point of view was necessary. Mind (and consciousness as part of mind) and matter had been considered as different entities; now they are considered only as different points of view. We speak of matter and are engaged in physics if we look at experience as independent of any particular person; conversely, we are dealing with mind or consciousness when we regard experience as depending upon the experiencing person. This view was developed by Mach and Avenarius; it was the foundation on which Wundt's and Titchener's psychological systems rested.

In the course of the development of the concept of consciousness certain ideas accrued to it that have been of doubtful benefit. The subjectivity of perceptual or sense experience meant at first no more than that experience depends not only upon the world but also upon the experiencer; this functional point of view was exchanged for a descriptive one according to which all experiences, sense experience no less than our emotions and wishes, were considered as special states of ourselves. New problems were thus raised which were in reality devoid of meaning. How comes it, so would the question run, that such purely qualitative experience of myself is referred to something else, projected into an external world? In psychology textbooks this appears under the question of how sensation is transformed into perception. It has been lucidly discussed as a fallacy by Avenarius, who calls it introjection.

But even more harmful than this erroneous interpretation of subjectivity is the doctrine of the compositeness of consciousness. The modern doctrine derives originally from Locke's distinction of simple and complex ideas. It was taken over by Wundt, who maintained that all our experiences, both sensory and effective, are composed of elements; hence to be a compound of elements is a characteristic of consciousness. This view has left its stamp on the development of modern psychology. In America its chief representative was Titchener, who had studied with Wundt at Leipsic. It has been emphatically and skilfully attacked by William James, notably in his famous chapter on the mind-stuff theory (*Principles of Psychology*, vol. i, ch. vi).

But James' positive theory of the continuity of consciousness overshoots the mark. Clearly as he saw the artificiality of the dissection of consciousness into mental elements he failed to give a proper place in his system to the actual articulation of our experience. Although at the present time there are but few psychologists who would explicitly defend the theory of the compositeness of experience, it still exercises a powerful influence. It has even penetrated into behaviorism in the form of the theory that behavior is a compound of behavior elements, the reflexes. It has also found a surprising application in the new realism, as appears, for example, in Holt's statement that "nearly if not quite all of the so-called secondary qualities are, taken merely as phenomena, complex" (*The New Realism*, p. 337).

The concept of consciousness involves a dualism between the object as it appears by itself and as it appears in consciousness, an epistemological dualism which ought to be distinguished from the metaphysical one of mind and matter. That epistemological dualism may in the development of the concept give way to a monism like that in Berkeley's philosophy. In modern times this tendency has culminated in the positivistic philosophies of Mach and Avenarius, which attempt to reconcile the monistic philosophy of Berkeley with the distinction between conscious (or mental) and non-conscious (or physical) events. This is achieved, as has been seen, by abolishing the opposition between the ego and the world, experience and reality, thereby retaining a monistic system, and by making the distinction between the mental and the physical a distinction of method. A related theory of epistemological monism has been developed by the new realism; it is one of its main propositions "that the content of knowledge, that which lies in or before the mind when knowledge takes place, is numerically identical with the thing known" (*The New Realism*, p. 34).

The most powerful monistic movement of the present time, however, is behaviorism. Behaviorism attempts to defeat dualism by expelling consciousness from science, if not from existence. The behaviorists were led to this extreme position by several trends in psychology which had made themselves felt about 1910. On the one hand, they recognized clearly that the use which was made of consciousness by contemporary psychology had made this study a barren field. Both the subjectivistic and the compositive aspect of consciousness had produced investigations whose results were neither interesting scientifically nor properly proved. On the other hand, animal psychology was beginning its vigorous life, and in this branch the allegedly fundamental method of psychology, introspection, was inapplicable. Since animal psychology proceeded without introspection, the behaviorists reasoned, it should also eliminate all references to concepts intrinsically related to introspection and should describe the behavior of animals in no wise differently from the behavior, say, of magnets. But if this is possible the same should be possible for human behavior, since there is no break in the animal kingdom that separates man from the rest. A last step would be to deny that consciousness has any meaning at all, to admit that everything in observable behavior is reducible to stimuli and responses. The fallacies of this "philosophy" (for a critical summary, see Roback, *Behaviorism and Psychology*) have been most clearly demonstrated by Russell and Köhler. When the physicist takes a reading on a galvanometer, when the behaviorist observes a rat running a maze, both are dealing with and relying on events which are their experiences, not unexperienceable physical objects. A leader in the behavioristic movement, W. S. Hunter, in answering the arguments of Russell and Köhler asserts that the behaviorist does not deny the existence of the world which his opponent will call consciousness (or the world of direct experience); "what the behaviourist does deny is that any of the objects or events in the world have been shown to be mental or psychic" (*Psychologies of 1930*). First, however, among the hypotheses advanced by the behaviorists to explain the probable nature of this environment, according to the same author, is the hypothesis that it consists of proton-electron aggregations. To this it must be objected that the environment of proton-electron aggregations and the environment of houses and books and chairs and tables, of trees and rivers and mountains, belong to entirely different universes. The behaviorist slips from the one to the other with ease and cannot understand the psychologist who feels the bump at the transition. Behaviorism might have given a better balance to psychology by insisting that behavior, even highly important behavior, is not synonymous with conscious behavior. Instead, owing to an extreme mechanistic bias, it blinded itself to the significant aspects of be-

havior and left psychology as unbalanced as it was before.

The concept of consciousness as derived from the functional subjectivity of perception requires a last elaboration. The older arguments were concerned mainly with the subjectivity of the sense qualities: blue and green, warm and cold, etc. The same argument can be used on a much higher level; for example, the world in which we live is different from the world of primitive man. John Dewey, whose contribution to the subject of consciousness can by no means be adequately treated, has admirably described some instances of this transformation. The ocean looks flat, and yet the first we see of an approaching ship is the mast's head. Once the two facts become connected, they can no longer remain side by side without some alteration in their intrinsic meaning. Both must remain facts, and they can do this only if assigned to different universes; the flatness becoming an appearance, a fact of direct experience, whereas the coming into view of the masthead reveals a character of the real earth, its roundness. By this argument, consistently and universally applied, everything I know directly becomes part of one world, the world of my direct experience, and behind this world of direct experience another world has to be constructed in order to give meaning to the former. The world of direct experience is but another name for consciousness in one of its meanings, a word which excludes the ambiguities of the older term. The importance of this world of direct experience in its actual mode of existence has been brought to the fore in recent philosophy and psychology. This world is not a compound of patches of colors, noises, smells and so forth but is our world of inanimate and animate things, of our fellow creatures as we know them, of all the happenings which make up our experience and, last but not least, of ourselves with our hopes and fears, wishes and repulsions, joys and sorrows. The ego, which should never have disappeared from psychology, is thus reestablished. If the direct experience is recognized as what it is, we have to admit that a meadow may be fresh, a mountain terrifying, a dark cloud ominous and the face of a successful bully ugly before we begin to search for a theory of these facts. The upward urge of a Gothic cathedral is a property of the cathedral and not of my ego, much as it may provoke in the ego a similar urge. All theories of empathy (*Einfühlung*), to the extent that they maintain the contrary, are untenable, as demonstrated by Dewey, Köhler and the phenomenological school. Lastly, this same world of direct experience contains, without inferences, a great many characters which philosophers would call relational. In my naïve direct experience I see one billiard ball push the other, even if in a Humean frame of mind I may succeed in transforming this perception into one of mere temporal sequence; so also I feel myself pushing the first ball with my cue. I feel myself insulted by the behavior of somebody, but I do not experience an emotion of anger concomitantly with the perception of somebody's behavior. I hurry to the concert hall because I do not want to miss the beginning of a certain piece; it would be a falsified description to say that associations, i.e. an unexperienced force of habit, produced an acceleration of the coordinated movements of my legs.

The earliest solution of the mind-matter problem was dualistic, an interaction between body and mind. This solution is characteristic of Greek philosophy, in which the mind is chiefly the moving principle of the body, soul and life being almost identical. In modern times interactionism has found able defenders in Stumpf, McDougall and Driesch. Interactionism is to some extent an attempt to combat epiphenomenalism, the view that consciousness is a mere luxury, a glow of some sort that accompanies some mechanical processes without exerting any influence on them. But interactionism has had few followers in modern psychology; it tends to bring investigation to a standstill at the very point where it may become most interesting.

The view most widely held by active psychologists has been parallelistic, either in the more metaphysical form of Fechner, by which mind and body are considered two aspects of one identical essence, or as a heuristic principle, according to which each conscious experience has a physiological correlate. Mach in 1863 and 1865 was probably the first to make a well considered use of the heuristic principle of parallelism, according to which there correspond physical details to all mental details. In 1896 G. E. Müller laid down a number of psychophysical axioms, according to which principles of classification of our experience, e.g. our sensations, must have their counterpart in principles governing the underlying physiological processes. These axioms establish a sort of isomorphism (Köhler) between conscious and

cerebral events. Parallelism, however, presented also a heteromorphic aspect; since we can neither predict from a mere inspection of blueness what kind of cerebral process will correspond to this experience, nor could we recognize a cerebral process as corresponding to the experience of blue even if it were possible to observe such a process, the general statement was made by Wundt that physical and mental phenomena, although in regular correlation, are radically incomparable with each other. There is a flat contradiction between this view and the isomorphistic view which holds that if similar experienced qualities find as their correlates similar cerebral processes, then at least as far as the similarity relations go consciousness and the cerebral processes are comparable. Since isomorphism is alone fruitful as a doctrine of parallelism, enabling us to build physiological hypotheses for our sense experience, there was value in retaining and enlarging it.

This enlargement was one of the first deeds of Gestalt psychology. Wertheimer has propounded the idea, which was not alien to Fechner's mind, that isomorphism refers not only to the abstract principles of order and classification but to the concrete dynamic aspects of the events themselves, an idea which has been elaborated by Köhler. Where I experience a movement, the underlying physiological processes will also have the character of a movement; when I see a symmetrical, clear and self-contained form, the underlying process will also be symmetrical, well segregated from the rest of the field and relatively self-subsistent. This principle, consistently pursued, has an enormous scope and practically unlimited heuristic value, as Köhler has demonstrated in his *Gestalt Psychology*. It is bound up with very definite views as to the nature of conscious and physical events; it could never have grown out of psychological atomism nor out of James' doctrine of continuity. What is claimed to be similar or even identical on the two parallel sides is not quality at any one point but the form of organization of the whole field. Since Gestalt theory was a theory of organization it had to establish the reality of organized wholes, *Gestalten*, in both the mental and the physical realm.

The principle of isomorphism has a very direct bearing on the general mind-matter problem. Traditional theory makes the connection between a mental event and a physiological one a purely factual contingent connection which, in contradiction to the use made of parallelism, would have to be discovered in each separate case. Isomorphism leads necessarily to a different conclusion: the connection far from being fortuitous is intrinsic and essential. Gestalt theory is dualistic with regard to the epistemological problem of consciousness, but with regard to the metaphysical problem of mind and matter it may very well be monistic. First, it sees no reason to apply the concept of substance to either mind or matter; it seems more important to ask how a certain constellation, mental or material, behaves than to ask of what it is made. Secondly, isomorphism points to Köhler's conception that in a way the conscious side expresses the physical (cerebral) process or, to put it in the words of Dewey, who reached his conclusion from a different starting point, "that consciousness is not a separate realm of being, but is the manifest quality of existence when nature is most free and most active" (*Experience and Nature*, p. 393). Bertrand Russell in his neutral monism seems to incline toward similar views.

The question of the extent to which consciousness can be ascribed to animals cannot be decided with certainty by any existing criterion. In this respect the contention of behaviorism is correct. Memory, which has frequently been used as such a criterion, is primarily a fact of behavior and does not necessarily imply consciousness. We could let the matter rest with this statement were it not that the issue has raised a great deal of controversy, largely because of its connection with the mind-matter dualism. Matter was considered the inferior essence, obedient to blind mechanical laws, the counterpart of sense, order, value. Mind, on the other hand, was of divine origin, the creator of all the qualities barred from matter. Therefore the natural philosophers who found order, meaning and purpose in animal behavior were strongly in favor of ascribing to them the possession of consciousness, whereas the anti-sentimentalists, the hard boiled empiricists, reveled in their achievement of having reduced behavior to a blind interaction of mechanical principles once they had refuted all alleged claims for the existence of consciousness. In reality, then, the controversy turned on the type of behavior rather than on the presence or absence of consciousness. A conscious being, if he was entirely subject to the laws of sensation and association, would manifest purely mechanical blind behavior; whereas we might very well conceive of another being that without

awareness acted sensibly. This, then, is the real issue; and all modern animal experimentation, far from clarifying to the slightest degree the problem of whether animals have consciousness, has demonstrated an enormous wealth of behavior forms varying from perfect insight to almost blind trial and error. No experiment on animals can answer the question, "Is the animal conscious?" but each good experiment can give us information about the kind of consciousness the animal would have if it were conscious.

As we have seen, there has been a tendency in philosophy to use mind and consciousness more or less synonymously. Against this usage many objections may be raised. One special attack upon this restriction of mind has been connected with the concept of the unconscious and the allied, more modern concepts of the subconscious and co-conscious (Morton Prince), which have found their most systematic elaboration in psychoanalysis and related schools. A logical and very astute analysis of the various meanings of these concepts is given by Broad in his *Mind and Its Place in Nature*. The unconscious is not synonymous with the nonconscious. In fact, as a concept it bears a very close relation to the concept of the conscious as awareness. This is also true of the concepts of the sub- and the co-conscious. The reason for the introduction of the unconscious as a systematic concept is made clear by Flügel in his concise presentation of the status and the prospects of psychoanalysis (in the volume *Psychologies of 1930*). It is the attempt to establish a consistent and closed psychological theory of behavior, "a thorough psychological determinism, according to which every psychological event is regarded as having a psychological cause." Clearly, consciousness is not sufficient to satisfy this postulate. It is impossible to determine the consciousness at one moment by the consciousness of the preceding moment, even if we exclude (and this exclusion must be implied in Flügel's statement) the facts of perception. This insufficiency appears in two ways; on the one hand, there is the need of explaining the facts of memory, beginning with simple recognition; on the other, those of consistent purposive behavior. The unconscious idea would be the means to explain the former; the unconscious wish, urge, attitude, an explanation of the latter. Setting aside for the moment the unconscious idea, there is a clear advantage in the concept of the unconscious wish as against other explanations such as the conditioned reflex; it establishes an intelligible connection between cause and effect, thereby making the determinism, which is blind and mechanical in the reflex theory, rational and meaningful.

Before proceeding to a discussion of the unconscious idea we must introduce a fundamental distinction, the neglect of which has caused much confusion, namely, the distinction between an actual process and the conditions under which it occurs. Every conscious experience is a process, an event which happens at a certain time, and in order that it may come to pass certain conditions must be fulfilled; e.g. in order that I see a tree a certain distribution of light, shade and color must be produced on my retinas and my brain must be more or less intact. Similarly, when I remember an event of my past life, this is a process and it depends upon a number of conditions, one of which is that the original event has changed me, i.e. my organism, in such a way that the present process, the recall of the original event, becomes possible. But the process of recall in no way indicates the previous existence of an unconscious idea of this past event, for this unconscious idea would be a process as much as the conscious idea, and there is no indication that every process which has once occurred in a conscious form goes on indefinitely in the unconscious. The concept of unconscious ideas to explain memory has therefore been abandoned. Nor does it play the chief role in psychoanalytic psychology. The psychoanalytic concept of the unconscious assumes its real importance in this connection when we consider that a process is produced by forces, which therefore belong among its conditions. The process of recall is the result of an attitude of the ego, and this attitude may itself be quite unknown to us. Indeed, experimental psychology has already elaborated methods to produce such attitudes in a subject totally ignorant of their existence and thereby to influence both recall and recognition. Are these attitudes unconscious? The use of this terminology should be avoided, for it seems to give a false point of reference. The characteristic of an unconscious attitude or wish is not its similarity to a conscious attitude or wish; instead, it is the state of stress and strain, and here the question of whether or not it is conscious is almost irrelevant. Both psychoanalysis and experimental psychology (see for example the school of K. Lewin) are agreed that the degree of conscious

intensity is by no means a reliable criterion for the strength of the real wish or need. The plausible deduction from this is not the distinction of conscious and unconscious wishes but the conception of stresses of different intensities at different levels of our personality. To summarize: psychoanalysis and kindred schools have been right in emphasizing the role of such effective factors as wishes, attitudes and needs as opposed to mere mechanical couplings like associations or conditioned reflexes; only the former afford an intelligible explanation of behavior. But they have been misled into calling these effective factors unconscious: on the one hand, by their failure to distinguish between processes and their conditions; on the other, by inadvertently falling into the dualism of the rational mind and mechanical nature. As has been indicated previously, there is a way of conquering this dualism, and the concept of the unconscious becomes unnecessary as a systematic concept although it may have an advantage as a convenient term.

Among the objects that make up our conscious environment there is one outstanding group, the one composed of our fellow creatures. They and with them a part of that group of objects we call animals have a characteristic which at first sight seems to distinguish them radically from all other objects—we ascribe to them a mind. And not only do we do this in a general sort of way but we endow that mind with particular properties: we find ourselves surrounded by gay and sad, vindictive and kind hearted, haughty and affable persons. How does this knowledge of the other man's mind come about and what does it mean? Traditional theory in both psychology and philosophy based it entirely on two principles: the principle of analogy, which asserts that since I know how I feel when I behave in a certain way, therefore when I see someone else behave thus I infer how he feels; and the principle of association, which makes the transition from the perception of the other person's movements to the reproduction of ideas or emotions less rational, the mere work of previously formed associations. Both these theories, although still widely held, have been proved false. C. D. Broad, in *Mind and Its Place in Nature* (p. 324 *et seq.*), constructs a consistent argument and concludes: "Hence only two alternatives seem to be left. Either (1) there are certain cognitive situations which actually contain other minds or certain of their states as objective constituents; or (2) the visual appearance of certain bodily forms, movements, gestures, and modifications, has for us an *unacquired* meaning." The first alternative was defended by the German philosopher and sociologist Max Scheler, and Broad himself is disinclined to reject it entirely. But since it clearly implies a monistic solution of the epistemological problem and since it must base its evidence on telepathy and similar phenomena, it seems unacceptable. The second alternative assumes in the hands of Dr. Broad the following form: "We must suppose that the innate constitution of human beings . . . is such that, when one sees any body which *in fact* resembles his own closely enough, he instinctively believes it to be animated by a mind like his own." This statement is hardly correct as a description and it is certainly unsatisfactory as an explanation. The word instinctive must bear the whole burden of the argument, and this password has long ago given way under too great a strain.

Nevertheless, the solution must lie in this latter alternative, differently interpreted. In the discussion above of consciousness as the world of direct experience it was emphasized that direct experience shows us objects endowed with such characters as we are now discussing—the terrifying mountain, the ominous cloud. The form that an explanation of these facts must take is very briefly somewhat as follows. A person experiences a shock, i.e. his train of experiences is very suddenly and intensely disturbed; the result will often be a similar sudden and intense break in his outward behavior. To the onlooker this outward behavior, before the shock occurred, would have presented an even, continuous flow. The break in the behavior, which was the outward manifestation of the shock experience, will therefore, as a sudden change in the stimulating processes, produce a similar break in the onlooker's experience of the person's behavior; i.e. the person will, to the onlooker, appear to have suffered a shock. Köhler has elaborated this theory. It is a theory of direct perception of the other man's shock, anger, joy, which goes far beyond reducing it to an instinctive faculty, explaining it on the same principles on which it explains the perception of a square or a circle. And this theory accounts for the facts, the understanding of these expressive characters by infants and animals, but does not explain more than the facts. For, if we examine ourselves critically, do we really think of how someone else feels when we

see him gay or sad? In other words are we really concerned with his consciousness as long as we remain naïve onlookers or players of the game and do not become sophisticated philosophers? The answer will be in the negative, and that the more so as being gay or sad does not exhaust itself in certain experiences, not even in the bearer of these emotions. The terrifying cloud, then, is primarily terrifying in the same sense as the roaring lion or the offended "boss." What is called animism seems to strengthen such a view. That this theory is perfectly compatible with deception as practised by the actor or the hypocrite is obvious. When either of them succeeds in producing certain movements characteristic of an emotion without feeling the emotion, the onlooker must nevertheless, according to the hypothesis, see him possessed by the emotion.

In what sense and to what extent can the concept of consciousness be applied to social phenomena? This discussion will not be concerned with purely metaphysical constructions, which would postulate a group mind as something apart from and superior to the individual minds. Consciousness occurs somewhere, and the locus is always an individual. Nevertheless, the concept of social consciousness, and if properly used even that of social unconsciousness, is of great significance. Each individual finds himself surrounded by fellow beings; expressed differently, each "I" knows many "yous." But what specific influence does the existence of these yous in the direct experience of each ego exert on this experience? To say that experience is organized is so general a statement that it will hardly meet with opposition, although the cause of that organization is controversial. One principle of this organization is likeness. Like parts of our total field of experience tend to fall into the same group. Thus even from this most superficial of all principles of organization, we would expect that for each ego the yous will tend to form a group. And in one further step, the difficulties of which cannot be discussed here, the ego is drawn into this group. In reality very much stronger forces than the one just mentioned will also be at work; but the result will be that the field of direct experience will have as one of its outstanding parts a group which includes the ego. In other words the "we" may be just as primary as the I, the latter being originally but a part of the former. Here then is a group consciousness par excellence. And what is more, the group consciousness will be effective in the activity of all the egos who have it. It is easiest to see this with a small group; each of its members will feel as a part of this we and whenever the existence of this we is threatened will react in a certain way; he will, for example, attack a newcomer. Thus concerted group action becomes explicable. But such an explanation if carried no further would be quite misleading; it would reduce truly concerted action to a number of individual actions issuing from a social consciousness. In reality, when the group is together, each action of one member changes the momentary status of the whole group and therefore determines what every other member must do. Through such a mutual interdependence truly concerted group activity appears. It is clear that the stronger the we-ness with regard to the I-ness, the more smoothly will group activity proceed. A good example is given by Rivers, who describes how his crew of natives manned his boat without previous consultation. Of course, what is true in primitive societies is also true in our own, with the difference that our particular form of society has led to a relatively great independence of the individuals and concomitantly to a weakening of group structure. How strong, despite this development, our connection with a group is appears when this connection is broken and the individual isolated. A German psychiatrist, Schulte, has actually explained a grave form of insanity, paranoia, as the result of such a breach ("Versuch einer Theorie der paranoischen Eigenbeziehung und Wahnbildung" in *Psychologische Forschung*, vol. v, 1924, p. 1–23).

The term social consciousness lends itself also to a wider use. Not only does it cover those cases where the group acts as a whole but also those where the members of the group deal with each other, and it extends in fact to all contacts between individuals; for the forces which pull and push the ego are strongest when they are directed toward or issue from a you. How are groups established, when do I behave in a friendly and when in a hostile way, where do I feel inclined to lead or even to command and when to follow and obey? All these questions and countless others require a wide use of the concept of social consciousness as our direct experience with regard to our fellow creatures. To answer such questions by recourse to individual instincts, like the gregarious, the assertive or submissive instinct, is quite inadequate. Quite apart from the fact that some

individuals will more frequently lead, others more frequently follow, there are social situations as conscious events which call for one or the other type of behavior.

There is another aspect of social consciousness, what the Germans have sometimes called the *objektiver Geist*, what Sapir in his illuminating discussion (in the symposium, *The Unconscious*, New York 1928, p. 114–42) treats as the socially unconscious—those customs, modes, fashions, creeds, which permeate our whole behavior to such an extent that it is impossible to find a single action which is entirely removed from their influence. Life in a group builds up a system of codes or standards, which, without being conscious, condition our experience and behavior. An excellent example is the grammar of the language we speak; this appears as a highly intricate system of rules in the hands of the grammarians, yet it is used with perfect ease by the analphabets of primitive societies. Moreover, social behavior creates in itself new and relatively permanent conditions for social behavior. Man creates objects, houses, tools, clothes, ornaments, up to the highest products of technology, science and art, and these products of social activity become powerful conditions of future activity. The group mind then must be given a wider meaning than group consciousness; it must include all those non-conscious determinants which have their origin in social life.

K. KOFFKA

See: PHILOSOPHY; PSYCHOLOGY; IDEALISM; MATERIALISM; DETERMINISM; COMPARATIVE PSYCHOLOGY; BEHAVIORISM; CONDITIONED REFLEX; GESTALT; PSYCHOANALYSIS; PERSONALITY; GROUP; COLLECTIVE BEHAVIOR; CUSTOM.

Consult: Broad, C. D., *Mind and Its Place in Nature* (London 1925); Dewey, John, *Experience and Nature* (Chicago 1925); Mach, E., *Beiträge zur Analyse der Empfindungen* (6th ed. Jena 1911), tr. by C. M. Williams from 1st German ed. (Chicago 1914); Wundt, W., *System der Philosophie*, 2 vols. (3rd ed. Leipsic 1907), and *Grundzüge der physiologischen Psychologie*, 3 vols. (6th ed. Leipsic 1908–11), tr. by E. B. Titchener from 5th German ed. (2nd ed. London 1910); James, William, *The Principles of Psychology*, 2 vols. (New York 1890); Titchener, E. B., *A Textbook of Psychology* (New York 1909); Husserl, E. G., *Logische Untersuchung*, 2 vols. (3rd ed. Halle 1922); Avenarius, Richard, *Der menschliche Weltbegriff* (3rd ed. Leipsic 1912); Messer, A., *Psychologie* (Stuttgart 1914); Köhler, W., "An Aspect of Gestalt Psychology" in *Psychologies of 1925* (3rd ed. Worcester, Mass. 1928) p. 163–95, and *Gestalt Psychology* (New York 1929); Wertheimer, M., *Über Gestalttheorie Symposion* (Erlangen 1925); Koffka, K., *Die Grundlagen der psychischen Entwicklung* (2nd ed. Osterweck 1925), tr. by R. M. Ogden (London 1924); Myers, C. S., "On Consciousness" in *British Journal of Medical Psychology*, vol. v (1925) 1–13; Holt, E. B., "The Place of Illusory Experience in a Realistic World" in *The New Realism* (New York 1912) p. 303–73; Roback, A. A., *Behaviorism and Psychology* (Cambridge, Mass. 1923); Weiss, A. P., *A Theoretical Basis of Human Behavior* (Columbus, O. 1925); Flügel, J. C., "Psycho-analysis, Its Status and Promise" in *Psychologies of 1930* (Worcester, Mass. 1930) ch. xx; Lewin, K., "Vorsatz, Wille und Bedürfnis" in *Psychologische Forschung*, vol. vii (1926) 330–85; Koffka, Kurt, "On the Structure of the Unconscious" in *The Unconscious, a Symposium* (New York 1928) p. 43–68.

CONSCRIPTION is the exaction by the state of military service. In substance it may be considered the earliest method of building an armed force, since among primitive peoples and among new communities fighting for life the army includes every able bodied man in the community. Such universal military service, however, differs from conscription in that the latter is a deliberate levy by the state in preference to other possible means of building an army and is imposed on a selected group of citizens who would otherwise have the choice of non-participation if they so desired.

With the growing complexity of non-belligerent activities universal service was replaced by a professional standing army supplemented in war time by volunteer service and even by the organization of mercenary forces. These sources of military strength were sufficient until the latter part of the seventeenth century. By that time the diminished lure of the profession of arms, in the face of more certain economic advantage at home, and the diminished emotional attraction of war, as the self-preservation and religious motivations became less compelling and that of political strategy became more obvious, resulted in insufficient standing armies and unreliable reserves in volunteers. Thus conscription was resorted to and the tendency has steadily increased, its use by one nation leading necessarily to emulation by others.

The first moves toward conscription in the modern sense were made by the French monarchy of the late seventeenth century, which attempted in the course of its chronic dynastic warfare to supplement its standing forces without occasioning the heavy drain on the royal treasury that mercenaries involved. The statesman Louvois in 1688 conscripted certain non-exempt groups of citizens for temporary service. They were drawn by lot in the parishes of the kingdom and were not amalgamated with the

regular troops but were used at interior posts, on lines of communication and for the occupation of conquered areas. In the War of the Spanish Succession early in the eighteenth century this distinction was obliterated. Those who were drawn for the *milice* were mingled with other troops and the entire contingent was sent to the front to swell the fighting forces. The *milice* was unpopular, however. Dubois-Crancé speaks of the "trembling hand and frozen heart" with which the black ticket was drawn. The *cahiers* which in 1789 listed the grievances of the parishes of France seldom failed to mention the system, administered as it was with many exemptions and much favoritism. Although it had originally been intended only as a supplemental force for occasional use it was given regularity and even a degree of permanence by the constant wars of the eighteenth century.

All distinctions and privileges were swept away in the great turmoil of the French Revolution. At first volunteers were sufficient to supply the necessary military force. But as danger still threatened and as the idea of popular participation in government deepened, it came to be felt that all Frenchmen owed military service against those who would reinstate the Bourbon king. Various measures were attempted which embodied the idea of conscription, but the most successful was that of 1793, which made all able bodied men between eighteen and twenty-five liable to service. The limits were narrow enough to make organized resistance unfeasible, and conditions at home, moreover, were so uncertain as to make the army a not unattractive alternative. In 1798 at the instance of General Jourdan the principle of conscription was incorporated in the constitution, and thus the French army became entitled to the service of every able bodied citizen between the ages of twenty and twenty-five. These together with the regular troops formed the armies that Napoleon led to victories and furnished the archetype for the extension of the system into each newly annexed territory. The draft had been suggested by Washington and it had been used in Massachusetts and Virginia in 1777, but this was the first widespread application of conscription.

Even with its security in the constitution, however, conscription did not persist in France. Toward the end Napoleon's armies were raised largely abroad and were conquering militarists rather than militant liberals. At the restoration the government went back to reliance on volunteers, with a few additional soldiers drawn by lot. Napoleon III after his success at overthrowing the Second Republic with a small professional force reverted to the principle of the standing army. But with Gambetta and the rise of the Third Republic the principle of conscription was for a time reestablished.

In the United States conscription was resorted to in the Confederacy in 1862 and it provided many of the final forces of the Union from 1863 to the end of the war. These were war measures adopted to meet emergencies for which existing policies and plans had been found inadequate. In both cases the volunteer system failed to raise the necessary troops. In America in spite of objections conscription succeeded. It enrolled needed man power, held in service short term volunteers who would otherwise have returned home, and stimulated men to enlist in order to avoid the stigma of the draft.

The effect of conscription in Japan is especially significant. When the nation developed beyond the tribal system, the samurai, a military caste, became the exclusive fighters of the country. After the Meiji restoration of 1868 there came a great increase of national spirit. The first step was the destruction of feudalism and of the military class, whose exclusive possession of political power had resulted in a decline of imperial strength. Imperial guards and four garrisons were formed, and then in 1873 under the influence of a French military mission conscription was adopted and military service was opened to all classes. A German mission carried on instruction from 1885 to 1894, and since that time the army, conscripted from what had previously been considered the non-fighting classes, has been a well organized unit. It was the old story of abolishing the privilege and arrogance of professional fighters, who in this instance were also politically powerful.

Prussia furnishes the truest example of conscripted military service in combination with nationalist ideals. Humbled by Napoleon's Treaty of Tilsit (July, 1807) she was compelled to reduce her army to 42,000. The glory of Frederick the Great's professional force had departed. The nation was imbued with many of the democratic ideals which the French were carrying by force of arms across the frontiers of old despotic monarchies. Between 1807 and 1813 Baron vom Stein together with General von Scharnhorst effected military reforms in

Prussia which had far reaching effects. He discarded hired mercenaries, stopped the enlistment of foreigners, abolished class distinctions and special municipal and class exemptions, apportioned military service territorially. He trained his 42,000 men, sent them home, trained 42,000 more and in 1813 he was able to put immediately into the field an army of 270,000. On September 3, 1814, Boyen's military law was proclaimed, based on the principle that every citizen is bound to defend his fatherland. It is not too much to say that Germany owed her strength during the nineteenth century to that law and that the whole face of Europe was affected by it. German effectiveness in 1870 startled the world, and since that time England is the only great power in Europe that has not adopted conscription as a defensive measure even in peace time.

The World War, however, brought England also to the expedient of conscription; and it was only by this method, with exemptions for men engaged in work of "national importance," that she was able to carry on the struggle. In 1917 the United States profited by British experience. Although compulsory soldiering was foreign to the temperament of the people and first talk was of financial and economic conscription only, the need for soldiers and for enrolling them systematically soon became apparent. The act of May 18, 1917 (40 Stat. 76), set age limits from twenty-one to thirty. The act of August 31, 1918 (40 Stat. 955), extended the limits to include men from eighteen to forty-five. In eighteen months under the draft system American officials enrolled 23,908,576 men (not including enrolment from the territories), carried through a comprehensive system of economic and industrial classification, placed under arms 2,787,024 men whose withdrawal was least harmful to industry and at the time the Armistice was signed had available 2,000,000 more men who were ready to move. This was effected through a powerful popular opinion roused to war heat and through brilliant organization. Administration was highly decentralized, mainly civilian in character and operated through existing agencies with the full cooperation of state and county officials, volunteer assistance and advice from local medical, legal and industrial experts.

Some nations, such as England and the United States, have prescribed that compulsory service shall be invoked only in case of war, but even as a peacetime defense measure conscription is almost universal except for these nations and those disarmed by the peace conferences. Several countries use drawing by lot as a method of selection. Many allow exemptions for dependency, religious scruples, educational training. Still further exceptions from the draft have been found inevitable in order to continue the industries and occupations essential both to the army and to the population at home. But the general spirit of the principle is a universal obligation to serve—a specified time as active soldiers, a longer time in inactive organizations called for short periods to refresh habits and knowledge, and for many succeeding years as mere "availables" for use in local defense and for guard duty on public utilities and transport routes. Distribution is geographical, each section being assigned certain corps which it is expected to raise in event of war, with a standing force furnishing first line troops and the nucleus for additional increments. In general the allocation of units, of reserves maintained in skeleton form and of prospective units to be raised in war time is carefully calculated on the basis of known potential man power.

Conscription as a recruiting measure in war time was proved by the World War to be practically inevitable. Generalizations are almost worthless concerning the effects of peacetime conscription, in the form of universal military training, on industrial conditions, health, family life and other institutions and conditions that might conceivably be affected. Its potentiality in heightening nationalist and militarist sentiments is more obvious although not entirely determinable. A citizenry automatically trained in peace time to military ideals and practises will have those ideals and practises more deeply rooted than will a citizenry whose only consciousness of the army comes with the impact of war. And it has been a commonplace among political theorists that a strong army is not only an inducement to militarism but also a menace to the civil arm of government. Conscription, although not inconsistent with the collectivism implicit in the ideal of democracy, is inimical to the individualism and desire for personal liberty from which that ideal developed. Bearing the burdens imposed by the government becomes more pertinent to the individual than sharing the privileges it grants.

The conscription system, however, acts as an instrument of democracy in bringing the rudiments of political awareness more immediately before the people than the ballot ever

could. It converts the government from a remote functionary into a compelling reality. It proves also a powerful instrument of democratization in the ranks. The average intelligence and degree of education among drafted men are higher, and the varieties of social strata which they represent are greater, than among the regulars of the professional army. The compulsory service army is a better representation of the entire citizenry in spite of the partial elimination of the more desirable elements by training them for reserve commissions. Personally men from different social strata may not mix. Differences in intelligence, education and social attributes may militate against real comradeship. The men may not speak the same idioms or use the same slang. Nevertheless, there is in the conscription system a leveling, a community of citizenship, which arises from the basic conception that military service should rest not upon ardor, mercenary motive, caste or feudal obligation but simply upon the duties of membership in the political association for whose maintenance and defense an army is formed.

ELBRIDGE COLBY

See: ARMY; MILITARY TRAINING; RESERVES, MILITARY; MOBILIZATION AND DEMOBILIZATION; CONSCIENTIOUS OBJECTORS.

Consult: Coulton, G. G., *The Case for Compulsory Military Service* (London 1917); Dickinson, John, *The Building of an Army* (New York 1922); Colby, E., "Conscription in Modern Form" in *Infantry Journal*, vol. xxxiv (1929) 645–58; "Military Training: Compulsory or Volunteer?" in Academy of Political Science, *Proceedings*, vol. vi (1915–16) pt. iv; Jaurès, Jean, *L'armée nouvelle* (Paris 1915), abr. tr. ed. by G. G. Coulton as *Democracy and Military Service* (London 1916); Pavie, André, *La loi du 31 mars 1928 sur le recrutement de l'armée* (Paris 1928); Gebelin, Jacques, *Histoire des milices provinciales (1688–1791)* (Paris 1883); Stoffel, E. G. H. C., *Rapports militaires écrits de Berlin 1866–70* (4th ed. Paris 1872); Ford, G. S., "Boyen's Military Law" in *American Historical Review*, vol. xx (1915) 528–38; Moore, A. B., *Conscription and Conflict in the Confederacy* (New York 1924); Takata, Y., *Conscription System in Japan*, ed. by Gotaro Ogawa (New York 1921). The United States Supreme Court decision in Arver *v.* United States, 245 U. S. 366, is a fully reasoned analysis of conscription as a political fact; League of Nations, *Armaments Year Book 1928–1929* (Geneva 1929) contains detailed information concerning the extent and duration of compulsory service among the principal nations.

CONSEIL D'ÉTAT, the supreme administrative council and administrative court of France, had its origin in an executive council of the same name established in the year VIII (1799). It was modeled after the Conseil du Roi, which under varied forms had for centuries advised the kings of France on matters of legislation, administration and justice but which had been abolished at the time of the revolution. Like its prototype the Conseil d'État had only advisory powers, but under Napoleon it exerted considerable influence in shaping legislation and ordinances and in deciding questions of administration. In addition, in harmony with the French conception of the doctrine of the separation of powers, which excluded from the jurisdiction of the civil courts all controversies involving the administration, the council was given power to hear and give advisory opinions in such cases. In this way the administration was freed from any interference by the courts. In 1806 a Commission du Contentieux, which had the character of a veritable administrative court, was organized within the council, forming the embryo of the council's present judicial sections.

Under the successive regimes which followed the downfall of Napoleon the council went through various mutations, which cannot be described here. It received its present form mainly by an act of parliament promulgated on May 24, 1872, which has been modified and extended in certain particulars by various laws and decrees, principally those promulgated in 1879, 1900, 1910 and 1923.

The council is composed of two classes of members: ordinary and extraordinary. The former includes thirty-five councilors in ordinary service and seventy-seven members charged with the preparation of reports—thirty-seven masters of petitions (*maîtres des requêtes*), eighteen auditors of the first class and twenty-two of the second class. The extraordinary members include the minister of justice, who is ex officio president of the council, the other ministers and twenty-six councilors in extraordinary service, high administrative officials who hold their seats only so long as they remain in active administrative work. Councilors in ordinary service alone possess full deliberative powers; all others vote only on matters affecting their departments or on reports which they have helped prepare, except that auditors vote only in the sections and not in the general assembly.

The members of the council are appointed by the president of the republic, which of course means in practise appointment by the ministry. The ministry, however, does not have an entirely free hand in making its selections, since two thirds of the councilors in ordinary service

must be chosen from the *maîtres des requêtes* while three fourths of the latter must be selected from among the auditors of the first class. These in turn are taken from the auditors of the second class, who are selected by competitive examination.

Unlike the magistrates of the regular judicial courts and also unlike the judges of the German administrative courts the members of the French Council of State hold office at the pleasure of the government. This is mainly the result of the fact that the council was originally an executive council and still is an administrative council as well as a court. The dependence upon the government, while theoretically objectionable, is in fact not serious, since there have been no cases of arbitrary dismissal or the exercise of official pressure by the government upon any member of the council since 1879. The judicial independence of the council is strengthened by the provision that all extraordinary members are automatically excluded from participation in the council's judicial work.

Since 1923 the council has consisted of four administrative sections, each charged with deliberating upon a particular group of affairs, and two judicial sections: *le section du contentieux*, with general jurisdiction, and *le section spéciale du contentieux*, with jurisdiction mainly over elections and taxes. The judicial sections are subdivided by law for more efficient operation.

The council still combines legislative, administrative and judicial functions, but their relative importance in the work of the council has varied with the passage of time and the different forms of government. The extensive legislative functions which it possessed during the Consulate and First Empire have long since disappeared, largely as a result of the development of real parliamentary government in France, and today they embrace only the right to give advice upon legislative *projets* submitted to the council by the ministry and to draft bills upon request of the government. In fact, the council is rarely called upon for either service, but its practise since 1907 of annulling for excess power supplementary presidential ordinances issued under the authority of parliament gives it a veto power over a large body of important executive legislation.

Its administrative functions are much more important. They consist mainly in the giving of opinions (*avis*) upon administrative matters laid before it by the government. Frequently the law requires that it be consulted and its opinion obtained, but on account of the French traditional distrust of the division of responsibility the government is not required to follow the advice given. In a few cases the approval of the council is required.

The judicial functions of the council are the most important today. They embrace the rendering of decisions in the last resort in two sorts of cases: administrative controversies, or complaints brought by private individuals against the state, the departments or the communes for the enforcement of legal rights; and petitions to annul, for excess of power, acts of the administrative authorities such as ordinances and decrees of the president, ministers, prefects and mayors. It possesses appellate jurisdiction over the decisions of the Court of Accounts and the various inferior administrative courts. In time of war it also serves as the supreme court of appeal in prize cases. Its decisions since 1872 have not been, as they were formerly, in the form of an *avis*, the final decision remaining with the head of the state (*justice retenue*), but are in the form of final judgments (*arrêts*) which it renders in pursuance of its delegated judicial power (*justice déléguée*).

The somewhat general authority conferred on the council by the law of 1872 has been broadly interpreted. By a long succession of decisions the council has, in conjunction with the Tribunal of Conflicts, built up a large body of case law for the protection of citizens against the illegal and arbitrary action of the administrative authorities. It has established the doctrine of the responsibility of the state, the departments and the communes for damages sustained by private individuals on account of the acts of the public authorities. The legality of nearly every act of an administrative agent, from the president of the republic down to the mayor of a petty commune, may be attacked for excess or abuse of authority by a suit before the Council of State. The only exceptions to this power of review are certain political acts of the president, such as the summoning and adjourning of parliament, acts having to do with the conduct of foreign relations and certain so-called *actes de gouvernement*, such as extraordinary measures for the maintenance of the national defense in time of war or in grave crises. As a result the individual in France enjoys a degree of protection against the arbitrary and illegal action of the administrative authorities and a certainty of reparation for damages such as is unknown in Anglo-Saxon

countries. The procedure for the enforcement of the remedies thus provided is simple and inexpensive and the congested dockets of the *section du contentieux* evidence its popularity as a court. Designed originally to free the administration from judicial restraint the council has evolved into a very effective check upon the highly centralized French administrative system. The proposal is sometimes made today that as a final step in that evolution the council should relinquish the remnants of its legislative and administrative functions and become solely an independent administrative court of final jurisdiction.

JAMES WILFORD GARNER

See: GOVERNMENT, section on FRANCE; COURTS, ADMINISTRATIVE; ADMINISTRATION, PUBLIC; SEPARATION OF POWERS; JUDICIAL REVIEW.

Consult: France, Reports, Conseil d'État, *Recueil des arrêts du Conseil d'État statuant au contentieux*, 104 vols. (Paris 1821–1927), containing the decisions of the council from September, 1806, to date. The decisions rendered between 1892 and 1928 have been made the subject of valuable critical notes in Hauriou, Maurice, *Notes d'arrêts sur décisions du Conseil d'État et du Tribunal des Conflits*, ed. by André Hauriou, 3 vols. (Paris 1929).

See also: Aucoc, Léon, *Le Conseil d'État avant et depuis 1789* (Paris 1876), and *Conférences sur l'administration et le droit administratif*, 3 vols. (3rd ed. Paris 1882–86) vol. i, p. 143–66, 649–92; Berthélemy, H., *Traité élémentaire de droit administratif* (12th ed. Paris 1930); Du Crocq, T., *Cours de droit administratif*, 7 vols. (7th ed. Paris 1897–1905); Duguit, L., *Traité de droit constitutionnel*, 5 vols. (2nd ed. Paris 1921–25) vol. iii, p. 21–53, vol. iv, p. 747–95, also his article tr. by M. Smith as "The French Administrative Courts" in *Political Science Quarterly*, vol. xxix (1914) 385–407; Hauriou, M., *Précis de droit administratif et de droit public* (11th ed. Paris 1927) p. 121–29, 960–1001; Jèze, G., *Les principes généraux du droit administratif* (3rd ed. Paris 1925); Laferrière, E., *Traité de la juridiction administrative et des recours contentieux*, 2 vols. (Paris 1887–88); Duquesnel, Robert, *Jurisprudence comparée du Conseil d'État et de la Cour de Cassation* (Paris 1912); Dicey, A. V., *Introduction to the Study of the Law of the Constitution* (8th ed. London 1915) p. xliii–xlviii, 331–61, 371–75, for criticism; Goodnow, F. J., *Comparative Administrative Law*, 2 vols. (New York 1893) vol. i, p. 106–13, vol. ii, p. 217–39; Garner, J. W., "French Administrative Law" in *Yale Law Journal*, vol. xxxiii (1923–24) 597–627; Garner, J. W., "Anglo-American and Continental European Administrative Law" in *New York University Law Quarterly Review*, vol. vii (1929–30) 387–414; Worms, René, "Le juridiction du Conseil d'État et ses tendances actuelles" in Académie des Sciences Morales et Politiques, *Séances et travaux*, vol. clxiv (1905) 632–79, and vol. clxxii (1909) 650–63; Laferrière, J., "La réforme de la juridiction administrative" in *Revue de droit public*, vol. xxxvii (1920) 553–73, and vol. xxxviii (1921) 109–63.

CONSENSUS. According to the dictionaries consensus means agreement. But the quality of the agreement reached in a consensus is quite different from the quality of other types of agreement—conformity, for example. In both cases what the agreement is depends on the situation from which it emerged. But no social situation is static. The social process reveals both temporal structure and structural tempo. Its component changes proceed at varying rates and in diversified directions, the slow and massive tides of the folkways and mores being basic and secret and the rapid turnovers of cults, crazes, opinion and fashions overt and secondary. Changes take place in two ways: first, by the autonomous variation involved in the passing of time; second, by the responsive variation caused by outer impacts that either reenforce or distort the spontaneous inner changes. The consensus is a phase in changes of the second kind. It may be described as a sort of plateau in the skewed curvature of social change. It can be observed at any level of the temporal structure of societies. It is the pattern of cohesion in folkways and mores in so far as those are the homogeneities of thought and behavior set up by the confluence of several heterogeneous systems of group conduct and their rationalizations. It is, more obviously, the pattern of cohesion in all cooperative resolutions of conflict between the members of a single group or between separate and distinct groups. Usage tends to limit the application of the term consensus to phenomena of this latter type; that is, to resolutions of conflicts the sequential pattern of whose development is obvious, whose tempo is rapid and whose direction and range are limited. We say "consensus of opinion" but not "consensus of custom."

The probable reason lies in the fact that the consensus which custom perpetuates is so ancient and so established that no sense survives there of heterogeneous origins and of conflicts reconciled. Every consensus is a won agreement; to realize it as such requires a background of awareness of disagreements from which the harmony has emerged. This has a very different quality from the agreements set up by conformity or coercion. The latter presuppose a relatively weak and plastic minority and a relatively powerful and rigid majority. Agreement by conformity comes about as the voluntary adjustment to a social environment over which the conformer has no control. Coerced agreements, *per contra*, are involuntary.

The antecedents to a consensus are quite different. The parties to the initiating conflict presumably enjoy parity. The confronted interests are alike in freedom and importance. The issue between them gets joined not by exclusion and antagonistic imposition but by reciprocal interpenetration. All are active and plastic. Each modifies the others and is modified by them. There is a circular give and take, in the course of which a collective emphasis of this and a collective repression of that item of the issue establish themselves; exclusions and oppositions weaken and become recessive; agreements strengthen and spread. At the end the initial aggregation of opposed individuals has become an integrated association with organically related members; the opposed interests have molded each other into a mutually sustaining configuration where each has acquired a new character and new values and where all have brought the social process to a stable new level and tempo.

The conspicuous examples of this essential process are to be found in the history of ideas, especially in the natural sciences, where all agreements must have the nature of a consensus. Let a new theory be propounded in any given field and it is at once confronted by the older theories already prevailing; it is analyzed for internal cogency and tested for experimental relevancy. The arguments and the experimenting modify it *ambulando*; when they come to rest, the theory which emerges has neither all the features of the new theory in its first form nor many of the prevailing ones that then confronted it but presents an interpenetration of the qualities of each, mutually transformed. Thus the consensus concerning evolution neither rehearses Darwin nor his primary opponents nor his later alternates but borrows something of the contributions of each and embodies a configuration which has in the large the free and general assent of biologists and laymen. In physics the phases through which the theory of relativity has passed or the conception of the ultimate structure of matter (from the determinate atomic constellations of Bohr to the ambiguous patterns of Heisinger) exhibit the same relationships.

The process of consensus is not so clear and explicit in fields of social action such as economics and politics, but there too it is operative. Thus the history of such an idea and program as socialism falls into a pattern like the history of evolution. Confronted in its beginnings by violently opposing interests, the long give and take, theoretical and practical, between them and socialism is emerging in a politico-economic consensus which has the features exclusively of neither the original Marxism nor its antagonist doctrines but is a compenetration of all: the most ardent capitalist holding something in favor of, say, "economic determinism," and the most passionate socialist something in favor of the actualities of the industrial process.

A consideration of the idea and program of prohibition will point this interpretation of consensus. As a sumptuary principle prohibition was first propounded in a world whose mores included and still include the universal consumption of intoxicating beverages as an important component of the way of life. There was a widespread and powerful moral and material investment in liquor. Agitation to prohibit its use came in with the factory system and the great city. It got indirect aid and comfort from the rise of the cheap press, the phonograph, the motion picture and the other mechanical alternatives to liquor as a sedative and excitant. It drew direct reenforcement from new views concerning the depressing influence of alcohol on physical and mental efficiency, which won it the support of great industrialists. At the same time that the Eighteenth Amendment to the Constitution of the United States was enacted prohibition as an agitation was beginning to have an effect on the mores. But the interests and insights involved were still in conflict; no consensus had formed itself. Prohibition as a program was a coercive imposition, not a free agreement. The law made the selling and buying of alcoholic liquors a crime; the mores of the community held them otherwise. The consequence is that public opinion in the United States now sanctions an elaborate machinery of lawlessness (racketeering) which involves the major crimes and remains unreprobated by the conscience of the community. In a word, except by the use of *force majeure*, a law is enforceable only when and as it expresses a consensus which a community has reached. Lacking the consensus a legal crime may be a social virtue and religious heresy a moral duty.

HORACE M. KALLEN

See: CHANGE, SOCIAL; SOCIAL PROCESS; CONFORMITY; COERCION; COMPROMISE; CUSTOM; LAW; DISCUSSION; CONFLICT, SOCIAL; DEMOCRACY.

Consult: Allport, F. H., *Social Psychology* (Boston 1924); Bagehot, Walter, *Physics and Politics* (London 1872); Cooley, C. H., *Social Process* (New York 1918); Lippmann, W., *The Phantom Public* (New York 1927);

Sheffield, A. D., *Joining in Public Discussion* (New York 1922); Wallas, G., *Human Nature in Politics* (3rd ed. London 1914), and *The Great Society* (London 1914); James, William, *A Pluralistic Universe* (New York 1909).

CONSERVATION. The protection of the resources of man's physical environment against waste is now a major problem of civilization. With the development of agriculture man sharply modified the existing flora and fauna and greatly accelerated the rate of land degradation. In the brief interval of recorded history removal of the forests and tillage with subsequent erosion of the soil has destroyed great areas of formerly useful land, especially in China, in the Mediterranean region and in North America. How far this has been a cause of failing water supply and destructive floods is uncertain, but the process of soil impoverishment and erosion can be seen at work on an appalling scale in such areas as the southern Appalachians and the gullied lands of Tennessee.

A far reaching depletion of mineral resources is more recent but no less ominous. Production of the metals and the mineral fuels has grown in geometric ratio, increasing nearly a hundredfold in the century before the World War. Since 1890 the world has used more coal and metal than in all previous time, and consumption is still increasing. The modern world has adjusted itself to the exhaustion of individual deposits by the discovery of new deposits, by transportation of materials formerly inaccessible, by substitution and by advances in technology making possible the use of lower grade deposits and the reduction of costs of both mining and smelting. The combined effect of these factors for the world as a whole has up to the present offset the tendency toward increasing cost through depletion of the richer deposits, and prices of the minerals have been falling. In the older districts and countries, however, the factor of depletion has frequently outweighed the advance of technology. England in the first half of the nineteenth century was not only the largest producer of coal and iron ore but the principal source of the world's copper, lead and tin. Today the copper is all but gone, the lead and tin are nearing exhaustion and the output of the Cumberland iron mines, the only source of rich iron ore in Great Britain, is steadily declining. The mining of coal has entered the stage of increasing costs, and in spite of the ingenuity of British engineers the output per man per year has been declining since 1883. The present economic difficulties of England are due in part to the unequal competition between a land in the stage of increasing costs of mining and newer lands where costs are declining and the yield per miner is still on the increase.

In North America dissipation of the resources has been more rapid than in the Old World, although masked by the development of new sources of supply and the progress of techniques. Abundance of land led the American pioneers to recklessness in tillage, the results of which were rendered more serious by torrential rainfall. The forests were an obstacle to be hacked and burned away and the waste in the exploitation of the minerals was likewise great.

The conservation movement began in the last half of the nineteenth century with the realization that the resources of the continent were not inexhaustible. Attention was first drawn to the decline of the fisheries and the destruction of the forests. The office of Commissioner of Fish and Fisheries was created in 1871. A memorial of the American Association for the Advancement of Science in 1873 began a movement which led to a forestry bureau in the federal Department of Agriculture and to the creation in 1891 of the first national forest reserve. Other landmarks in the movement were the organization of an irrigation division in the United States Geological Survey in 1888, later developed into the reclamation service, the work of the survey in cataloguing and classifying the resources of the public domain, and the creation of the mining technology branch in 1907, expanded into the Bureau of Mines in 1910. An act of 1906 protected the Alaskan fisheries. Impetus was given to the movement by Gifford Pinchot and President Roosevelt through the Inland Waterways Commission of 1907, which stressed the connection between the forests, water supply and stream flow, and the National Conservation Commission of 1908.

The work of the Roosevelt conservationists was inspired in part by the need of preventing waste and in part by the frauds and evasions practised under the existing land laws. The abuse of the early preemption laws and of the Homestead Act of 1862, the Timber and Stone Act of 1878 and the "forest-lieu" indemnity selection provisions of 1897 had resulted in the acquisition by corporate interests at nominal prices of most of the forest and mineral wealth of the original public domain. The steps now taken were largely intended to prevent such abuses. By executive order the unappropriated

forest lands on the public domain were set apart for national forest reserves, and later under the Weeks law in 1911 the federal government was authorized to acquire additional reserves by purchase. The unappropriated mineral bearing lands, excepting the metals which were as before open to prospecting and the location of claims, were withdrawn from settlement until they could be classified, pending a change in the land laws. After much debate Congress in 1920 passed the Mineral Leasing Act, opening deposits of coal, oil, gas, phosphate, potash and salines to prospecting and leasing under supervision of the Department of the Interior, with payment of royalty to the United States. The development of water power on navigable streams, which had formerly required a special act of Congress, was by the Federal Water Power Act of 1920 placed under control of the Federal Power Commission. The law provided a system of licenses for fixed periods, reserving to the federal government the right of purchase at the expiration of the license upon payment of the actual investment made.

Among the strongest supporters of the policy of conservation had been the nature lovers, whose interest found realization in the National Park Service organized in 1916. Powerful support came also from the advocates of national defense. To assure supplies for the army and navy, reserves of oil, oil shale and helium bearing gas were set aside, and in 1929 additional reserves of coal, especially suited to conversion into oil products, were established.

Changes in the land laws were not accomplished without opposition. Private interests affected by the new policy waged a campaign against "Washington bureaucracy," and the public land states contended that the resources belonged to the local inhabitants rather than to the nation. As federal lands were not subject to state taxation, the new policy was held to reduce the revenues of the states at the same time that their citizens were paying royalties into the federal treasury. In deference to this view, the Mineral Leasing Act as finally passed after twelve years of discussion provided that the royalties collected should be divided between the United States Treasury, the state in which the deposit lay and the general reclamation fund. A similar division is made of revenues from the national forests and from power licenses. In deference to the charge that development would be delayed no discretion was given to the Department of the Interior to withhold a mineral lease, regardless of public interest in controlling overproduction. With these concessions to private and state interests the administration of the Mineral Leasing and Water Power acts and forest reserves has on the whole been successful, but the administration of the naval oil reserves under Secretary of the Interior Albert B. Fall reached the lowest depths of corruption.

By the passage of the new land laws the conservation movement accomplished one of its primary aims, the protection of the remaining public domain against looting by private interests. The resources to which the nation thus retained title were, however, largely marginal, representing except for water power only what private interests had overlooked or passed by as of small value. The federal government is now the owner of a number of irrigation projects developed on sites which private capital had found unattractive; of an imposing acreage of forest reserves, most of which is of doubtful value for lumbering and which produces only four percent of the present cut; of significant areas of theoretically potential oil bearing land on which to date only a few rich pools have been found and which produce about three percent of the present output; of a vast area of unappropriated arid land, most of which is of doubtful value even for grazing; and of immense reserves of low grade coal, lying in the Rockies and in the Great Plains, most of it too remote from transportation or markets to have cash value.

With respect to the other objective of the conservation movement, the prevention of physical waste, the progress to be recorded is less imposing. On the small percentage of the resources remaining under direct public control the government has been able to minimize waste. The forest reserves have been protected against fire, the cutting of timber is carefully managed, and the system of permits has allowed use of the reserves by stockmen without overgrazing. The regulations written into the coal and oil land leases have set high standards of engineering and of safety. The example of the federal government has stimulated action by some of the states, particularly in the creation of forest reserves and the protection of game. The government's activities in research have been significant. Erosion, depletion of soil fertility and overgrazing of private lands continue, however, on an appalling scale; shore-breeding species of fish are diminishing; the private forests are being butchered and the cut over lands burned. Although lumbermen admit the need of conserva-

tion, competition in an overdeveloped industry and a faulty system of taxation prevent either adequate fire control or reforestation. The waste in the mining of bituminous coal averages thirty-five percent, of which twenty percent is avoidable. In petroleum production as a result of competitive drilling the losses of oil through premature encroachment of salt water and failure to utilize fully the pressure of dissolved gas in recovering oil are formidable, to say nothing of the loss of gas itself and the sacrifice as boiler fuel of a substance potentially more valuable as gasoline. In both lumbering and mining the causes of losses are largely economic and legal. The application of the common law concepts of private property in agricultural land to property in forests and minerals, particularly to the migratory minerals oil and gas, and the desire for immediate profits create a tendency to overproduction. The problem is to permit group action to restrain the wastes of competition and at the same time protect the public against excessive prices—a problem rendered difficult by the existing antitrust laws, the deep seated fear of combinations among competitors, the opposition of the industries to regulation lest profits be curtailed and the confusion of state and federal authority. In lumbering and bituminous coal mining the obstacles have thus far set at naught all attempts toward unification of policy. In the petroleum industry a prolonged period of overproduction and low prices induced the American Petroleum Institute to propose a nation wide plan for the limitation of output. No authorization of such action was found in existing federal law, and subsequent efforts to effect the same result by an interstate compact between the oil producing states have thus far failed. Local experiments in the control of flush production in new pools of Oklahoma and Texas under agreement authorized by the state public utility commissions have recovered a higher percentage of oil at a lower average cost, and California has passed a stringent natural gas conservation law, which while saving oil and gas also promises to limit overproduction in new pools. These scattering developments, however, only serve to emphasize the prevalence of destructive competition with its concomitant waste.

The success of the conservationists in checking the wastes attributable to the competitive system is small. But chemists and engineers have aided conservation by their improvement of technical processes. In the production of lead and zinc, for example, they have made possible selective flotation and the recovery of large amounts of both metals which were formerly wasted because they could not be separated. In the production of oil they have developed methods for cementing wells against infiltration of salt water, a technique of secondary exploitation doubling the possible recovery of the oil contained in the sands, and have advanced the art of drilling, carrying the maximum depth of wells from 3000 to 9000 feet. The introduction of cracking in the refining of petroleum has doubled and trebled the percentage of gasoline obtained from the crude. Particularly striking is the advance in efficiency of utilization of coal. In 1908 electric central stations in the United States consumed an average of 5.3 pounds of coal in generating 1 kilowatt hour; in 1929 they required only 1.7 pounds, while the best plants use 0.9 pounds. In the meantime the process of converting coal into oils or alcohol, which was developed by Bergius and Fischer of Germany and Patart and Audibert of France, promises that the world's need of gasoline can be met from coal when supplies of petroleum fail. Such technological changes conserve the natural resources and lengthen the prospective life of the fuel reserves. Owing in part to the stimulus of the conservation movement the advance of mineral technology has been faster in the period since 1908 than at any time since the industrial revolution.

F. G. TRYON

See: NATURAL RESOURCES; LAND TENURE; PUBLIC DOMAIN; FORESTS; FISHERIES; RECLAMATION; IRRIGATION; MINING; OIL; ELECTRIC POWER; LUMBER INDUSTRY; WASTE.

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CONSERVATISM. This word has two chief uses. The first is technically political, in which it means a tendency to maintain the status quo regardless of what that may be. In this sense the word is devoid of philosophical content, and one may logically designate as conservatives the most disparate political parties and factions. A party conservative in this sense may in the past have been revolutionary and without any change of theoretical position on such basic questions as, for example, liberty and authority may have become technically conservative on the successful completion of the revolution. Thus from this point of view the Bolsheviks of today are as conservative as the czarists of yesterday, the Fascists in Italy as the liberals of 1921, all being (or having been) equally disposed to conserve things as they are at the moment.

The term also has a philosophical use and meaning, in which case it implies a particular *Weltanschauung*, such as love of authority and tradition (monarchical, ecclesiastical or liberal in oligarchical form), which may in turn be but a reflection of particular psychological conditions, although they may appear as wholly rational conceptual preferences. Fear and habit, education, in so far as it contributes to establishing the hold of these and to the building up of respect for tradition and authority (both of which it often does at a very early stage), and the effect of age, with its physical decay entailing psychological changes such as inflexibilities and disillusionment, tend to create conservatism in this sense or to fortify rationalizations of conservative attitudes, i.e. to give ideological content to them. On the whole, age is more conservative than youth. In practise, while the philosophical conservative often tends to desert his ideology, if changes are brought about despite him, and to take on a new attitude favoring change (change in a backward direction, i.e. reaction), the political revolutionary on gaining control attempts to utilize for the support and perpetuation of the new order such values as authority and tradition and such factors as fear, habit and education.

Concretely, conservatism means hostility to innovations in the social or moral order. Undoubtedly the classes which most readily experience conservative feelings and work out complementary ideologies are the wealthy classes, those who have something to conserve. As Ronsard said, "Donne tout à ceux-ci, rien à ceux-là; les uns devront conservateurs, les autres tribuns" (Give all to one and nothing to the rest; the first will be conservatives, the rest will be the rebels). Nevertheless, poor (although not starving) people can also be conservative; however little they have in comparison with others, psychologically they are prepared to put up with the little through fear of having less. Religious influence often contributes to create such a state of mind. Conservatism is not opposed solely to economic or political change; it dislikes, for example, any wide modification of traditional family life. Yet the attitude of conservatives toward feminism may vary in different epochs and countries; in contemporary Spain, France and England most conservatives favor women's suffrage, while in Switzerland and Italy most oppose it.

Conservatives have much in common with aristocrats. They rely on a knowledge of history to avoid repeating past errors. They believe that aristocracies are relatively stable, democracies fickle and hence inconvenient to the state's successful functioning. Conservatism argues that political as well as other useful capacities often descend from father to son as a result of biological and educational causes: pride, sentiment of honor, *esprit de famille*, *noblesse qui oblige*. One of the main political bases of conservatism is the hypothesis of the higher capacity of the ruling class; the existing order is thus justified morally and technically as coinciding with general welfare and in accord with the law of the survival of the fittest. In general, conservatism fights "mob law."

Carlyle asserted that all great peoples are conservative, slow to believe in novelties, patient of much error in actualities, deeply and forever certain of the greatness that is in law and in custom once solemnly established and long recognized as just and final. Certainly there must be a conserving purpose. But the aim to conserve the social organism is the common end of every imaginable political activity; the conserving purpose therefore does not serve to distinguish one special kind of political theory from another. The distinction appears only when attention is focused on the preservation of particular institutions deemed necessary or es-

sential for the maintenance of the existing social order. A substratum of conservatism exists in all societies. The growth of party organization is inevitably followed by overwhelming conservative tendencies, even in radical parties. When conservatism in the above sense is a conception of life, the status quo constitutes the ideal of conservatives only inasmuch as state and social conditions correspond to and suit their convictions and interests. When the concrete forms and the legal institutions pleasing to their *Weltanschauung* are abolished, they shift their allegiance to the status quo ante. Thus dethroned conservative parties become in their actual politics and aims more or less revolutionary, as in the case of contemporary monarchists in Russia, France and Germany. Even when the social order they desire to conserve is merely threatened and in a manner not inconsistent with the traditions they theoretically defend, conservatives generally stop behaving as conservatives and, sometimes accompanying action with ideological shifts to justify it, violate their own code to avoid the danger of disappearing with it.

Particular metaphysical conceptions lead to the view that all that is, being God's work, is good; and religion often becomes both a creator and a support of conservative attitudes. A love of traditional aesthetic values may also lead to conservatism. The social conservatism of such a man as Ruskin and his yearning for ancient arts and crafts were largely based on a love for English landscapes which were being metamorphosed by the chimneys and smoke, the mills and factories, of the new industrial system.

Even in the economic field the laws of maximum satisfaction and supply and demand may be upset by conservative states of mind. Consumers do not often buy where the best bargain is to be had but in shops to which they are accustomed. Men renounce financial gain to cling to old habits of family life or to localities in which they have grown up. The force of habit and moral conservatism thus frequently destroys the fiction of the economic man.

Conservatism, then, being largely a reasoned or unreasoned resistance to any change, often means laziness, idleness, failure to think, an incapacity to question traditional concepts. The conservative's reference to historic experience is often highly selective; he paints the moral lessons which lend support to his particular interests. He develops a general prejudice against thought, regarding habit rather than reason as the best guide to conduct. Conservatism seeks, with Burke, peace rather than truth. Hence the primitive man, whose life is organized in every detail and who, surrounded by innumerable tabus from birth to death, is a slave of traditions and the least free of humans, is also the most conservative. Conservatism tends to become undiscriminating in its resistance to change. And it will denounce innovators whether in the social, scientific, educational, political or economic field as destructive and utopian, often adding the epithets "insane" and "criminal." Although public opinion may lose its balance and become extremely radical it has been correctly called the headquarters of conservatism. Public opinion is always fanatic and devoid of all basis of real thinking.

Dominant political parties call themselves conservative only after the rise of social danger. The word conservative is said to be derived from Chateaubriand, who with Lamennais established in Paris a newspaper, *Le conservateur*, for the struggle against the revolutionary forces. In England a section of the Tories began to call themselves conservatives about 1835. At about the same time the conservative party in Prussia started as a Junker party. As a party name the word has sometimes changed its content with historical developments. In 1830 after the victory of the French liberals over the conservatives (Légitimistes) the left wing liberals (Orléanistes) took the name of their conquered enemies, calling themselves conservatives. As they had now a new order to conserve their action was perfectly logical.

Conservatism is but one of the forces which rule humanity, for there is also an immanent tendency to change (the two historical laws of *Beharrung* and *Veränderung* of Theodor Lindner). So conservatism must fight to conserve itself. Giovanni Botero asserts that the conquest of power is easier than its conservation. The first secret of continued power is continued conquest. This necessity leads automatically to some fluctuation of social stratification. Neither society nor a social class, however rich and powerful, can be conserved by mere conservatism. Apathy is deleterious, changes are inevitable. The only important question ever at issue is whether they shall come from above or from below. The ruling class can maintain itself without decaying only by receiving into itself the best, keenest and boldest elements of the other classes, as Louis XIV of France urged his nobility in regard to the élite of the bourgeois and the bureaucracy.

Danger of revolution from below is offset by conservatives in two ways. The first is to keep the lower classes poor. As Thorstein Veblen says: "The institution of a leisure class acts to make the lower classes conservative by withdrawing from them as much as it may of the means of sustenance, and so reducing their consumption, and consequently their available energy, to such a point as to make them incapable of the effort required for the learning and adoption of new habits of thought." This policy is not only cruel and immoral but in the long run ineffective and dangerous, inasmuch as misery creates despair and obstruction. The second method is that of social reform. The conservative mind has no fixed attitude toward this policy. Conservatives sometimes oppose state action of reformist character on the ground that it undermines manhood and self-reliance, individual ability and thrift. On the other hand, conservatives often (although slowly) promote social legislation as a *pis aller*, hoping that as long as they direct the reforms no real or harmful change will come about.

Are there ethnical or national predispositions to conservatism? Historically Venice has been perhaps the most conservative state; it jealously guarded from change its constitution, mentality and habits for more than ten centuries. For a short time, during the so-called *siècle de Louis XIV*, conservatism had its center in France. Afterwards for a long time it dominated autocratic Russia and bureaucratic Germany, with the difference that while in Russia it meant inflexibility of the legal structure in Germany it meant the idolatry of state authority. Psychologically, however, England being the most traditionalist in customs seems to be the most conservative nation of the world, because the basis of conservatism is found more in the stability of laws.

ROBERTO MICHELS

See: SOCIAL PROCESS; TRADITION; AUTHORITY; RELIGION; MORALS; PUBLIC OPINION; PARTIES, POLITICAL; CHANGE, SOCIAL; RADICALISM; LIBERALISM; ANTIRADICALISM.

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CONSERVATIVE PARTIES. *See* PARTIES, POLITICAL, sections for separate countries.

CONSIDÉRANT, VICTOR (1808–93), French political and economic theorist. His principal work was to clarify, popularize and apply specifically to the problems of his day the doctrines of Charles Fourier, whose best advocate he remains. As a student at the École Polytechnique he tried to recruit adherents to Fourier's theories and soon became the intellectual leader of the Fourierist group. He edited *Le phalanstère*, which was named after the institution Fourier devised as the basis of his social scheme for harmonizing the "passions" and increasing tenfold the product of labor, and *La phalange*, which was devoted to the same ideas. He published a sort of digest of Fourierism, *Destinée sociale* (3 vols., Paris 1834–44), *Principes du socialisme* (Paris 1847) and other works on the same subject. Considérant at first advocated complete abstention (*l'écart absolu*) from politics and total indifference to political parties in his *Nécessité d'une dernière débâcle politique en France* (Paris 1836). But he gradually came to feel that it was necessary to use the force of democracy to hasten reforms, provided democracy would not be swallowed up by political parties. He wished democracy to transfer its interest from the political to the social field, a view expounded in his *Principes du socialisme, manifeste de la démocratie au XIX^e siècle* (Paris 1847), and to make methods of election more effective in reflecting social views. In 1848 Considérant was elected to the National Assembly, where he played the part of mediator between bourgeois and proletarians. He also served on the Luxembourg Commission. After the June Days he published *Le socialisme devant le vieux monde ou le vivant devant les morts* (Paris 1848), a review of the socialist systems of Owen, Saint-Simon, Buchez, Cabet and Proudhon. Here he argued the superiority of Fourierist doctrine, which requires no constraint and which aims to treat fairly capital, labor and talent by multiplying free associations.

From 1852 to 1854, urged by Albert Brisbane, Considérant attempted unsuccessfully to found a phalanstery in Texas. In replying to Texan objectors to socialism he endorsed democracy and opposed absolutism. After his return to France in 1869 he worked to adapt Fourier's ideas to new developments in science.

C. BOUGLÉ

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CONSIDERATION is that element in an informal contract which is essential in Anglo-American law to make it binding. A formal contract is supposed to derive its force from the mere fact that it is under seal. Consideration is currently defined as the "detriment" to the promisee or the "benefit" to the promisor bargained for and given in exchange for the promise. In legal theory the adequacy of this return for the promise is of no moment; a "horse, hawk, robe or tom-tit" will serve to bind any bargain. All that is necessary is that there be proper evidence that the promise is not gratuitous. The commercial England which fashioned the law of contract was not bent on protecting fools from bad trades, but it was determined to protect a man against ill considered offers of bounty and levities of speech.

It is generally conceded that the English law of contract took little from the Roman law except a confusing vocabulary and some misleading maxims. It was the emergence of the principle of consideration that marked the establishment of the modern English law of contract. In the sixteenth and the early seventeenth century the common law was faced with the problem of providing regulations for the trade and commerce which had come under its dominion.

Beginning with no general theory it proceeded outward from particular cases. The requirements of formally sealed documents excluded the general run of contracts. Thus other remedies had to be devised to protect a man in his everyday dealings. An unpaid seller was granted a recovery from the purchaser. A man induced by a promise of another to act to his own disadvantage was given an action against the defaulting promisor for the wrong he caused in failing to fulfil the obligation he had assumed. In a way obscure both in the records and in the writings of modern commentators the actions of debt and assumpsit, under the influence of a Chancery inclined to inquire beyond the form to the general results of a promise to determine the intention of the parties, were fused into a general theory of contract. With gain to the promisor or loss to the promisee as the criterion a promise was considered binding when the promisor's intention to assume a legal duty was evidenced. There were other, non-commercial causes of action which might have proved the analogy for the general theory; if the oath had been given a civil sanction and made to cover all promises, there never would have been the doctrine which took the name of consideration. But the principle of consideration was more acceptable to the puritan temper of commercial England; under it one could not get something for nothing; the law would not enforce a nude, or naked, promise "when a man maketh a bargain, or a sale of his goods or lands, without any recompence appointed for it" (Saint German, Christopher, *Dialogues* . . . , London 1523, American ed. *The Doctor and Student*, Cincinnati 1874, dial. ii, ch. xxiv).

The common law would not enforce an informal promise without some consideration in return for it, no matter how strong the moral duty or the motives. Breaches of faith were subject to the jurisdiction of the ecclesiastical courts; and the church found within itself the power to collect gratuitous gifts, deriving from the Roman law the doctrines to support its demands. But with the increasing complexity of trade secular insistence upon good faith became more pronounced. At the end of the sixteenth century contracts came to consist of mutual promises as well as promises balanced by performance on one side. The common law lawyers, however, rejected the simple theory of mutual assent as the cohesive force; instead they transmuted one promise into consideration for the other. From this it followed that unless the promises were expressly made dependent upon each other they could be enforced independently. Thus at first a party even wilfully in default could maintain an action upon a bilateral contract, and only a counteraction upon the case was available to the other party. It was Lord Mansfield who in 1772 solved this dilemma by introducing the doctrine of the mutual dependency of the promises. One is told that the reason for this is that the consideration has "failed." Actually there has been only a failure of performance. The theory of the law has never escaped the circular reasoning involved in regarding mutual promises as consideration. But practically there has resulted a temporarily satisfactory adjustment of law to trade.

The last outright attempt to relegate consideration to a minor role as one form of evidence that a promisor has assumed a legal duty was made in the eighteenth century. Lord Mansfield proposed that all promises in writing be regarded as a third class of contracts, irrespective of other consideration. Precedent, however, was too strong and he was promptly repudiated. He proved more successful in his interstitial attack upon the theory; moral obligation was introduced as a form of consideration. For a promise to fulfil a moral obligation otherwise unenforceable it was said that "the honesty and rectitude of the thing is a consideration." Although Blackstone, strongly influenced by Mansfield, accepted this innovation, moral consideration as a principle was sharply restricted by Mansfield's successors. The courts denied that it was sufficient, but the cases in which it had been recognized persisted and the theorists have struggled ever since to transform it into acceptable coin. Promises to pay just debts, recovery of which had been barred because the statute of limitations had run or because the debt had been contracted in infancy or because an affluent debtor had received his discharge in bankruptcy, continued to be held binding. The widespread extension of credit made it imperative that a man's word be trusted and that creditors receive further protection by law. More and more the sanction for avowments was shifting from the morals of the church to the mores of the commercial world.

The current, concise definition of consideration was forged in the last decades of the nineteenth century under the influence of the mechanistic Spencerian philosophy of the period which pervaded all legal thinking. The theorists banished Blackstone, who was content to enu-

merate the various considerations, including moral obligation, and based their universal generalization upon the consideration of the early sales contract of give and take found in Coke.

This modern theory of consideration finds itself adequate in the bulk of cases which are still contracts of barter and trade; but only by tenuous rationalization does it maintain its symmetry where contract law has spread over relationships other than those of simple barter. Recent decades have again shown a tendency to enforce promises made in the regular course of a business transaction. But a sophisticated law of contract, heeding the reversals of an earlier century, has erected a complex superstructure of theory, creating formulae for finding consideration. Promises are drawn by implication from the action of the parties and made to serve as consideration under the circular doctrine of mutual promises; or if the promisee can be shown to have suffered a detriment by relying on the promise, the promisor will be estopped from protesting the lack of consideration. In cases where there is an already existing contract between the parties, although generally the law recognizes no new detriment to the promisee which make new terms binding, liberal courts have held, where to refuse to substitute the terms of a new agreement would result in hardship, that the old contract was rescinded, leaving only the new promise to be balanced by the detriment to the promisee. Again, actual performance of an existing legal duty, such as the marrying of one's fiancée, has been found an additional detriment sufficient as consideration for a promise made by an interested third party, since without the additional inducements one might have breached his promise at the risk of being mulcted in damages. Where promises have been "instinct with obligation," a necessary consideration has found life.

As the common law has extended its dominion, consideration has likewise been found for contracts in support of education, charity and religion. It has become repugnant to the social conscience not to hold a man to a promise given in a campaign for funds for an educational, charitable or religious foundation. In some courts the promises by mutual contributors have been held to be consideration for each other; but only in the realm of metaphysics can it be held that there is mutual assent, a trade of a promise for a promise, that a contributor incurs a detriment or confers a benefit in respect of the promises by others. Again, some action in reliance on the promise by the recipient foundation has been construed as consideration, and the courts have gone far in recognizing as consideration acts which are no more than a preparation and an expression of willingness to receive the promised money.

In continental law there is no direct analogue to consideration; but the civil law theory of contract has struggled with a somewhat similar problem in the doctrine of *causa* which claims heritage from Roman law. Like the English law, the Roman law did not make all promises enforceable; it also provided against delusions and rash statements. Agreements were at best "nude pacts" unless made binding obligations by a strict performance of necessary formalities. These agreements were classified according to their forms; each contractual form required the fulfilment of its peculiar formality to demonstrate that an obligation was assumed with due deliberation and in good faith. The most flexible of the Roman contracts was the consensual contract, developed to meet the demands of the ordinary trade agreements: contracts for sale, hire, partnership and agency. Subsequently much the same forces which expanded the later English law of contract made other agreements of certain types, such as promises to give a gift up to a certain amount or to give a *dos*, obligatory; but since such agreements did not fit into the established categories of contracts they were treated as pacts vested with obligation in contradistinction to nude pacts. In the consensual contract all encumbrances of form were removed, and such a contract became binding by mere mutual consent. Since consensus alone was not sufficient to make mere pacts obligatory, the "binding fact" for the vested pact was found in the character of its transaction, known as the *causa civilis* or *causa civilis obligandi*.

Causa, however, had a perplexing number of meanings in Roman law, and no completely satisfactory rationale applicable to all contracts appears to have been worked out. In spite of the attempts of the glossators to isolate an element of *causa* in all contracts necessary to make a contract valid, *causa contractus* proved to be but a circuitous way of stating that a promise given within the required form was actionable. In the consensual contract dialectical difficulties similar to that of finding consideration in mutual promises were confronted. A promise was at once a *causa* and the resulting obligation. However, under the influence of the later praetorian law

concerning unjust enrichment and illegality the theory of *causa* absorbed the idea of legal purpose. The early civilians and canonists made of *causa civilis* a mystical, general basis of contract, transmuting its demand of form into a requirement of a lawful subject matter.

Although the general theory of the modern civil law under the influence of natural law ideas has come to be that all contracts are enforceable unless a special reason exists to the contrary, the notion of the requirement of a *causa* has persisted in some countries. In Germany the impression that the old Germanic law emphasized only the idea of good faith prevented this, and *causa* has found no place in the *Bürgerliches Gesetzbuch* or in the codes of those countries which have taken it as a model. But introduced into French law by Domat and accepted by Pothier it has found a place in the *Code civil* and the codes of the Latin countries which continue to use Roman law phraseology. Attempts to establish a general definition have failed to meet with approval. Proponents of the doctrine have found difficulty, as did the glossators, in distinguishing the *causa* from either the object of the contract or motive in general. Anti-casualists advocate the elimination of the theory in French law as unnecessary, since obligations can more readily be handled upon the simpler principle that agreement by competent parties concerning an object physically possible and legally permissible constitutes a valid contract.

Continental jurists have developed a broader doctrine of contractual obligation than have the Anglo-American courts. Many agreements, such as those founded on moral considerations, which cannot be enforced in Anglo-American law because they do not fulfil the demands of consideration, are enforceable according to the doctrines of *causa*. To one unversed in the slow compounding process of the common law it may seem strange that a rudimentary device created in an archaic system of pleading and procedure should persist as a universal test of contractual obligation. But consideration has become the mere outward form of the legal test of binding obligations. Into its categorical form have been poured the prevailing conceptions of equity and fair dealing which demand not only the legal enforcement of promises but relief against them when based upon considerations that have failed. A more inclusive generalization may replace the present conception of a mechanical exchange of units, but despite all the inroads upon it he would be a bold man who would contend as a matter of principle that a promise could be binding in Anglo-American law without consideration.

NORMAN L. MEYERS

See: CONTRACT; COMMERCIAL LAW; JUDICIAL PROCESS.

Consult: Jenks, Edward, *History of the Doctrine of Consideration* (London 1892); Holmes, Oliver Wendell, Jr., *The Common Law* (Boston 1881) ch. vii, and "Law in Science and Science in Law" in *Collected Legal Papers* (New York 1920); Salmond, John W., *Essays in Jurisprudence and Legal History* (London 1891) ch. iv; Pollock, Frederick, *Principles of Contract* (9th ed. London 1921) ch. iv; Anson, William Reynell, *Principles of the Law of Contract* (4th American ed. New York 1924) ch. iv; Williston, Samuel, *Law of Contracts*, 5 vols. (New York 1920–22) vol. i, ch. vi; Ames, J. B., "Two Theories of Consideration" in *Harvard Law Review*, vol. xii (1899) 515–31, vol. xiii (1899) 29–42; Voigt, Moritz, *Über die condictiones ob causam und über causa und titulus im Allgemeinen* (Leipsic 1862); Capitant, Henri, *De la cause des obligations* (3rd ed. Paris 1927); Kotzé, J. G., *Causa in the Roman and Roman-Dutch Law of Contract* (Capetown 1922); Lorenzen, E. G., "Causa and Consideration in the Law of Contracts" in *Yale Law Journal*, vol. xxviii (1918–19) 621–46; Walton, F. P., "Cause and Consideration in Contracts" in *Law Quarterly Review*, vol. xli (1925) 306–28.

CONSOLIDATIONS. *See* COMBINATIONS, INDUSTRIAL.

CONSPIRACY, CRIMINAL. The doctrine of criminal conspiracy in English law arose out of the efforts of early reformers to correct the abuses of ancient criminal procedure. Originally criminal accusations were brought by way of presentment before the king's justices or by an "appeal" which usually resulted in trial by battle. To correct the current abuses of the day, such as the malicious bringing of false presentments or causing children too young to fight to bring the appeal, statutes were enacted during the reign of Edward I (see particularly the third Ordinance of Conspirators, 33 Edw. I, passed in 1305) making it an offense to conspire to bring a false and malicious presentment or to procure the bringing of a false appeal. During the course of the next two or three centuries the Writ of Conspiracy was strictly confined within these narrow limits; it did not cover combinations generally to oppress or injure and it required proof of an actual legal acquittal on the false charge. During the seventeenth century, when the courts began to liberalize and reshape the rigid, formal law of earlier times, it was decided in the Poulterer's Case (9 Coke 55b) in 1611 that the gist of conspiracy lay in the conspiring, and

that therefore a malicious combination to procure a false indictment could be punished by imprisonment even though because of the evident falsity of the charge the jury had refused to bring in an indictment and therefore no legal acquittal could be shown. Next, the offense was broadened beyond the procuring of false indictments; courts began to use the doctrine to secure convictions for conspiracies to cheat or to extort money, since the seventeenth century law of cheats was so imperfect that often convictions for barefaced fraud could not otherwise be had. This process of analogical extension was still further continued during the eighteenth century; judges found little difficulty in punishing for conspiracy those combining to commit any crime, and some went so far as to suggest (but not actually to decide) that combinations wrongfully to prejudice another or even those against public morals should be held similarly punishable. When in later years courts receded from some of these more extravagant pretensions, the precise nature of the crime remained so vague that even today no one can say whether the offense is confined strictly to combinations to commit some criminal offense or to defraud or is broad enough to cover combinations of a generally oppressive nature.

Such a doctrine was bound to have important economic effects, for its very vagueness would enable judges to punish by criminal process such concerted action by economic groups as seemed to them socially oppressive or undesirable but which perhaps could not be shown to violate any specific provision of the criminal law. In England ever since the Ordinance of Labourers of 1349 repeated efforts had been made to suppress by law attempts of working men to increase their wages beyond the accustomed level. In 1721 in the case of Rex *v.* Journeymen Taylors of Cambridge (8 Modern 10) a combination of journeymen tailors to raise their wages was held to constitute a criminal conspiracy, the court asserting that " . . . a conspiracy of any kind is illegal although the matter about which they conspired might have been lawful for them, or any of them to do, if they had not conspired to do it." Again, it was this doctrine which lent force to the administration of the English Combination Act of 1800 making it a criminal offense for workmen to "enter into any combination to obtain an advance of wages or to lessen or alter the hours or duration of the time of working. . . ." In the words of Dicey, "behind the Combination Act—and this is a matter of primary importance—there stood the law of conspiracy" (*Lectures on the Relation between Law and Opinion in England*, 2nd ed. London 1914, p. 96–97). Speaking of the ensuing period the Webbs say: "During the whole epoch of repression, whilst thousands of journeymen suffered for the crime of combination, there is no case on record in which an employer was punished for the same offense" (*History of Trade Unionism*, 2nd ed. London 1920, p. 73). Under the vague doctrine of criminal conspiracy the economic and social bias and unconscious prejudices of judges (who were reared generally among the employing classes) could so easily be translated into one-sided decisions in a field of law where the pressure from social groups was unyielding that Parliament was finally led to pass the Act of 1875, providing that "an agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen shall not be indictable as a conspiracy if such act committed by one person would not be punishable as a crime." Although under general English law the doctrine of criminal conspiracy still continues to play a part of importance, in that portion of the economic sphere where it was subject to the greatest abuse the Act of 1875 covering trade disputes ended its career.

In the United States the English doctrine was taken over with other common law principles and took firm root. In the earliest recorded American case (Case of the Philadelphia cordwainers, in *Documentary History of American Industrial Society*, ed. by J. R. Commons, U. B. Phillips, E. A. Gilmore, H. L. Sumner and J. B. Andrews, 11 vols., Cleveland 1910–11, vol. iii, p. 59–248; Sayre, F. B., *A Selection of Cases . . . on Labor Law*, Cambridge, Mass. 1923, p. 99–102) on the legality of trade union action, decided in 1806, certain journeymen cordwainers, indicted in Philadelphia for conspiring to raise wages, were convicted and punished; and the court, following the English decision of Rex *v.* Journeymen Taylors of Cambridge, asserted that a combination of workmen to raise wages constituted a criminal conspiracy. In the case of Commonwealth *v.* Carlisle (Brightly, Pa., 36), decided also in Pennsylvania in 1821, in which journeymen cordwainers sought to apply the same doctrine against their employers' combining to depress wages, the court held that "a combination to resist oppression, not merely supposed but real, would be perfectly innocent; for

where the act to be done and the means of accomplishing it are lawful, and the object to be attained is meritorious, combination is not conspiracy." The court held that the defendants were not guilty unless they could be proved to have been "actuated by an improper motive." Long before the middle of the nineteenth century, however, courts had abandoned the notion that a combination of workmen to raise wages constitutes a criminal conspiracy; as early as 1842 a Massachusetts court (Commonwealth *v.* Hunt, 4 Metcalf 111) declared that workmen who combined to prevent their employer from engaging anyone not belonging to their association were not criminals. Yet it was always open to reactionary courts, and still is, by this important doctrine to brand as criminal those combining to pursue conduct admittedly not criminal but regarded by the court as socially injurious or oppressive. Thus a New Jersey Court (State *v.* Donaldson et al., 32 N. J. L. 151), in spite of the contrary decisions of other states, convicted workmen for striking to compel their employer to discharge certain fellow employees and stated that " . . . this indictment sufficiently shows that the force of the confederates was brought to bear upon their employer for the purpose of oppression and mischief, and that this amounts to a conspiracy." With the growth during the nineteenth century of large and strong combinations and class conscious groups pitted one against the other the doctrine has assumed increasing importance; and, since American states have not copied the English legislation of 1875, it still remains a threat to dissident groups.

If, as some courts hold, the crime is to be confined strictly to combinations to effect some object criminal in itself or to seek a lawful end by criminal means or to defraud another, the doctrine rests on sound foundations of social justice; but if, as other courts hold, combinations for some non-criminal but illegal or immoral or merely oppressive object are to be held criminal, no one acting in concert can tell in advance whether or not his contemplated conduct constitutes a criminal offense.

However, since the injunction has come to be extensively used in America and since the federal Sherman Antitrust Law of 1890 and the various state enactments of similar tenor have been passed, the doctrine of criminal conspiracy has been eclipsed in importance in the field of industrial controversy by these other remedies. The injunctive remedy without a jury is much speedier than the criminal process; and the Sherman law, which prohibits combinations and conspiracies in restraint of trade, affords by the vagueness of the expression "restraint of trade" as flexible a doctrine as criminal conspiracy and a much readier and less cumbrous form of proceeding.

Yet in other fields of law the doctrine continues to be of large importance. Increasing use is made of it in federal prosecutions. In the federal courts, however, the doctrine has been fixed within precise limits by the United States Criminal Code, which provides in Section 37 that "if two or more persons conspire either to commit any offense (i.e. a crime) against the United States or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties" shall be punishable for the crime of conspiracy.

This concept of the crime of conspiracy as a combination to commit definite criminal acts is one that may be said also to be generally applicable in the modern criminal codes of the continent. In some the concept of conspiracy is extended to all crimes generally; in others, only with respect to certain specified crimes.

FRANCIS B. SAYRE

See: FREEDOM OF ASSOCIATION; CRIMINAL LAW; LABOR DISPUTES; BOYCOTT.

Consult: Winfield, Percy Henry, *The History of Conspiracy and Abuse of Legal Procedure* (Cambridge, Eng. 1921); Wright, R. S., *The Law of Criminal Conspiracies* (rev. ed. Philadelphia 1887); Harrison, David, *Conspiracy as a Crime and as a Tort in English Law* (London 1924); Sayre, F. B., "Criminal Conspiracy" in *Harvard Law Review*, vol. xxxv (1921–22) 393–427; Stephen, J. F., *History of the Criminal Law of England*, 3 vols. (London 1883) vol. iii, p. 202–27.

CONSPIRACY, POLITICAL. Political conspiracy may be defined generally as a secret combination of persons for the purpose of changing the form or personnel of government by violence or other unconstitutional means. Essentially then it is the agency by which most assassinations, coups d'état and revolutions are brought into being. It shades off indistinguishably into various closely related activities: semi-secret revolutionary political action, such as Fascist or Communist, where ultimate ends are open but immediate activities more or less secret; joint economic action on a large scale, like the general strike; and murder with political aspects, like that of Rathenau.

The practise of conspiracy was common in the ancient world. A papyrus of about 1200 B.C.

records a plot against Ramses III. Greek, Roman and Hebrew history contain many examples of its use, which has continued down through the ages. Since the World War a large part of the world seems entangled in a welter of conspiracies, actual and alleged. Fascist and anti-Fascist, Communist and capitalist, republican and monarchist, dictator and democrat, face each other in various countries, the "outs" plotting the seizure of power, the "ins" seeking to detect and frustrate such plans.

If we except the period after the World War, however, it would seem that conspiracy is less important in the modern world than it has been in the past. It is essentially a phenomenon of repressive absolutist government, where freedom of speech and open differences of opinion are impossible. The rise of democracy has permitted the open accomplishment of most of what conspiracy must achieve secretly. Thus the Russian Nihilists who plotted the death of Alexander II in 1881 protested against the assassination of President Garfield in the same year as being out of place in free America. The almost universal reversion to conspiracy in the post-war period is to be attributed in large part to the reaction from democracy which has characterized that period. The dictatorially governed countries of Europe, like the pseudo-democracies of Latin America, force normal parliamentary oppositions into conspiracies. Similarly, in an otherwise true democracy particular groups may be denied the right of free speech and be compelled to plan and act secretly, thus laying themselves open, if discovered, to further and more violent attacks by their opponents. The treatment of syndicalists and communists in America during and after the war illustrates the principle.

Free speech, however, is no guaranty against conspiracy, especially in periods immediately following revolutions or other upheavals. Young republics face constant danger from two sources —royalists seeking restoration of the monarchy, radicals seeking further change. Post-revolutionary France had its Bourbon and Babeuf conspiracies, post-revolutionary Germany its Kappist and Hitlerite *Putsches*, its Spartacist and Communist plots. As allegiance to the new dynasty or the new form of government grows, the danger from conspiracy diminishes. The popular allegiance to the senate in republican Rome reduced considerably the chance of successful conspiracy, whereas the decline in the power of the senate and the rise of that of the army, with its purely personal, often mercenary, allegiance, made assassinations and usurpations the rule. Divine sanction, popularly accepted, gave the Davidic dynasty in Judah a stability not enjoyed by the dynasties of Israel based upon the shifting sands of personal ability. In post-war Germany dynastic loyalty clashes with patriotism and constitutionalism, with results which vary in different sections of the country. The personal popularity of the Wittelsbach family is probably an important factor in the tendency of Bavaria to persist as the hotbed of monarchist conspiracy in Germany.

Along with the decline in the use of conspiracy democracy has brought a decline in assassination resulting from conspiracy. The change is an indication of the waning importance of the individual in political life. In a despotic monarchy conspiracies tend to involve assassination—almost uniformly where personal usurpation of power results, frequently where revolution is the aim. Machiavelli recognized that the monarch and his children must be disposed of, for they stand as perpetual threats to the permanence of the change. In democracies no single person stands in the way so definitely that he must be eliminated.

The immediate function of conspiracy is to achieve united and well timed action by a group in the face of opposition and persecution by the government. Secrecy is therefore essential. But some communication is required to secure co-ordination and cooperation. The larger the group, the greater the problem becomes. Meetings of large groups tend to arouse suspicion; hence the number is kept as small as is compatible with possible success or, as in the case of Caesar, the eighty conspirators never hold general meetings but communicate through social visits to one another's houses. Each person added increases the chance of treachery from within as well as of observation from without. Actual or potential sympathy is therefore an essential prerequisite to initiation into the secret. Bakunin, perennial conspirator, established a hierarchical conspiracy, the lower groups being ignorant of the aims and very existence of the groups above them. The mere good faith of the spoken word may be supplemented by some solemn rite, such as the alleged drinking of a cup of wine mixed with blood by the Catilinarian conspirators or the Holy Communion, which, it is charged, sealed the Gunpowder Plot of 1605. Or some outrage may be committed by all to make each person subject to some severe

criminal penalty. Such was probably the purpose of the assassination of Hyperbolus by the oligarchic conspirators of 411 B.C.

Preexisting organizations not in themselves conspiracies may be seized upon by individuals as nuclei for plots. So close was the relationship between the political clubs of Athens and political conspiracies that the same word described both institutions. Permanent secret societies—masonic lodges, the Carbonari, the Jesuit order—have often been utilized in this way. Once started such plots may spread through an order, bringing in new chapters which are interested only in the newly acquired political aims. They may even spread to other countries, as did the Carbonari movement to southern France.

International contacts may play a more active part in conspiracies than that of mere conscious or unconscious imitation. Individual conspirators, like Bakunin and Major Waldemar Pabst, may plot successively, if unsuccessfully, in several countries. Foreign diplomats may encourage conspiracies, as the Englishman Merry in the Burr case, or may even engage in them actively, as the Spaniard Bedmar in Venice in 1618 and the Englishman Wickham in the Pichegru case in 1795. England sent Cadoudal to France with English funds to foment an uprising in Paris in 1803; Germany sent Casement to Ireland in a submarine in 1916 accompanied by a shipload of arms for the use of Irish rebels. Open aid may not be forthcoming, but émigrés may be sheltered while they hatch conspiracies against their native country. In this way even the traditionally neutral nations, such as Switzerland and Holland, become unwilling nests of conspirators.

Once under way the conspiracy faces a number of problems. Arms must be secured, loyalties maintained. For these and other purposes funds are needed. Monarchist plots may frequently receive sufficient funds from the royal family itself, its followers and those who stand to gain through the restoration of confiscated estates or the payment of repudiated debts. Other conspiracies may find the problem somewhat more difficult. In this connection the United States has often played an important part through its great wealth and the willingness of its immigrants to finance various types of political endeavors in their home country. The proper time for striking the first blow must be determined—usually when the king is away, the country at war, suffering widespread or unrest and discontent manifest. The particular place is also important. Caesar was assassinated in the senate to give the act a political air. Control of Rome ordinarily carried with it control of the empire; the capture of Washington would mean little in a conspiracy in America. After activity begins some attempt must be made to gain the sympathy of the people, the ultimate authority in many cases. Brutus harangued them about liberty and tyranny; Lenin and Trotsky in 1917 offered them an end to war, land for the peasants and factory control for the workers.

The motives of conspirators vary not only with the individual plot but with the individual actors. The devotion of the Jesuits to their church, the patriotic nationalism of the Fenians, the constitutionalism of the Nihilists and the Carbonari, are fairly self-evident and consistent motives. But the fanatical patriotism of Brutus, gladly sacrificing a friend to the liberty of Rome, may be linked with the class loyalty and individual jealousies and ambitions of the other conspirators. Financial gain is of course a factor of considerable influence, while the desire for power for its own sake plays a very important part, especially in conspiracies centering about a royal court. For in this environment in which all value is measured in terms of individual power and authority, in which no other outlet for talent and ambition is provided, the man without power seeks to gain it, the man deprived of it to regain it. Constable Bourbon seeks to regain his lost lands and military authority by plotting an invasion of France by Charles V and Henry VIII. The hand of a fair lady, presumably bringing with her land and power, forms part of the promised reward in his case, as in that of other conspirators. Royalty deprived of a throne feels called upon by divine command and the habit of power as well as by the insistence of its followers to risk fortune, freedom and life in an attempt to regain power. Honor permits no other course to a dethroned king and his family. They may even find themselves, like the Duc d'Enghien, pushed forward as aspirants for a crown they do not seek in a conspiracy of whose very existence they may be ignorant. Marx's dictatorship of the proletariat to follow the social revolution was not without foundation in history and has received additional justification from the constant and determined plots against the Soviet government of Russia.

Once involved the individual conspirator may run the gamut of a series of interesting psychological stages. The nervous tension, arising

especially from the constant fear of discovery and heightened by every delay or mishap, increases as the time set for action draws closer. Brutus cannot sleep at night; his nervous fellow conspirators almost attack prematurely as Caesar engages in lengthy conversation with one who knows of the plot. Harmodius and Aristogeiton in 514 B.C. in a similar situation do act too hastily. Even action, once begun, does not bring complete relief, for success depends upon the cooperation of others. Perhaps some mishap, like Fiesco's accidental fall into the sea, will ruin all as success seems attained; perhaps the plot has been revealed and the conspirator will, like Guy Fawkes, open his cellar door not to a fellow conspirator but to a police squad.

Discovery and arrest meant almost certain death in the past, especially in an autocratic kingdom. Catiline might plot against the Roman republic and live to plot again, but conspiracies in the empire, even if only imaginary, lead to immediate death. The formality of a trial may be granted; the sentence is inevitable. More recently, especially where the rights of the individual are protected, a real trial may bring only imprisonment or perhaps acquittal because of the difficulty of obtaining sufficient evidence. But executions after star chamber proceedings still occur under the G. P. U. in Russia, and the rapidity with which alleged anti-Fascist conspirators are imprisoned under lengthy sentence in Italy casts some doubt upon the reality of the justice accorded. The very prevalence of conspiracies, begotten by suppression, in turn begets increased suspicion and suppression. Censorship is tightened, secret police redouble their activities and agents provocateurs manufacture conspiracies where they do not already exist. Nervous emperors fearing assassination strike quickly without investigating too carefully; dictatorial Fascism and Communism utilize all the well known machinery of oppression to stamp out revolutionary conspiracies. Thus the vicious interaction of suppression and conspiracy continues, increasing in violence and intensity.

Popular judgment upon conspiracies is essentially indicated by the unpleasant connotation of the term. The combination of secrecy and violence are generally repulsive. Hence the plotting which precedes most successful revolutions is rather quickly forgotten; at least it is seldom referred to as a conspiracy. The pragmatic justification of success lifts it out of that obnoxious category. For the same reason attempts to discredit particular groups frequently take the form of charges of conspiracy. The revelations of the Gunpowder Plot and the Popish plot of 1678 were successfully used against the Catholics in England. The protocols of the Elders of Zion, the charges against Jugoslavs living in Italian territory, the perennial conspiracies charged to the experts and the conservatives in Russia, the plots attributed to the I. W. W. and the communists in the United States, are modern examples of this ancient practise.

JOSEPH J. SENTURIA

See: SUCCESSION, POLITICAL; STATE; SECRET SOCIETIES; ASSASSINATION; COUP D'ÉTAT; REVOLUTION; VIOLENCE; TERRORISM; ROYAL COURT; PRAETORIANISM; POLITICAL OFFENDERS; TREASON; POLITICAL POLICE; CONSPIRACY, CRIMINAL.

Consult: Duport du Tertre, F. J., *Histoire des conjurations, conspirations, et révolutions célèbres*, 10 vols. (Paris 1769–93); Anon., *The History of Plots and Conspiracies* (London 1722); Victor, Orville J., *History of American Conspiracies . . . 1760 to 1860* (New York 1863); Hardy, E. G., *The Catilinarian Conspiracy in Its Context* (Oxford 1924); Bolitho, W., "Catiline" in *Twelve against the Gods* (New York 1929) p. 257–80; Mispoulet, J. B., *La vie parlementaire à Rome sous la république* (Paris 1899); Ferrero, G., *Grandezza e decadenza di Roma*, 5 vols. (Milan 1902–07), tr. by A. E. Zimmern and H. Chaytor (New York 1907–09) vol. ii, ch. xviii; Calhoun, G. M., *Athenian Clubs in Politics and Litigation* (Austin, Tex. 1913); Johnston, R. M., *The Napoleonic Empire in Southern Italy and the Rise of the Secret Societies*, 2 vols. (London 1904) vol. ii; Hunter, Robert, *Violence and the Labor Movement* (New York 1914); Gumbel, E. J., *Verschwörer; Beiträge zur Geschichte und Soziologie der deutschen nationalistischen Geheimbünde* (Vienna 1924).

Interesting if fanciful accounts of the problems of conspiracy are given in Anatole France's *La révolte des anges* (Paris 1914; tr. by Mrs. W. Jackson, New York 1914), and G. K. Chesterton's *The Man Who Was Thursday* (New York 1908).

CONSTABULARY. *See* POLICE.

CONSTANT DE REBECQUE, HENRI BENJAMIN (1767–1830), Swiss-French man of letters, political pamphleteer and parliamentarian. The vacillations of Constant's personality, as well as of his career, have tended to divert attention from his remarkably consistent political doctrines. These he had formulated even during his early political activities under the Directory and the Consulate before his exile by Napoleon; but they did not find fully rounded expression until the final period of his life, when after his return to France in 1814 he played a prominent part, both as political pamphleteer and parliamentarian, in laying the foundations of the liberal party in France.

Under the changed conditions of the Restoration government Constant continued the manifold attempts of his predecessors to fix the boundary between state sovereignty and individual rights. His phrases are reminiscent of the past but underneath his terminology there have crept in new shades of meaning. His conventional attacks on unlimited sovereignty disguise what is essentially an antipathy to the very principle of sovereignty. Sovereignty arising from direct participation of the collective body of citizens passed with the small political group of antiquity and, despite Rousseau's well meaning attempt to revive the idea of undelegated collectivity, has no practical interest in the modern state. Sovereignty as understood by Bodin or Hobbes or Bossuet was shattered by the French Revolution, which in this initial aim was entirely laudable. But the sovereignty of the people, under guise of which were perpetrated the later tyrannies of the revolution, is as dangerous a weapon as that which it replaced. Yet since state activity is inescapable under modern conditions, and in default of better sanction, this principle must be invoked as the basis of government. Having made this half hearted concession to the principle of sovereignty, Constant immediately arrayed against it a host of limitations, couched apparently in orthodox terms of natural rights. But there is strikingly absent any generous concern for the interests of the collective body called the people or even for the interests of the majority. Constant was too closely akin in temperament to the ideologues to accept unreservedly a rationalistic, eighteenth century interpretation of natural law, with its implications of equality and uniformity. There was beginning to appear, beneath his moral apostrophes, a note of calculating demand on the part of the individual citizen to be left alone in his attempts to find happiness in his own unconforming way. In the new era of industry and commerce the individual is absorbed in his work. He has no leisure to participate directly in government. In many cases he has no leisure to devote adequate thought to the selection of a representative and is therefore reconciled to discriminations in the franchise. But he will find compensation if in his daily life and work he is free from authoritarian interference. Any gain on the part of the state is a corresponding loss to the individual. That such advances should be kept at an irreducible minimum was the starting point of Constant's political program. As the fundamental safeguard he adapted the theory of a rigid separation of powers, at the same time making a significant contribution to the technique of constitutional monarchy in his assignment to the monarch of the completely negative role of arbitrator between the four other organs. His minor bulwarks of individualism—responsibility of ministers and their agents, liberty of the press, due observance of legal forms and a system of federalism in which the local government is an independent branch of the executive power—were written large in the liberal program, while the negative implications of his doctrines were emphasized and constantly appealed to by nineteenth century liberals.

EDWIN MIMS, JR.

Important works: *Collection complète des ouvrages publiés sur le gouvernement représentatif et la constitution actuelle de la France, formant une espèce de cours de politique constitutionnelle*, 4 vols. (Paris 1818–20; new ed. with title *Cours de politique constitutionnelle*, 2 vols., Paris 1872); *Discours à la chambre des députés*, 2 vols. (Paris 1827–28); *De l'esprit de conquête et de l'usurpation* (Paris 1813; new ed. 1918); *De la religion, considérée dans sa source, ses formes et ses développements*, 5 vols. (Paris 1824–31; vol. i, 2nd ed. 1826).

Consult: Rudler, G., *Bibliographie critique des oeuvres de Benjamin Constant* (Paris 1909), especially appendix; La Lombardière, J. de, *Les idées politiques de Benjamin Constant* (Paris 1928); Hiestand, J., *Benjamin Constant et la doctrine parlementaire* (Geneva 1928); Bouglé, C., "La philosophie politique de Benjamin Constant" in *Revue de Paris*, 21st ser., vol. ii (1914) 209–24; Michel, H., *L'idée de l'état* (Paris 1895) p. 299–316; Faguet, É., "Benjamin Constant" in his *Politiques et moralistes du 19ème siècle, première série* (3rd ed. Paris 1891) p. 187–255.

CONSTANTINE (Constantinus, Flavius Valerius) (*c.* 274–337), Roman emperor. Constantine was born in upper Moesia (Serbia) and was the son of the emperor Constantius I. He was saluted as Caesar by the army in Britain in 306, became Augustus in 307 and in 312 gained possession of Rome and the western half of the Roman Empire as senior Augustus. After defeating and deposing his colleague Licinius in 324 he ruled as sole emperor until his death.

The administrative reforms of Constantine were a logical outgrowth of the changes initiated by Diocletian in the interests of autocracy, bureaucracy and military efficiency. They gave to the empire the organization which it retained with no substantial changes until the seventh century. In his religious policy, however, he boldly reversed the practise of his predecessors. By the so-called Edict of Milan in 313 he raised Christianity to equality with the public pagan cults, and by the privileges subsequently con-

ferred upon the Christian clergy he paved the way for its ultimate triumph in the Christian Roman Empire. He insisted upon unity within the church and hence was drawn into the problems of sectarian strife involving the Donatists and the Arians. In this sphere he undertook to uphold the opinion of the majority of the bishops and exercised the right to summon and preside over councils and to validate and enforce their decisions, as in the cases of the councils of Arles and Nicaea. This exercise of imperial authority in religious controversies was the initial step in the development of Justinian's Caesaro-papism.

By founding Constantinople as a Christian city to be the new capital of the empire (326) Constantine did much to foster the rise of the Byzantine state with its remarkable fusion of Greek, Roman and Christian cultures.

A. E. R. Boak

Consult: Schwartz, Eduard, *Kaiser Constantin und die christliche Kirche* (Leipsic 1913); Coleman, C. B., *Constantine the Great and Christianity*, Columbia University, Studies in History, Economics and Public Law, vol. lx, no. i (New York 1914); Maurice, Jules, *Constantin le Grand* (Paris 1925); *The Cambridge Medieval History*, vols. i–vi (London 1911–29) vol. i, ch. i; Stein, Ernst, *Geschichte des spätrömischen Reiches*, vol. i– (Vienna 1928–).

CONSTITUENCY is the term applied to each unit or district represented in a legislative body. With the growth of modern democracy a constituency has come to embrace a distinct geographical area, but in the earlier stages of representative government it was usual to establish legislative bodies upon the basis of distinct classes or estates. The nobility, the clergy and the commons were often represented in separate bodies. The extent of the commons to be represented compelled districting for convenience, and the geographical district provided a solution of the problem. But the older system of class representation has furnished the starting point of modern theories of functional representation which look toward social or occupational groups as the basic units.

The requirement that "knights of the shire and citizens and burgesses should be dwelling and resident" within the constituencies they represented, although adopted in England in the reign of Henry v, was never enforced and in 1774 laws relating to the residence of persons elected to Parliament were repealed. In the American colonies the development was the reverse. In Massachusetts, by act of the assembly in 1693, it was directed that representatives must reside in the towns for which they were chosen. This practise was followed generally throughout the colonies. By 1776 the idea generally prevailed that no man in any colony, regardless of wealth or attainments, could so efficiently serve in the colonial legislature for a given district as one who lived within that district. It was this notion which led the framers of the Constitution of the United States to require that senators and representatives shall be inhabitants of the state in which they are chosen.

Formerly representatives in legislative bodies were controlled by instructions from their constituents. This practise, in vogue in England as late as the seventeenth century, was brought to America. In Massachusetts deputies were sent from towns to the general courts with instructions governing their conduct in that assembly and on their return they were required to report on the business transacted. From New England the practise of voting instructions spread to the other colonies. In the southern colonies instructions were not voted until after 1765, although the right of petition was granted and freely exercised from a much earlier date.

Meanwhile in England a new theory of representation arose which was inconsistent with the practise of instructions. Beginning in the *Discourses concerning Government* of Algernon Sidney (London 1698) and culminating in the speech of Edmund Burke to the electors of Bristol in 1774 (*Works*, vol. ii, Boston 1865, p. 89–98) the idea developed that after the representatives had been returned and had taken their seats in the House of Commons they ought not any longer to have a dependence upon those they represented. "As members of this House," Sir William Yonge told his colleagues in 1734, "they ought to drop not only their dependence upon, but even their concern for the particular city they represent, in order to concur with the rest of the members of this House in what they judge to be for the general interest of the nation" (Cobbett's *Parliamentary History of England*, vol. ix, London 1811, p. 451). Instructions to members of Parliament by the electors were barred on the ground that they would hamper representatives in the discharge of their lawful duties and by restricting the freedom of parliamentary debate hinder their legislating for the good of the whole community.

The idea of a restricted mandate was not applied to the members of the United States House of Representatives. These men were not to be simply the delegates of the people; for the

purposes of government they were to be the people themselves. They were to be guided by "the deliberate sense of the community," but this was not to require "an unqualified complaisance to every sudden breeze of passion, or to every transient impulse which the people may receive from the arts of men, who flatter their prejudices to betray their interests" (*The Federalist*, ed. by H. C. Lodge, New York 1888, p. 446). But senators were deemed to be "in the quality of ambassadors of the states" (Elliot, J., *Debates on the Federal Constitution*, vol. ii, 2nd ed. Philadelphia 1881, p. 46). It was therefore considered entirely appropriate that they should receive instructions from the state legislatures which elected them. At the outset the state legislatures instructed their senators very freely, in some cases demanding the resignation of those who refused compliance. It was not until the Whig party, which opposed the "doctrine of instructions," came into power that the practise fell into disuse.

The rise of the party system substituted another means of control. Representatives today so definitely owe their places to the party organization that an intermediate agency stands between them and the electorate. Faithful service to the party is necessary to continuance in public office, but the obligation is primarily to the local party organization. The party exercises control over the representative supposedly in the interest of its members, but however successfully the control is exercised in the interest of the constituency it is the party, not the constituency as such, which must assume responsibility for the public conduct of the representative.

The success of English speaking peoples in operating the institutions of representative government has led to the extension of the system in many countries. But thereby variations in the theory and practise of representative government have arisen. In Latin American countries the representation in the legislative body is as a rule of a general rather than a local character, and party organizations based upon religious or economic differences struggle for control of the government. The same observation may be made of representative government in many of the countries of continental Europe. The experience of Great Britain in extending representative government to India is more or less indicative of the course of development in many parts of the world. In India votes seem to depend very little upon questions of policy but almost entirely on religion, caste, local pressure or personal grounds. The voter does not seem to have asserted any hold upon his representative, nor do the elected legislators feel that they owe him allegiance. In short, the mandate from the constituency does not exist.

WILLIAM SEAL CARPENTER

See: REPRESENTATION; FUNCTIONAL REPRESENTATION; ELECTIONS; APPORTIONMENT; GERRYMANDER; PARTIES, POLITICAL.

Consult: Carpenter, William S., *Democracy and Representation* (Princeton 1925); Porritt, Edward, *The Unreformed House of Commons*, 2 vols. (Cambridge, Eng. 1903) chs. vii, xiii, xiv; Ogg, F. A., *English Government and Politics* (New York 1929) ch. xii; Phillips, Hubert, *The Development of a Residential Qualification for Representatives in Colonial Legislatures* (Cincinnati 1921); Colegrove, Kenneth, "New England Town Mandates" in Colonial Society of Massachusetts, *Publications*, vol. xxi (1919) 411–49; Ford, H. J., *Rise and Growth of American Politics* (New York 1898) ch. xx; McBain, H. L., and Rogers, Lindsay, *The New Constitutions of Europe* (New York 1922) chs. v–vi.

CONSTITUTIONAL CONVENTIONS. The term constitutional convention designates a representative body chosen for the purpose of considering and either adopting or proposing a new constitution or changes in an existing constitution. As an integral part of governmental structure the constitutional convention is characteristically an American institution. But conventions or constituent assemblies were used during the French revolutionary period and have been used in other countries as well to frame constitutions when older institutions have been entirely superseded by revolution or otherwise. Constituent assemblies were employed for the framing of many of the post-war constitutions of Europe. The Argentine constitution provides for revision through a constitutional convention, and some other constitutions provide for similar devices. Some of the elements of a constitutional convention are found in the French National Assembly composed of the two houses meeting together for the purpose of revising the constitutional laws, but the members of the French Senate and Chamber of Deputies are not chosen especially for this purpose.

The constitutional convention had its origin in the American Revolution. Provincial assemblies had been in most of the colonies subject to prorogation or adjournment by royal governors. They were in the early days of the revolution largely replaced by provincial congresses or conventions. These, when it became

necessary to set up new forms of government, were called upon to take action. Since the theory of social contract lay at the foundation of the political philosophy of the American Revolution, it was natural that in framing new constitutions some application should be made of the principle that government rests upon compact. During the period of the making of state constitutions in 1776 and 1777 no special conventions were assembled or could conveniently have been assembled solely for the purpose of framing constitutions, but in at least eight states the existing congresses or conventions which framed constitutions were expressly authorized by the voters to take such action, and in several states new elections of delegates were held primarily for the purpose of obtaining such authorization. The first constitutions of Virginia, South Carolina and New Jersey were framed by bodies without explicit authorization by the voters, and some of the members protested against such action in Virginia and South Carolina.

The theory of the social contract may also have been responsible for the prevalent feeling that no constitution should be put into effect until it had been approved by the people. Objection was made to the New Hampshire constitution of 1776 because it was not submitted to the people, and resolutions of local bodies sought to obtain such submission in North Carolina in 1776 and New York in 1777. Informal submissions were made in Maryland, Pennsylvania and North Carolina in 1776 and in South Carolina in 1778. The proposed Massachusetts constitution of 1778 was the first instrument of government framed by a legislative body authorized to take such action and formally submitted to a vote of the people. New Hampshire took the further step in 1778 of assembling a convention for the sole purpose of framing and submitting a constitution. In the framing of the Massachusetts constitution of 1780 were first combined all the steps now common in the use of state constitutional conventions: the submission to popular vote of the question of calling a convention for the sole purpose of framing a constitution, the popular election of members to compose the convention, the submission of the constitution to popular vote.

By 1784 the constitutional convention was firmly established as a body distinct from the legislature. The constitutions of Pennsylvania (1776), Vermont (1777), Massachusetts (1780) and New Hampshire (1784) provided for the future use of conventions. With few exceptions state constitutions have since 1784 been framed or adopted by constitutional conventions. Although twelve state constitutions now contain no provision for the assembling of constitutional conventions, the propriety of calling them is recognized in all states except Rhode Island, where a proposed new constitution, drafted by a convention under legislative authority, was rejected in 1898 and 1899. An effort of the Indiana legislature in 1911 to propose a new constitution was enjoined by the courts [Ellingham *v.* Dye, 178 Ind. 336 (1912)], but a substantially complete revision of the Virginia constitution was made by legislative proposal of amendment and approved by popular vote in 1928. In New Hampshire the constitution can be amended only as a result of proposals by a constitutional convention.

The Constitution of the United States was framed by an especially assembled convention and provides for amendment through the use of conventions, but this plan has never been used or seriously considered since 1787; instead the amendments have been proposed by the two houses of Congress and ratified by the state legislatures.

More than two hundred constitutional conventions have been held in the states or in territories seeking admission to the union, but not all of these conventions have framed constitutions. The more successful recent practise has been for conventions not to submit complete revisions of constitutions but to limit themselves to the proposal of amendments to the existing state constitution, as was done in Ohio in 1912, in Massachusetts in 1917–19 and in Nebraska in 1920. The convention when so used performs the same service as does the state legislature in proposing amendments but has the advantage of limiting itself to the one task of considering proposed changes in the state constitution.

Most of the state constitutions require that the question of calling a constitutional convention be submitted to popular vote; some require that it be submitted at regular intervals —New York, for example, requires submission every twenty years, New Hampshire every seven years. Where constitutions do not require a popular vote on the question or contain no provisions whatever regarding conventions, it may generally be assumed that the legislature has power to call a convention without popular

vote; the Indiana Supreme Court, however, in 1917 (Bennett *v.* Jackson, 186 Ind. 533, 539) held that a popular vote was necessary even though the constitution contains no provision whatever regarding a convention.

The constitutional convention as developed in the American states is a unicameral body composed of delegates elected by popular vote. The members are ordinarily elected from the districts employed for the election of members to the legislature. If, therefore, the constitutional defect to be cured is one of underrepresentation of any group in the state legislature, the convention is not an effective instrumentality, because like the legislature it will reflect the interests of the groups that are overrepresented.

Once a convention is authorized and assembled, its procedure is largely determined by the fact that it is a unicameral body convened for one specific purpose. In order to perform its functions adequately it must have control over its membership and power to determine its procedure and to elect its officers. Its committee organization must largely be determined by the specific purposes for which it is assembled. If the purpose is merely that of proposing a few amendments to an existing constitution, as has several times been the case in New Hampshire, the procedure naturally differs from that in a convention which is convened to draft a new constitution or to submit a complete revision of an existing constitution.

The federal convention of 1787 sought to reach agreement upon matters of general principle by sitting in committee of the whole. A committee of detail was then appointed and later a committee on such parts of the constitution as had been postponed or had not been acted upon. Ultimately the plan was referred to a committee on style and arrangement, which drafted the constitution in what was practically its final form. In a number of the earlier state conventions a small committee was appointed with power to prepare and report the draft of a constitution to the full convention. This method was adopted by the revolutionary conventions of Maryland, Virginia, New Jersey and Pennsylvania in 1776 and by those of New York and Vermont in 1777; all these conventions were assembled not only to frame constitutions but also to conduct the state government in time of war. A special committee to frame the constitution was also used in the Massachusetts convention of 1779–80. The plans employed in framing these earlier constitutions gave greater opportunity for the dominating influence of one man. Thus the Pennsylvania constitution of 1776 largely reflected the views of Benjamin Franklin, and the influence of John Adams appeared dominantly in the Massachusetts constitution of 1780. The more common and more recent practise of conventions has been to appoint a number of committees and to assign to each the consideration of proposals involving a particular subject. Usually there is also a committee on style, or on arrangement and phraseology, whose function it is to harmonize the various proposals approved by the convention and to draft the proposed constitutional changes in form for final approval by the convention.

Of the state constitutions adopted before 1785 only those of Massachusetts (1780) and New Hampshire (1784) were formally submitted for popular vote. From the revolutionary period to 1829 constitutions were occasionally so submitted. The second Virginia constitution was submitted in 1829, and from this time until 1860 submission was the prevailing although not uniform practise. During the Civil War period submission became the exception rather than the rule in the southern states. From the Civil War until 1890 constitutional conventions almost uniformly submitted their work to popular vote, and, while such submission has been the more common practise, since 1890 constitutions were put into effect without popular vote in Mississippi (1890), South Carolina (1895), Delaware (1897), Virginia (1902) and Louisiana (1898, 1913, 1921). Of the thirty-six state constitutions which explicitly provide for constitutional conventions nineteen require that constitutional changes framed by such conventions be submitted to the people.

In the state constitutional system the convention has become a recognized organ for the revision of the state's fundamental law. A constitutional convention when assembled in no way supersedes the organs of the existing state government and does not take over the ordinary functions of state government. Its function of adopting or proposing constitutional change is in a sense legislative but is limited by the purpose for which the convention is assembled. Conflicts between a convention and the state legislature have infrequently occurred, but occasionally legislatures in acts providing for conventions have sought to limit the powers of the convention. Judicial expressions in sup-

port of legislative power to impose such limitations are found in Pennsylvania and Louisiana; the sounder view, however, seems to be that expressed by the judiciary committee of the New York convention of 1894: "It is of the greatest importance that a body chosen by the people of this state to revise the organic law of the state, should be as free from interference from the several departments of governments as the legislative, executive, and judiciary are, from interference by each other. Unless this were so, the will of the people might easily be nullified by the existing judiciary or legislature. Should the latter attempt to enact a law prohibiting the constitutional convention from restricting the existing power of the legislature, the act would be at once recognized as an unwarranted invasion of the rights of the people" (*Revised Record of the Constitutional Convention of 1894*, vol. i, Albany 1900, p. 250).

While not altogether free from partisan influences constitutional conventions have ordinarily been less partisan than legislatures, and in some states the members have been elected on a non-partisan ticket. They have ordinarily, however, been content to follow rather than to lead, and since the revolutionary period and the framing of the national constitution little of constructive statesmanship has developed in such conventions. They have imposed limitations upon legislative authority in order to prevent the continuance or repetition of legislative policies that have failed. They have embodied in their constitutions details of policy recognized as desirable at the time the convention itself was sitting. As organs for effective state governmental policies of a permanent character they have largely failed, although this may merely be equivalent to a statement that they have been little if at all in advance of the political intelligence of the times in which they have acted. While conventions have been useful in the periodic reexamination and revision of state constitutions there is little evidence that on the whole their work has been superior to the constitutional changes proposed by the legislative bodies and adopted by popular vote.

WALTER F. DODD

See: CONSTITUTIONS; AMENDMENTS, CONSTITUTIONAL; GOVERNMENT; SOCIAL CONTRACT; ARTICLES OF CONFEDERATION; FRENCH REVOLUTION.

Consult: Jameson, J. A., *A Treatise on Constitutional Conventions* (4th ed. Chicago 1887); Borgeaud, Charles, *Établissement et revision des constitutions en Amérique et en Europe* (Paris 1893), tr. by C. D. Hazen (New York 1895); Lobingier, C. S., *The People's Law; or, Popular Participation in Law-Making* (New York 1909); Oberholtzer, E. P., *The Referendum in America* (new ed. New York 1911) chs. iii–v; Dodd, Walter F., *The Revision and Amendment of State Constitutions*, Johns Hopkins University, Studies in Historical and Political Science, n. s., no. i (Baltimore 1910); Hoar, Roger Sherman, *Constitutional Conventions* (Boston 1917); Zweig, Egon, *Die Lehre vom Pouvoir Constituant, ein Beitrag zum Staatsrecht der französischen Revolution* (Tübingen 1909); Wheeler, W. B., "Is a Constitutional Convention Impending?" in *Illinois Law Review*, vol. xxi (1926–27) 782–803; Swisher, C. B., *Motivation and Political Technique in the California Constitutional Convention, 1878–79*, Pomona College, Political Science Monographs (Claremont 1930).

CONSTITUTIONAL LAW. There are three types of constitutional law: the English type, characterized by the absence of a written constitution; the continental type, where there is a written constitution which is not judicially enforced; and the American type, where the written constitution is given effect by the judicial power to declare laws unconstitutional.

In Great Britain the constitution is the sum of principles which are observed in the exercise of the powers of government and which are embodied in acts of Parliament or other declarations or in unwritten traditions and understandings. But both the law and the custom of the constitution, having no higher formal sanction than ordinary statutes or the common law, yield to any act that Parliament may pass, however contrary to accepted and fundamental principles of government. A statute is thus legally superior to the constitution. In consequence constitutional law of this type cannot be clearly distinguished from other public law, and a treatise like Sir William Anson's on the *Law and Custom of the Constitution* (1886–92) may legitimately cover the entire range of written and unwritten law which the author regards as essential to the functioning of government.

Where the constitution forms a distinct legal instrument, as it does in most modern countries, proclaiming itself by its designation as a fundamental and paramount act, the scope of that instrument also determines the scope of constitutional law. As fundamental and paramount law the written constitution has legal validity and authority, although its only sanctions may be a promissory oath and political responsibility. The practise of continental jurists has always recognized constitutional law as one of the legal disciplines, irrespective of whether it can become matter of judicial cognizance.

This paramount authority of the constitution is greatly aided if the method of framing or amending it is such as to set it apart clearly from ordinary legislation, while it is correspondingly weakened if the constitution can be amended by an act of legislation formally indistinguishable from the enactment of other statutes, with the simple addition of observing certain safeguards in the enactment of the constitution amending legislation. Thus in Germany the constitution of 1919 is amendable by legislation in which a two-thirds majority of the Reichstag concurs, and if it is apprehended that an important statute may raise a constitutional question the practise has been introduced of reciting in the enacting clause of the statute that it has been passed by a majority sufficient to satisfy a constitutional amendment. This produces a formal confusion between constitutional and ordinary law.

The distinctive character of the constitution and of constitutional law becomes most pronounced if the violation of constitutional provisions can be made the ground of a judicial contest, and particularly where a successful contest may result in the nullification of legislative acts. The judicial power to declare laws unconstitutional may be a logical consequence of a federal constitution. If such a constitution assigns to federal laws a status superior to state laws and gives to courts jurisdiction to enforce federal laws, it follows that the legislative act of a member state cannot be given judicial effect as against conflicting provisions of federal statutes; and under the German federal constitution of 1871 the judicial power to declare state laws invalid in this respect has always been acknowledged by German jurists, the relation between federal and state laws being analogous to the relation between a statute and a municipal ordinance or between a statute and an administrative regulation. The federal constitution will have the same paramount force as a federal statute.

Under the constitution of a unitary state or of a federated member state, which limits legislative powers, the title of the courts to an enforcing authority by way of nullification of statutes is as a matter of theoretical jurisprudence controversial. In opposition to the power it may be argued that a constitution, even if its mandates are intended as checks having the character of law, addresses itself to the political organs of the state; and that the reliance upon a politically operative sanction expresses itself in the manner of phrasing its provisions, many of the clauses being so generally worded as to be more appropriate for legislative elaboration than for the application of judicial rules of construction. The classical American exposition of this view is to be found in the opinion of Chief Justice Gibson of Pennsylvania in the case of Eakin *v.* Raub [12 S. and R. 330, 348 (1825)], in which it is pointed out that "the constitution, then, contains no practical rules for the administration of distributive justice, which alone concerns the judiciary; and that these rules are furnished in acts of ordinary legislation . . . ." Even where constitutional provisions are legally phrased, it may be claimed that under a theory of coordination of the three departments of government the action of the legislature, which must interpret in order to legislate and which is called upon to act first in order of time, is entitled to respect on the part of the courts, just as the courts assume that the executive in enforcing their judgments will respect their interpretation. The argument in favor of the finality of legislative interpretation has in the past generally prevailed with foreign jurists, and this view has found express recognition in the Prussian constitution of 1850 (article 106) and in the Swiss constitution of 1874 (article 113).

The argument in favor of an overriding judicial power of interpretation has found expression in Chief Justice Marshall's opinion in the case of Marbury *v.* Madison [5 U. S. 137, 176–180 (1803)], and American lawyers have generally accepted it as valid and final. It is particularly noteworthy that Chief Justice Gibson toward the close of his judicial career, "from experience of the necessity of the case," recanted the opinion expressed twenty years before in Eakin *v.* Raub [Norris *v.* Clymer, 2 Pa. St. 277 (1845)]. Inevitably the controversy was settled not on the basis of logic but as a matter of historical development and of popular acquiescence. During the colonial period the way had been prepared by theories of popular sovereignty, of natural rights, of paramount laws and of limited legislative powers; and the recognition of the judicial power expresses a profound and universal conviction that the function of interpretation can be most safely entrusted to courts of justice and constitutes, as it were, a judicial monopoly.

Once established, the judicial power to declare laws unconstitutional dominates constitutional law as a branch of jurisprudence. Treatises on constitutional law are devoted mainly to the analysis of judicial decisions, and the professional and academic study of constitutional law is the study of case law. Congress itself dis-

cusses its powers almost entirely on the basis of judicial decisions and is in danger of losing a sense of independent responsibility; because the Supreme Court feels compelled to give effect to a statute which violates a treaty, we find Senator Lodge declaring that "the right of Congress to abrogate a treaty directly or indirectly by statute is unquestioned and has been sustained by the Supreme Court" (*Congressional Record*, vol. lxi, 1921, pt. i, p. 836).

Under the dominance of case law constitutional relations with which the courts are not likely to deal assume a secondary place in legal treatment. Such matters as the difference between presidential and parliamentary forms of government are in any event rather political than legal; but even where legal provisions control or at least enter into constitutional relations, the issues are not likely to be thoroughly ventilated until they become matter of judicial controversy. The presidential power of removing officers was incorporated into constitutional law only by the decision in the Myers case [272 U. S. 52 (1926)], rendered long after the power had been practically conceded by the legislative repeal of the Tenure of Office acts; for the issue made by President Wilson in connection with the national budget bill in 1920 was quickly dropped by President Harding.

Perhaps it has been a factor in making it possible for the judicial character of American constitutional law to establish itself that, generally speaking, politically controverted issues were kept out of court with the conspicuous exception of the Dred Scott Case; and this again was possible because there were—apart from the right of secession—no greatly controverted political issues; had there been anything in the United States like the protracted struggle between legislature and executive that has recently been witnessed in the Philippines, we might have come to realize the limits of the capacity of the courts to determine vital constitutional issues.

The habit of judicial scrutiny has, however, also enlarged the province of constitutional law. On the one hand, increasingly legalistic phrasing of constitutional provisions has led to increasingly legalistic interpretation; on the other hand, the courts have become astute in discovering limitations of legislative power on the basis of general clauses and principles.

The growth in length of American state constitutions has often been commented on. If the direction of the growth is analyzed it will be found that the fundamental guaranties of private rights have remained almost stationary; that while there has been some attempt at fixing social and economic policies in the constitution the movement has not been sustained; and that on the whole the increase in bulk has been due to detail of organization. In some cases the policy of constitutional fixation is obviously due to distrust of the legislature, as in the apportionment of representative districts in the constitution of the state of New York, which leaves nothing to further legislative action; but in most cases the practise serves no intelligible purpose beyond gratifying the desire of the constitution makers to perpetuate arrangements which they consider wise.

The more elaborate the constitutional organization, the more likely it is to contain implications that are unrealized and unforeseen, and such resulting limitations may under a legalistic spirit of judicial construction seriously impede legislative and constitutional progress. The constitutional recognition of an office may lend color to claims of independence from statutory regulation [People ex rel. Gullett et al. *v.* McCullough, 254 Ill. 9 (1912); State ex rel. University of Minnesota *v.* Chase, 175 Minn. 259 (1928); Board of Regents of the University of Michigan *v.* Auditor General, 167 Mich. 444 (1911)], and the constitutional power to appoint subordinates will prevent the application of the merit system to the office until the merit system itself is written into the constitution [People ex rel. Killeen *v.* Angle, 109 N. Y. 564 (1888)]. Such administrative independence from the legislature produces a species of legislative anarchy, since there is no available method of making a rule voluntarily adopted binding upon successors in office except through comity, and departure from rule or precedent has all the sanction of new law. It also involves difficulties, in the way of making the official power fully operative through appropriate sanctions, which the courts laying down the doctrine of independence have apparently not thought out.

The history of reform movements is a history of constitutional obstacles to be overcome, and in many cases the impeding provisions had in their turn been the product of reform movements. The first constitution of Illinois, adopted in 1818, would be a more serviceable instrument today than the present constitution of 1870; and the proposed but defeated constitution of 1922 would have created as many obstacles as it removed. The formal or style re-

quirements relating to the title of statutes and amending acts create constitutional problems without serving any valuable purpose. An altogether undue proportion of American constitutional law is of this technical and almost futile character. The obvious remedy of a proper restraint in the piling up of constitutional detail is a counsel of perfection; the leaders of the bar, who generally play a prominent part in constitutional conventions, apparently regard the elaborate type of instrument as politically inevitable.

The earlier type of a brief instrument is at present best represented by the Constitution of the United States, which has the double aspect of a federal compact and a fundamental law. The jurisdictional adjustments in a federal state offer a specific judicial problem which is complicated in the United States by the fact that a distribution of powers made for a relatively loose federation had to be made to fit a constantly more closely welded national union. The interpretation of the commerce clause both as a grant of power to Congress and as a limitation upon the states must be judged as a political rather than as a legal performance.

If from the point of view of constructive jurisprudence it may be contended that the undue rigidity of American as compared with other federal adjustments (resulting, for example, in the matter of divorce jurisdiction in "twilight zones" incapable of being adequately dealt with by legislation) has been added to rather than tempered by judicial construction, particularly by the theory that even the moderate exercise of state power must be denied if its possible abuse might injure national interests, this too must probably be attributed to the feeling that the benefit of any doubt should be given to the national power. However, the Supreme Court has not been consistent in this respect, and its subtle distinctions occasionally manifest serious error as well as deplorable fluctuation.

The explicit limitations upon legislative powers (as distinguished from limitations resulting from positive provisions) which we find in all American constitutions are partly specific and partly general. The specific limitations, largely the heritage of past constitutional struggles, relate to political rights and the possible abuse of governmental power through criminal legislation and the administration of justice and are of great historic and legal interest; but it is in the general limitations that we look for the essence of constitutional law. The general limitations are associated with the concepts of due process, the equal protection of the laws and the separation of powers. Due process is enjoined by the federal constitution both upon Congress, in the Fifth Amendment, and upon the states, in the Fourteenth Amendment, so that the same guaranty by the state constitutions has become of minor importance. The equal protection of the laws is enjoined by the federal constitution upon the states; and the separation of powers is a principle both of federal and of state government, but is not enjoined by the federal constitution upon the states. Even if this separation could be said to be essential to the republican form of government, which the United States guarantees to the states, that guaranty is held to be merely political, and not judicially enforceable [Pacific States Telephone and Telegraph Co. *v.* Oregon, 223 U. S. 118 (1912)].

The equal protection of the laws was written into the Fourteenth Amendment as a result of the Civil War and was intended for the protection of the Negro race. It has prevented compulsory residential segregation of the two races but not segregation in schools or in public conveyances. Judged merely by judicial decisions its effect upon legislative race discrimination may be regarded as only moderate; but it has undoubtedly prevented the enactment of much adverse race legislation, and this "invisible" result is probably more important than that which is reflected in the action of the courts. The equal protection of the laws may also be relied upon to defeat legislative discrimination other than that based upon race. The decision of the Supreme Court that an exemption of agricultural producers invalidated an antitrust statute [Connolly *v.* Union Sewer Pipe Co., 184 U. S. 540 (1902)] was for a long time the most advanced judicial position taken in that respect; and the authority of that decision was greatly weakened, if not destroyed, by the later almost universal adoption of a legislative policy favoring agricultural cooperation, which the Supreme Court now supports [Liberty Warehouse Co. *v.* Burley Tobacco Growers Ass'n., 276 U. S. 71 (1928)]. More recently, however, the Supreme Court has given the principle of equality new and unexpected applications, particularly in favor of corporations in the matter of licensing requirements [Louis K. Liggett Co. *v.* Baldridge, 278 U. S. 105 (1928); Frost *v.* Corporation Commission of Oklahoma, 278 U. S. 515 (1929)] and of tax discrimination [Schlesinger, Executors, *v.* Wisconsin, 270 U. S. 230 (1926); Untermeyer *v.*

Anderson, 276 U. S. 440 (1928); Quaker City Cab Co. *v.* Pennsylvania, 277 U. S. 389 (1928)]. While these decisions are marked by strong dissents and are incapable of being reduced to consistent and easily workable rules, they serve as a warning that if the indispensable legislative power of classification is used by way of unjust discrimination it must at least be prepared to stand the test of judicial scrutiny.

The principle of the separation of powers raises problems of constitutional law in connection with the delegation of legislative power and with the independence of the judiciary. Since delegation of legislative power to some extent is inevitable and since total surrender is improbable in America, the question is entirely that of the reasonableness of the particular delegation of power. The Supreme Court, while subscribing to the principle of non-surrender, has sustained delegation where it has become a practical legislative proposition, particularly in connection with the so-called flexible tariff [Hampton and Co. *v.* United States, 276 U. S. 394 (1928)]. The integrity of the judicial power is construed by the Supreme Court to mean that a court cannot be burdened with the function of advice or inconclusive determination—a technical doctrine, the precise implications of which are not as yet ascertainable. The freedom of ordinary civil and criminal justice from executive or legislative interference is firmly established; but in connection with the exercise of administrative justice the question is to what extent administrative determinations may be made conclusive. While the jurisdiction of administrative commissions has expanded rapidly, an adequate right to judicial review has either been recognized as a matter of common law or has been accorded by statutory provision or, if necessary, has been enforced by the courts as a constitutional right.

The protection of the right to judicial review by the federal Supreme Court [Ohio Valley Water Co. *v.* Ben Avon Borough, 253 U. S. 287 (1920)] shows that it constitutes part of the guaranty of due process and not merely of the separation of powers.

Due process is the most inclusive of constitutional guaranties and its expanding application makes it almost possible to ignore more specific clauses. It may be convenient to identify with due process the entire theory of inherent limitations upon legislative power which has been produced by the more recent development of constitutional law.

Until the middle of the nineteenth century the idea of inherent limitations in accordance with natural law theories was confined to the protection of vested rights from retrospective invasion; and there was no suggestion that freedom of individual action had an assured immunity from legislative regulation by general and prospectively operating rules, except as such immunity was incorporated in specific guaranties (freedom of speech and press, religion, etc.). After the Civil War there gradually emerged the idea that as in the administration of justice due process in the last analysis stands for just cause, so just cause is also a requirement to be observed in legislative interference with private right and means in connection with such legislation the reasonable exercise of some legitimate function of government. The first conspicuous application of this theory by the Supreme Court related to inherent limits of the taxing power, and the theory was here applied without specific reference to the due process clause [Loan Association *v.* Topeka, 87 U. S. 655 (1875)].

The impulse to the insistence upon inherent limitations was given by a conservative opposition to a growing popular conviction that unchecked capitalistic power was detrimental to public interests. The popular conviction manifested itself in measures for the control of railroads and later of trusts and for the protection of labor; the opposition centered on railroad and on labor legislation. The decisions in the so-called Granger cases of 1877 concede full power of legislative control over "business affected with a public interest" (eventually qualified by holding that regulation must not become confiscation); but Chief Justice Waite intimated that there was no power to control rights purely and exclusively private [Munn *v.* Illinois, 94 U. S. 113 (1877)]. This foreshadowed the constitutional right of freedom of contract, which became conspicuous first in connection with labor legislation and then in connection with other economic regulation.

The recognition, under the guaranty of due process on behalf of liberty and property, of a sphere of immunity from legislative regulation must, for the present at least, be regarded as part of American constitutional law. Where there are no special conditions either by reason of the nature of the business (transportation, insurance) or by reason of great public emergency [housing shortage, Block *v.* Hirsh, 256 U. S. 135 (1921)] a majority of the Supreme Court holds legislation directly or indirectly fixing prices, wages or rent to be invalid [Adkins et al. *v.*

Children's Hospital, 261 U. S. 525 (1923); Jay Burns Baking Co. *v.* Bryan, 264 U. S. 504 (1924); Chastleton Corporation *v.* Sinclair, 264 U. S. 543 (1924); Tyson and Brother *v.* Banton, 273 U. S. 418 (1927); Fairmont Creamery Co. *v.* Minnesota, 274 U. S. 1 (1927); Ribnik *v.* McBride, 277 U. S. 350 (1928)]—all of these being decisions rendered in the decade between 1920 and 1930. Until recently it seemed that this protection was confined to economic liberty, but two significant decisions have applied it to the right of private education, thus supplementing, carrying forward and to some extent rendering superfluous the more specific social and political guaranties of state constitutions [Meyer *v.* Nebraska, 262 U. S. 390 (1923); Pierce *v.* Society of Sisters, 268 U. S. 510 (1925)].

Equally or more significant is the judicial enforcement, in the name of due process, of the conformity of legislation to what are conceived as essential standards of justice and general jurisprudence. It was an anomaly that the Court of Appeals of New York declared a statutory liability of an employer irrespective of fault to be in violation of due process, suggesting that if such liability was to be established specific authority should be given by the state constitution (which was subsequently done); for this proposition in effect implied that due process meant one thing in the state constitution and another thing in the federal constitution. Characteristic of the new tendency are, however, the following rulings: against the practise of having judges profit by convictions [Tumey *v.* Ohio, 273 U. S. 510 (1927)]; against the exercise of regulative power by the irresponsible consent or veto of interested owners [Seattle Title Trust Co. *v.* Roberge, 278 U. S. 116 (1928)]; against unjustifiable adverse presumptions [Manley *v.* Georgia, 279 U. S. 1 (1929); Western and Atlantic Railroad Co. *v.* Henderson, 279 U. S. 639 (1929)]; and against penal legislation phrased in indefinite terms [Cline *v.* Frink Dairy Co., 274 U. S. 445 (1927)]. These decisions were rendered by a unanimous court in contrast to the division of opinion in the decisions recognizing a constitutional immunity from legislative regulation.

The two classes of decisions, the one protecting liberty and the other protecting justice, obviously represent different lines of thought. Canons of justice are reasonably permanent and universal, and if we are to recognize at all such a thing as a judicially enforceable inherent limitation upon legislative power it ought to be applied to the anomalous survival of commonly reprobated legislative practises; from this point of view it might be expected that the Supreme Court would no longer countenance a special divorce granted today by a legislature without notice to the non-consenting spouse, as it did in 1888 with reference to a divorce granted in 1852 [Maynard *v.* Hill, 125 U. S. 190 (1888)]. The judicial setting of boundaries to the police power in disregard of the fact that they are juristically undefinable is another matter. The Supreme Court operates with unclarified distinctions and decides by bare majorities; the undefined private right is always countered by an undefined public power, and the doctrine of overriding emergency will always be available for a reversal of untenable rulings. The mere mechanical expansion of public power creates an increasing dependence of private interests upon the affirmative good will of the state. When German constitutions speak of the freedom of doctrine they refer to doctrine as taught by a public system of education, and we shall have to realize that education is not free if the state can forbid the teaching of evolution in public schools—just as the freedom of the press now depends on mail privileges, as adequate freedom of expression may in the future depend upon state controlled broadcasting facilities, and just as the right to bear arms has become meaningless if the use of machine guns or of gas may be confined to public authorities. Courts must necessarily wage a losing fight if they attempt to protect a right of individual liberty against a resisting or even non-cooperating state.

If due process is to be looked upon as a permanent part of constitutional law it is not likely to be identified with an unchanging economic or social theory of individualism but rather with the observance of due standards of legislation. As regards the latter, however, while judicial censorship may occasionally correct legislative inadvertence or arbitrariness it is not greatly needed for that purpose, at least where legislative practise is guarded by respectable tradition and responsible leadership. A real conflict between legislative and judicial power is likely to be a conflict of policy and not of law. This explains why the free dominions of the British Empire have been willing and able to dispense with the due process guaranties. It also explains why post-revolutionary Germany, where legislature and judiciary to some extent represent divergent political tendencies, is witnessing a movement in the direction of using,

upon the American model, the constitutional guaranty of property for the purpose of questioning and invalidating legislative acts (Germany, Reichsgericht, *Entscheidungen des Reichsgerichts in Zivilsachen*, vol. cxi, p. 322). It makes little difference in what form a constitutional guaranty is phrased: under appropriate conditions it will serve as a weapon in the hands of the judiciary against acts of government of which the conservative sense of the community disapproves.

The judicial enforcement of American constitutional law operates through civil or criminal litigation in which the validity of legislation is merely an incidental point; a cause of action is asserted or a defense interposed upon the theory that a statute which vitally enters into the controversy is null and void. The court decides in favor of the plaintiff or the defendant, its decision being, so far as necessary, controlled by the view which it takes of the validity of the act; but there will be no formal judgment annulling the statute, as seems to be assumed by some of the propositions for requiring the concurrence of all members but one of the Supreme Court in a judgment declaring a law unconstitutional. The Supreme Court even holds that a direct action to annul an act of Congress is not an exercise of the judicial power as defined by the constitution and cannot therefore be authorized by Congress [Muskrat *v.* U. S., 219 U. S. 346 (1911)]. Foreign constitutions provide for the submission of constitutional controversies as such to tribunals given jurisdiction for that purpose, but this practise is unknown to American constitutional law. The practise of advisory opinions in a few states, e.g. Massachusetts, is of a different character.

A court will not decide a constitutional question if the case can be disposed of without it (such at least is the theory); but since some decision is necessarily consequent to private litigation it is not always possible to avoid a politically undesirable issue. In practise this has caused no great inconvenience; the Dred Scott Case, which might be cited to the contrary, was one of the cases in which the Supreme Court went out of its way to decide a constitutional issue which was not necessary to the disposition of the actual controversy. Indeed, the possibility of forcing the determination of questions of public law by private initiative is one of the notable incidents of the American system of constitutional law and on the whole must be counted as a political benefit.

A constitutional provision existing for the protection of private rights may be waived by consent or failure of timely objection, the most conspicuous illustration being the waiver of trial by jury [Patton *v.* United States, 281 U. S. 276 (1930)]; but this must not be carried by the legislature to the point of requiring licenses and making a waiver of constitutional right a condition of granting the license [Frost Trucking Co. *v.* Railroad Commission, 271 U. S. 583 (1926)].

If a statute is severable those not affected by the invalid portion are not in a position to rely upon the invalidity [New York ex rel. Hatch *v.* Reardon, 204 U. S. 152, 160 (1907)]. Severability may thus become an important question. An invalid exception from a penal statute cannot well be eliminated by a court, since that would carry penalties beyond legislative intent and expression and it would therefore defeat the entire statute. If the statute includes classes of persons or conditions which cannot be constitutionally reached, a court may declare itself powerless to make a separation which the legislature may not have intended [Trade Mark Cases, 100 U. S. 82 (1879)]. To obviate this difficulty it is not uncommon to insert in a statute a severability clause, by which the legislature directs the application of the law to the extent of its validity or even declares that it would have enacted any portion of the act irrespective of the possible invalidity of any other portion. Such declarations are perfunctory, and if the invalid portion or application is vital to the entire law the declaration will avail nothing.

While the constitutionality of a statute always presents a question of law its invalidity, particularly in the case of the professed exercise of the police power, may be due to the absence of justifying factual conditions. A conclusive presumption in favor of the legislative judgment would make the police power absolute. On the other hand, since the legislature is organized as a fact finding body with regard to the needs of the public welfare, while a court is not, it is a delicate matter for the court to take judicial notice of the non-existence of evils or dangers upon which the legislative action is predicated, and this constitutes one of the crucial difficulties of a judicial censorship over legislation—a difficulty to which was mainly due the movement for the "recall of judicial decisions" sponsored by the Progressive party in 1912.

The Supreme Court recognizes that legislation which under normal conditions would impair the constitutional liberty of contract may

become justifiable under the stress of an emergency, losing its validity when the emergency disappears [Rent Cases, 256 U. S. 170 (1921); 264 U. S. 543 (1924)]. The Supreme Court has not laid down the converse proposition that a statute which it has declared invalid when enacted will be resurrected by the emergence of stronger justifying conditions, still less that it will draw life from subsequent judicial enlightenment as to the requirements of the public welfare. However, a newly enacted statute is always entitled to fresh examination, and a future retreat from some of the present decisions adverse to the exercise of the police power is not only possible but very probable. Indeed, the police power, used as a reserve concept in the losing fights of the crown against Parliament and of the state against the national legislative power, may in turn become the progressive concept by which private right will be made to yield to claims of social control.

A special condition exists where the statute operates through the exercise of administrative powers which are required by the statute to be exercised reasonably. Constitutional defect will then arise only from administrative action which by reason of such defect is reviewable by the courts and in the last resort by the United States Supreme Court, since the Fourteenth Amendment is involved. In the case of public utility rate orders successful judicial contest results in decrees prohibiting the administrative authority from interfering with the charging of a rate fixed by the court as non-confiscatory. Judicial action instead of being merely negative thus becomes in effect corrective and capable of a continuing adjustment to changing conditions. This more conservative and constructive enforcement of the constitution is possible because the statute in itself is valid, and a court has greater facilities of control with regard to administrative than with regard to legislative action.

As applied to legislation constitutional law must necessarily be negative and non-constructive. An adequate handling of many constitutional problems requires regulative adjustments, of which courts are incapable and which are not conformable to the rigid or rigidly interpreted structure of a constitution. The solution would be in a greater inclination of courts to interpret constitutional provisions as directory rather than as mandatory, but the tendency is rather the other way.

American constitutional law represents political action through judicial methods, dependent for success upon the ignoring, by common consent, of the political nature of the process. To judge the performance of the courts by purely legal standards is to misjudge it. The uncertainty of standards, which is a legal defect, is the salvation of the doctrine of judicial power. How much the exercise of the power has added to the stability of American institutions must be a matter of speculation. It is not even possible to speak of its effect upon the sanctity of vested rights with any assurance, for not only is exaggerated respect in some cases [Trustees of Dartmouth College *v.* Woodward, 17 U. S. 518 (1819)] more than offset by the way in which public utility legislation and the federal control of waters have been allowed to override contractual arrangements [248 U. S. 372 (1919); 204 U. S. 364 (1907); 219 U. S. 467 (1911)], but in two striking instances, the abolition of slavery and liquor prohibition, the taking of property without compensation has been accomplished by constitutional amendment, thus placing it beyond the reach of the judicial power. A comparison between American and foreign legislation in this respect would yield no definite results. The American doctrine of freedom of contract does not impress foreigners as a gain to genuine liberty.

It is indeed a striking feature of American constitutional guaranties that with the exception of the Thirteenth Amendment, which protects against peonage, they afford protection only against the possibility of abuse of governmental power and not against the possibility of capitalistic exploitation. It is true that some of the phrases of the new German constitution which seem to recognize a new social freedom of some positive content depend in the main upon legislative effectuation, but occasionally they also restrain property rights and the freedom of contract, and it is significant that this constitution directly invalidates contracts restricting the freedom of collective labor action. There is no parallel to this in American constitutional law.

It is, on the other hand, a strong tribute to American constitutional law that it has been found possible to conduct government for a century and a half in war as well as in peace without recourse to "acts of state" or to emergency powers to suspend the constitution. While occasionally the judicial nullification of statutes has caused popular resentment, there has been substantial acquiescence in the exercise of the power and there is no disposition to doubt the sound-

ness of the structure of which it is the corner stone.

ERNST FREUND

See: CONSTITUTIONS; PUBLIC LAW; AMENDMENTS, CONSTITUTIONAL; FEDERALISM; GOVERNMENT; COURTS; JUDICIAL REVIEW; SUPREME COURT, UNITED STATES; CONSTITUTIONALISM; SEPARATION OF POWERS; DELEGATION OF POWERS; DUE PROCESS OF LAW; EQUAL PROTECTION OF THE LAWS; FREEDOM OF CONTRACT; POLICE POWER, and other subjects involving constitutional interpretation.

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CONSTITUTIONALISM is the name given to the trust which men repose in the power of words engrossed on parchment to keep a government in order. The writing down of the fundamental law, beyond peradventure and against misunderstanding, is an important political invention. It offers exact and enduring language as a test for official conduct at the risk of imposing outworn standards upon current activities.

The idea of a constitution derives from three elementary notions. The first is a greater law. Once the sovereign ruled in his own or by divine right. The cause of curbing monarchs attracted honest men and had to be made worthy. The king was put in his place, and kept there, in the name of a law above his own. The second is an individual right. Once persons enjoyed perquisites and endured deprivations at the pleasure of their betters or by the grace of God. As groups bought, wrested or wrangled exemptions from their overlords they found sanctions for their actions; liberties became rights, an original possession of man, established in nature. The third is a charter. Once the throne was above parchment. As its authority waned the belief grew that the people had created the government, granted it limited powers and specified the manner of their exercise. As evidence of this prerogative charters great and small, petitions and bills of rights, were endowed with appropriate meaning. The deficit in testimony was made up by the assumption of a social contract; it was a short step from a convenient fiction to a real covenant. A law for the government, safeguarding individual rights, set down in writing—that is the constitution.

The rise of constitutionalism may be dated from 1776. It comes with struggles against irresponsible authority; it is the product of the vision of a new freedom. The chaotic struggle in America had hardly centered upon independence before charters for colonies began to be converted into constitutions for commonwealths. The French Revolution, the wars for liberation in South America, the reform movements of 1848, were all followed by many great enactments. The new constitutions of contemporary Europe, with the shift of emphasis to economic rights, have come in the wake of the great crusade to make the world safe for democracy. From the two revolutionary centers of the United States and France the contagion has spread throughout the Americas, continental Europe, Australia, South Africa and even into the Orient. In a century and a half a count of instruments in which peoples have embodied their faith runs into the hundreds.

The constitutionalism of the United States is richest in incident and meaning. The year 1787 fell in a period of reaction; the convention at Philadelphia met behind closed doors; the dele-

gates were gentlemen of substance and standing. They set down a federal government; enumerated rather than defined its functions; allocated powers "between existing states and a potential nation"—and contrived to turn the democratical innovation of a constitution to conservative use. The result, effected by numerous compromises, concurred with the plans of none, yet represented what all who signed were willing to accept. The ratification, against vigorous opposition, was secured by the addition of a rather consciously neglected bill of rights. The framers, "nation-builders rather than code-makers," faced a current problem in law and order, set down the best answer they could and hoped that they had established an enduring government.

The endowment of the constitution with divine origin is of another generation. The era of the aging Marshall, of Webster and the *Reply to Hayne* created the notion of "the greatest document ever struck off at a moment by the hand of man." The common people, recently enfranchised, demanded a symbol of their liberty and sovereignty. Eighteenth century rationalism was gone; evangelism with its eternal verities was to possess the land for many decades. The Bible of verbal inspiration begat the constitution of unquestioned authority. The plain man found in it a statement of simple and obvious truth level with his intelligence. The man of learning, who had no cause to doubt first principles, made it an established base for speculation. As the Bible wanted exegesis, the constitution demanded exposition. Its catholic clauses yielded to deduction precepts suitable to the cause and the occasion; it became the great storehouse of verbal conflict, and rival truths were derived by the same inexorable logic from the same infallible source. The Civil War was waged for a Union which it had created; the object of secession was to secure rights guaranteed by the constitution. The signers, of an average age of forty-three, became the Founding Fathers; their will was to be discovered and obeyed; the great document claimed veneration and accorded vindication.

The rising constitutionalism, which was to outlast the century, left a varied expression. There was worship at the shrine of liberty and of law. The document was the most perfect instrument of government ever contrived; its foundation rested on the everlasting rock of impartial justice to all. It was in its multiple essence a great spirit, a divine rule and command, a high altar, a faithful mirror of a nation's heart, an impenetrable fortress guarding the gates of freedom, and many other wonderful things besides. It was, like the Ten Commandments, to be early learned and thoroughly understood. In its adulation a competition between schoolboys was staged, with local, state and regional contests and a grand finale in the Capital City. Every organization, whether for dialectic, charitable or convivial purposes, had to have its miniature constitution. Orders, leagues, associations sprang up to crush trade unionism, to keep aliens away, to prevent the recognition of Soviet Russia, to make an outcry against prohibition—all in behalf of the constitution. The telephone directories of Washington display a parade of organizations all nobly named and all concerned alike to save the sacred document from oblivion and to serve special interests. The magic of infallibility was extended from the constitution to its official exposition and even to the president's appointment of justices. These are mere samples; a catalogue of the colorful phenomena of constitution worship has not yet been drawn.

But the faith of the fundamentalist has not kept the constitution unchanged. It is not a self-regulating mechanism which automatically holds official conduct to conformity with its lines. An instrument which sets up a government of laws and not of men begins with compromise in its need for interpretation. Its compulsions lie not in what is written down but in what is read from the parchment. The office of construing the text, which the Supreme Court holds by self-appointment, is beset by hazards. Words have no true and natural meaning; verbal currency passes uncertainly between different generations. An intent packed away in stately phrases may be lost; principles may be drawn out of a document which were never stored there. The justices of the highest court do not of necessity embody the law. They are men of acumen, knowledge, reason, unlike one to another; even in resolving constitutional issues they behave like human beings. In the endless process of the finding out of meaning the vote of the odd man counts for more than insight into the true meaning of a phrase.

In the procedure questions of policy become issues of constitutionalism. The validity or the nullity of legislative acts contrived to meet the needs of a great industrial society depends upon the manifest intentions of the distant authors of the covenant. The test runs in terms of jurisdiction, powers and processes of law; the existence of the evil and the appropriateness of the remedy

are considered only as they fit into the formula or as justices allow their minds to stray from legal law. Yet in matching statutes against the organic law many ingredients unknown to its authors get drawn into the construction. Justices make use of the common law, as it is understood, to clear up ambiguities. They draw upon the previous decisions of the court to bridge the gap between novel issues and ancient verbiage. They sometimes listen to plausible rules made up by ingenious attorneys and set them down as constitutional principles. As men of experience and opinion they never escape the light of their own understanding. The less sophisticated often believe their own preferences are to be found plainly written in the constitution; the wiser ones frequently make up arguments which march straight to their chosen conclusions. The "let's pretend," with its submission of current issues to the judgment of the Fathers, imparts to the process of interpretation aspects of an ordeal at law.

As cause follows cause the law of the constitution is spelled out. The handiwork of lawyers, it bears the mark of their craft. It has small concern with many sections of the document; issues involving titles of nobility and bills of attainder do not come along. It finds endless occupation, however, with other sections. Cases turning upon whether commerce is among the several states or whether persons are denied the equal protection of the laws are constantly before the court. Constitutional law responds to the exigencies of procedure. A referendum may or may not violate the guaranty to the states of a republican form of government; the Congress may or may not join states in supporting maternity work on a fifty-fifty basis. Yet the practises have gone on, for their opponents have contrived no way of raising legally the constitutional questions. Use is made of precedents. The decision of a case is buttressed and explained by language used on former occasions; a verbalism, divorced from specific holdings, may be carried through a series of unlike cases. The same rule is applied to gasoline for government use and to royalties from a patent because they are both federal instrumentalities; to theater ticket scalpers and to employment agencies because they are alike brokerage. Principles are created not to be discovered in any article: a state cannot tax an instrumentality of the federal government; a public control of prices is forbidden in industries not affected with a public interest. In the decorous course of time a simple text is elaborated into a complicated code. The constitution is a brief document; the law of the constitution lies scattered in a series of reports which runs on toward the three-hundredth volume.

The manner of its construction has not left the constitution untouched. The usage of judicial review, unknown to its lines, has become its most distinctive feature. The voice of the jurist gives to the provisions of the organic law their distinctive and pragmatic meaning. The document is of secondary importance; it is the instrument employed in the process. As a result the Supreme Court assumes a legislative function. It allows Congress to avert a nation wide strike by imposing a settlement upon railroads and their employees—and argues that the emergency furnishes a mere occasion for the exercise of powers which have lain dormant from the beginning. It permits a state to provide for the guaranty of bank deposits and to make employers liable for industrial accidents but not to regulate the weight of loaves of bread or to curb private employment agencies—and contends that the police power permits and due process denies what it sanctions or forbids. The court employs a legal formula; but none the less it marks out, for state and for nation, the limits of the province of government. In like manner the legislature cannot escape a judicial function. The attack upon a current problem cannot be simple and direct; a roundabout way is frequently necessary to satisfy the constitution. Under the make believe of raising revenue Congress taxes out of existence the trade in narcotic drugs; a solemn agreement with a foreign nation allows the treaty making power to give a sanction to a federal statute protecting migratory birds. The committees which shape legislation habitually put constitutionality above expediency; dicta in opinions are accorded the weight of authority; measures are not reported because of a guess that they are invalid. The court possesses a veto power over legislation; the legislature fixes the jurisdiction of the court. A strange twist is given by the law of the constitution to the constitutional doctrine of the separation of powers.

At times the constitutionalism of the bench has been remarked and even criticized. The assertion of judicial supremacy by Marshall brought protest from the Jeffersonians. The Dred Scott decision, permitting slavery in the territories, was met by an appeal of the abolitionists to a higher law. The country people, from granger days to farm relief, have berated

the court for its usurpation of power; the trade unions have protested against decisions impairing the effectiveness of collective bargaining; the antiprohibitionists have piled up syllogisms to prove an amendment to the constitution unconstitutional. Liberals have cried out in the name of individualism against approval of restrictions on free speech and free assembly, and in the name of collectivism against judgments adverse to social legislation. Students have observed a conspicuous example of legal lag: it took the court twenty years to discover that the Fathers never meant to forbid the fixing of railroad rates by commission; a decade sufficed to remove invalidity from regulation of hours of labor. The popular dissatisfaction was greatest in 1912 when Roosevelt undertook "to put the fear of God into judges" and demanded the recall of judicial decisions. A later evidence of distrust has been the close scrutiny by the Senate of appointees to the bench.

It is not the written constitution which has been under attack. The criticism has been directed rather at judgments of the court than at the provisions on parchment. There has been little demand to abandon the instrument or even to contrive a better one; the practical aim has been to still or to quiet the voice of the interpreter. An unwritten constitution—or one untouched by judicial review—evokes a different behavior from lawmakers and jurists; but it guarantees no quicker, neater or more just an accommodation of political control to the needs of a people. In checking popular legislation and in shackling the present to the past propriety is as powerful as constitutionality. The genius of constitutions, written and unwritten alike, lies in usage.

As a purposive device the constitution has not been proof against paradox. Man contrives his formulae and time and chance rewrite them. A supreme law is invented to guard the rights of a people against an unpopular government. The scroll is written, the government becomes popular, the judiciary proclaims itself interpreter—and divine right is replaced by the aristocracy of the robe. It is set down that the great offices in the new republic are to be filled with the wise and good, chosen by select men; there is formal amendment, the rise of political parties, the growth of strange customs—and the aristocratic provisions of the constitution become democratic. An abracadabra is appended to make the people secure in their persons and property against arbitrary acts of an untrusted officialdom; corporations become persons, vested interests are accounted property, social legislation appears as deprivation, due process becomes a standard in judicial review—and the democratic provisions of the constitution become aristocratic. A society which thinks in static terms of political perfection contrives the best government it can and safeguards it with a rigid amendment clause; a society which talks in the dynamic terms of progress finds the provision a formidable obstacle to political adaptation. If the court cannot square current necessity with the ancient law, a small minority have the power to block formal change—and the creation seems to have taken its creators into captivity. The constitution as a precaution born of experience is an admirable protection against the dangers of another age; as a current institution its life lies in its extraconstitutionality. The failure of event to accord with intent does not distinguish it among human arrangements.

All of this, of course, is merely descriptive and has nothing to do with goodness or badness. But if there is to be appraisal, the constitutionalism of the people must be distinguished from that of the bench. If the people must have a sign, the constitution serves for lack of a better. The object of worship is an ideal of law; the act of faith is almost untainted with knowledge; the ceremonial purpose is served without throwing confusion into the immediate problems of politics. The danger that an abstract loyalty may be played upon to serve specific causes inheres in the very use of a sign. If the bench too demands its symbol, the constitution enables it to speak with a voice which is not its own. It serves the purpose better because its imperatives are not categorical. It is no mean task to umpire the affairs of an evolving nation under the lingering forms of a federal union of states. But the bother lies not so much in the constitution as in its far flung explanation. A shrewd jurist has written, "Its unchanging provisions"—that is a popular gesture—"are adapted to the infinite variety of the changing conditions of our national life"—that is judicial sense. Where adaptability is, the eternal does not matter. The skilled interpreter knows how to march language and meaning along the same line of argument in opposite directions. It is this rare art which transforms the ritual of constitutionalism into an institution of social control.

WALTON H. HAMILTON

See: CONSTITUTIONS; RULE OF LAW; NATURAL RIGHTS; SOCIAL CONTRACT; GOVERNMENT; CONSTITUTIONAL

CONVENTIONS; CONSTITUTIONAL LAW; JUDICIAL REVIEW; SUPREME COURT, UNITED STATES.

Consult: Dunning, William A., *A History of Political Theories, from Rousseau to Spencer* (New York 1920); Warren, Charles, *Congress, the Constitution and the Supreme Court* (Boston 1925); Beard, Charles A., *The Supreme Court and the Constitution* (New York 1912); *History of the Celebration of the 100th Anniversary of the Promulgation of the Constitution of the United States*, ed. by H. L. Carson, 2 vols. (Philadelphia 1889); Beck, James M., *The Constitution of the United States* (New York 1922); Powell, Thomas Reed, "Constitutional Metaphors" in *New Republic*, vol. xli (1925) 314–15; Mr. Justice Moody, *Employers Liability Cases*, 207 U. S. 463, at p. 519; Smith, J. Allen, *The Spirit of the American Government* (New York 1907); McBain, Howard Lee, *The Living Constitution* (New York 1927); Corwin, Edward S., *The Constitution and What It Means To-day* (4th ed. Princeton 1930).

CONSTITUTIONS. In the most generous sense of the term every country is and has been historically, except in time of revolution or other serious upheaval, governed under something that may be called a constitution (for a historical survey, *see* GOVERNMENT). But governments vary greatly in pattern and principle, and their constitutions vary even more greatly in such matters as form and content, source and tangibility, stability and permanence. It is in consequence difficult to define a constitution save in terms of rather precisionless and therefore rather useless generality. This difficulty has not daunted publicists and other commentators. Scores of definitions might easily be assembled. Some of these define with reasonable accuracy a particular constitution or group of constitutions. But few if any of them suffice to include all that may properly be regarded as constitution and to exclude all else. Yet constitutions are not generically unreal because they elude the grasp of words. Perhaps as safe and close a definition as any is that they are the fundamental laws and practises in accordance with which governments commonly operate. But manifestly the use of the word fundamental introduces a wide margin of indefiniteness in respect of which opinions will differ.

It has long been customary to distinguish between written and unwritten constitutions, and the constitutions of the United States and of Great Britain have usually been cited as the examples par excellence of these respective types. This aspect of the subject, although a matter of schoolboy erudition, no doubt requires some mention in any general consideration of constitutions. The written constitution is usually a single document, amended or unamended from time to time as the case may be. But no constitution in the form in which it functions is wholly written; for most of these documents are relatively brief and require supplementation in important particulars. In addition to this, time invariably weaves about them political customs that become durably fixed. Occasionally such customs very nearly belie the written words of the instrument. Well known instances in point are the customs connected with the machinery of electing an American president and the custom of holding him politically responsible as the leader of national legislation despite his designation of chief executive and despite the doctrine and constitutional rule of the separation of powers.

Even so, in the case of most written constitutions a comparatively large number of the fundamental principles or arrangements upon which the government of the country is organized for operation are found in the words of the constitution itself. It is certain that from a study of the written constitution of the United States or the French Republic or the German Reich a person wholly ignorant of the politics of the particular country could form at least a blurred mental picture of its political and governmental outlines. For a picture of such outlines under an unwritten constitution he would be compelled to rely upon commentators and explanators.

The relative merits of written and unwritten constitutions have often been debated. But much of this debate appears to proceed from the specious assumption that a people can ordinarily elect to be governed under the one or the other type of instrument. It is easy to choose to be governed under a written instrument, but probably no people ever deliberately chose the unwritten type. Unwritten constitutions have invariably been evolved from absolute monarchies or autocracies. Indeed, this would seem to be an almost indispensable condition, for unwritten constitutions rest upon customs and time is a requisite ingredient of custom. Meanwhile, however, the power of government must be exercised by someone or some group. It must, so to say, be seized. Now while the seizure and direct exercise of power by an absolute monarch or relatively small group are not only conceivable but have not infrequently happened, it is very nearly inconceivable that a large group —all of the adult males, for example—could seize power and proceed to govern without committing to writing anything concerning the

organization of the government. For in any sizable country government by the many involves of necessity the application of some kind of representation. And although more or less spontaneous and irregular conventions or congresses of delegates are not unknown to history, nevertheless the representative idea, if it is to continue any length of time, invites if it does not actually compel written arrangements. While therefore an unwritten constitution may develop around a going monarchy or close aristocracy and may in the course of time become broadly democratized, it is difficult to see how a democracy, lacking these agencies, could carry on the necessary processes of government during the period that would be required for the gradual building up of customs.

In the case of federal governments, which have in most instances been dictated by expediency if not necessity, the imperativeness of a written instrument is even more obvious. The essence of federalism is that governmental powers are divided between a central or national government and certain definitive local units of government and that this division may not be altered by the independent action of either the one or the other. Such a division even when committed to writing usually involves a considerable number of legal and practical difficulties. That it should come into being in any true form by the evolvement of mere use and wont would be almost unimaginable.

"Flexible" and "rigid" are also terms that are sometimes applied to unwritten and written constitutions. At least Lord Bryce, who coined this classification, used these terms interchangeably. But surely this is to confound substance with legalistic appearance. An unwritten constitution may or may not be flexible; a written constitution may or may not be rigid. In legal theory the British Parliament may at a stroke alter the British constitution in any respect that it chooses or the prime minister may destroy the convention of cabinet government by the simple expedient of not calling the cabinet together. But such things do not happen. In the realism of history the British constitution is not flexible. It changes very slowly. Apart from the several extensions of the suffrage, the subordination of the House of Lords in 1911 and the altered imperial status of the self-governing dominions since the World War it has flexed very little in the course of a century. Indeed, despite the potentialities for change that exist under unwritten constitutions it is probably true to say that they tend toward rigidity rather than flexibility. Nor is this surprising, for they rest largely upon customs and customs commonly wax and wane but slowly.

On the other hand, written constitutions may prove to be very malleable instruments. Mussolini has had no difficulty whatever in warping to his wishes the written constitution of Italy. In Russia under the Soviet regime, although there is a written constitution, it is completely subordinated to the Communist party. The Politbureau of this party, unmentioned in the constitution, is nevertheless the most powerful governmental agency in the country. It is a law unto itself above and beyond the constitution. It may be argued, however, that such instances are exceptional and probably ephemeral. But instances may be cited of other written constitutions which in practise have lent themselves readily to change. The constitutions of many of the American states are in this category. Some of them are amended with great frequency. The constitution of Austria has been amended in numerous important and unimportant particulars since it went into effect in 1920.

The flexibility or rigidity of a constitution can best be tested pragmatically. If it is often altered it is certainly flexible. If it is rarely or never altered it probably should be classed as rigid. But the curious fact is that in many if not most instances the difficulty or facility of the amending process appears to have little to do with the matter of flexibility or rigidity. The French constitutional laws may be amended almost as readily and as quickly as ordinary statutes. But the fact is that they have been seldom changed and that no amendment was adopted from 1884 to 1926. This is certainly not referable to the perfection of the French system of government. The constitution of the old German Empire which lasted from 1871 to 1918 was not difficult to amend but was infrequently amended. An amendment to the Constitution of the United States may be proposed by a two-thirds vote of the houses of Congress and must be ratified by the state legislatures or conventions in three fourths of the states. History discloses that the difficulty of this process lies in the requirement of a two-thirds vote of the houses, for amendments are very rarely proposed to the states by Congress. Since the adoption of the three Civil War amendments only five amendments have been so proposed and only one of these has failed of ratification. But the constitutions of a number of the American states also require that

amendments be proposed by a two-thirds vote of the two legislative houses and in some of these experience has demonstrated that this requirement presents no obstacle whatever to frequent amendment. The test of rigidity in a constitution is therefore not necessarily to be found in the difficulty of its amending process. It is quite possible that amendments to the American constitution would not be frequently proposed even though an ordinary majority of the houses were empowered to propose them. It is also quite impossible to say how serious the obstacle of ratification by three fourths of the states might prove to be if Congress proposed amendments more frequently.

Since the launching of the American nation under written constitutions both for the several states of the union and for the national government the practise of committing the fundamentals of governmental organization to writing has become increasingly common. These instruments, however, have sprung from a variety of sources. A few of them have been drafted and promulgated by more or less regular legislative bodies. Such, for example, were the American Articles of Confederation of 1781 and the Austrian constitution and Austro-Hungarian *Ausgleich* of 1867. During the nineteenth century a number of constitutions were granted by kings and princes—the so-called octroyed constitutions—but these instruments, whatever their legal appearance of voluntary concession or gift, were usually wrested from more or less absolute monarchs by popular demand. Such were the French constitutions of 1814 and 1830, the constitutions of the several German states proclaimed prior to 1850 and the Sardinian constitution of 1848 which by successive proclamations became the constitution of a united Italy in 1861. The vast majority of constitutions, however, have been formed and adopted by special constituent assemblies convoked for the express purpose of making a constitution, although as might be conjectured the popular basis of these conventions has varied widely. Practically all of the American constitutions have originated in such conventions, and among those in Europe of similar source may be mentioned the constitution of Belgium, 1831, of Switzerland, 1848, of Denmark, 1849 and 1866, and of France, 1875. The constitution of the North German Confederation of 1867, which substantially became the constitution of the German Empire in 1871, was drafted by the Prussian autocracy and was accepted by the governments of the other German states; but between these important steps in the process it was also ratified by a popularly elected assembly. All of the European constitutions that were adopted after the World War were drafted by specially convened assemblies. Of similar origin are the constitutions of the British self-governing colonies, for although these are in ultimate law acts of the British Parliament they have in fact emanated from dominion conventions.

The practise of drafting constitutions by constituent assemblies was to some extent a logical outgrowth of the development of the democratic idea. Power to govern was regarded as proceeding from the people acting through a relatively wide electorate. A constitution embodying fundamentals came to be conceived as a superior kind of law. But in a country of size the people's power could be exercised only by representation. An ordinary legislature was scarcely an appropriate representative body for the enactment of an extraordinary law such as a constitution. Hence a special representative assembly was called into being. While this trend of thought—not to mention the more abstract theory of the social contract—must have exerted considerable influence, the role of political expediency and practical necessity must not be disregarded. For not a few constitutions were liquidations of revolutionary movements that resulted in the shattering or undermining of existing institutions. In such emergencies if the principle of democracy was to find expression an ad hoc constituent assembly for the setting up of new or the remodeling of old institutions was certainly a rational, indeed almost an indispensable, mode of procedure. It is worth noting, however, that except in the diminutive state of Switzerland the democratic principle has nowhere prevailed to the point of submitting national constitutions to acceptance or rejection by direct popular vote.

The degree to which written constitutions are regarded as superior laws varies from country to country. It finds most complete acceptance in those countries in which the courts exercise the power of refusing to give effect to laws which they hold to be in violation of the constitution. The superiority of the constitution is thus vindicated in a practical way. By this process legal theory as well as popular sentiment is distilled into reality by the more or less frequent assertion and specific application of the principle of constitutional superiority. The exercise of such a veto by the courts arose in the United States,

where it has played an important institutional role not only in molding the popular conception of the sacrosanctity of the "supreme law of the land" but also in influencing the course of economic, social and political trends and events. Despite the long period of time during which judicial supremacy has flourished in the United States and despite the numerous constitutions that have been drafted and effectuated since it first took root in American soil, it has not been widely transplanted. It was servilely copied in a number of Latin American countries but the instability of their governments has deprived it of a suitable stage for adequate performance. It operates in Australia much as it does in the United States; and to a vaguely limited extent it was incorporated into the post-war constitutions of Austria and Czechoslovakia.

Elsewhere the supremacy of a constitution over statutory law and executive order depends for its effectiveness largely upon the degree of deference which the government of the moment accords to it. Naturally this varies with country, time and circumstance, and it affects and is affected by the prevailing popular attitude. But generally speaking, at least in countries of reasonably stable politics, the prescriptions of a written constitution are not often ruthlessly ignored by those who hold the reins of government. For the most part constitutions are in a very real sense supreme laws.

HOWARD LEE MCBAIN

See: GOVERNMENT; CONSTITUTIONAL LAW; PUBLIC LAW; CONSTITUTIONAL CONVENTIONS; AMENDMENTS, CONSTITUTIONAL; BILLS OF RIGHTS; FEDERATION; JUDICIAL REVIEW; CONSTITUTIONALISM.

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CONSTITUTIONS OF CLARENDON. *See* BENEFIT OF CLERGY.

CONSTRUCTION INDUSTRY. Recognition in recent years of fundamental similarities in all phases of construction activity has led to the abandonment of the old occupational classification of building trades and to the use of the term construction industry to cover not only the erection of new and the alteration of old buildings but the construction of railways, roads, streets, subways, bridges, harbors, water supply, sewers and disposal works and similar engineering projects. In all these closely related branches there exist similar problems of organization of work, similar types of technical and manual skill, materials, processes and tools. The approach from the industrial rather than from the occupational aspect has led to an inclusion under this heading of certain aspects of the building materials industries as well. Nevertheless, special problems of financing and control peculiar to those branches of the industry classifiable as public works or public utilities demand special treatment.

A historical survey of the industry and art of construction shows that until the rise in importance of private building with the coming of the industrial revolution the broader basis of definition was the one generally accepted. In ancient and mediaeval times the most important aspects of the industry were those connected with public and semipublic works, and in these the chief advances in the art of construction were made. In ancient Egypt, for example, it was in the erection of the pyramids that new methods and processes and finer tools of bronze and other metals to supplement the more primi-

tive flint axe and adze were developed. The Greek public buildings were achievements in masonry made possible by improvements in the use of iron and iron tools. The most important advances were made by the Romans, who employed a number of new materials, particularly cement and long beams of iron, for their large and complex structures. After the great fire in Nero's reign a high degree of organization of work and considerable skill were developed. The vast public building projects were under the supervision of a state architect who through a small number of highly skilled supervisors directed a vast labor force drawn, as in Egypt, from hordes of unskilled serfs and slaves. An immense building organization composed of engineers, masons and carpenters accompanied the army in all its expeditions. Using forced labor drawn from the conquered races, and with materials furnished in payment of part of the provincial tribute or tax and transported free in return for trade privileges, the Roman Empire covered the civilized world with structures and highways at a cost to the home government consisting only of the maintenance of the army of workers. Once the period of conquest was over, the guilds of the arts and trades provided the larger cities of the empire with free labor for public structures in return for incorporation and monopoly privileges.

With the decay of the Roman Empire the art of construction declined for several centuries. When western Europe after about the sixth century began to develop again its own architecture and methods these were applied primarily to fortresses, castles and cathedrals, and other types of building were neglected. Under the feudal system the role of free enterprise in building was negligible; labor was furnished either by members of monasteries or by serfs, who gave their services in return for education and subsistence. Artisans' associations first developed in the eleventh and twelfth centuries in Italy, where the commercial revolution preceded that of other countries, and from there spread gradually to the rest of Europe. From the twelfth century to the period immediately preceding the industrial revolution guilds of carpenters, joiners, masons, bricklayers, tilers, painters and plasterers were active in the economic life of the larger cities of western Europe and particularly in England. These guilds included not only the artisans but also the architects and other groups contributing to construction. Guild regulations, together with sporadic laws fixing wages and prices, led to emphasis on craftsmanship and quality as a means of avoiding unfair competition. The guilds were also interested in protecting the artisan and in regulating wages and hours. As division of labor and specialization of processes progressed the guilds multiplied in number rapidly; in several countries legislation, such as the British law of 1363, confined each guild to the practise of one single craft, with the result that jurisdictional disputes, not among workers alone, as in the modern building trades, but among whole craft groups, developed. Such conflicts led in the fourteenth century to a movement for the amalgamation of related crafts on the basis of similarity either in type of occupation or in materials used.

In the sixteenth and seventeenth centuries the political and economic forces which operated toward extension of the area of national control weakened the power of the guilds, which were primarily local organizations. Guild regulations, particularly those relating to apprenticeship, became increasingly difficult to enforce both upon the masters and apprentices. Even the *compagnonnages* of France and Italy, which were national and international organizations of journeymen mainly in the building trades, could not survive the disintegrating effects of their own jurisdictional disputes and of the forces of the new economic order.

During the period of the commercial revolution expansion was most marked in road building and, as urban life began to develop, in city housing. The industrial revolution, especially as it manifested itself in nineteenth century England, heightened the rate of development in these two fields and also brought the need for industrial buildings to house machinery and large numbers of workers. Religious, military and public buildings were superseded in importance by factories and industrial housing requiring a different sort of craftsmanship and different materials and technique. At the same time the role of the building entrepreneur became more important not only in commercial but in public construction, and the older relationship between worker and owner was changed by the appearance of the contractor as supervisor of the job. England's precedence as an industrial country made it inevitable that new methods of business organization, such as the contracting system; the first of the new materials, such as Portland cement and Bessemer steel; and the first of new processes, such as brickmaking by machinery, should originate in

England and that the first important trade, labor and employers' associations should be formed there.

It was in the construction industry of the United States, however, that the most revolutionary economic and technological changes of the last fifty years occurred. These changes are interrelated with the dynamic nature of American economic and social life; they have been conditioned by the rapid rise of new industries and of new communities, by the high degree of urbanization in the United States, by the mobility and rate of increase of the population; they have been stimulated by the demands for better housing and for amusement and recreational facilities, all of which involve new construction and result from a more widespread distribution of income; they have been made possible by the comparatively easy accessibility of capital for all types of building. American buildings have a much shorter life than those of European countries and wrecking and remodeling swell the volume of construction. The development of motor trucking and of the power industries have had important effects on construction. Moreover, private enterprise is far less controlled by building codes and regulations than in European countries. The favorable bargaining position of labor and of building material and equipment groups as well as of realty owners has furnished incentives for inventions of labor saving machinery, for the use of new materials and for trends both in building concentration and expansion which in turn have affected the construction of highways, subways and other means of transportation.

The most revolutionary changes in modern construction methods and materials have all taken place within the last forty years. Iron, which lacks fire resisting qualities and is likely to contract or expand, was replaced by Bessemer steel, which became commercially available in 1886; not until after 1890 was there any great utilization of Portland cement, the important ingredient in concrete, which, used with steel reinforcements, furnishes a fireproof material of the necessary compression and tensile strength. A rapid extension of its use was made possible by a number of new inventions about 1890. The development of the steam passenger and electric elevator removed the first obstacle to high structures; the need for new foundations for the steel skeletons, especially in skyscrapers, was met by the pneumatic caisson process. The tendency to the replacement of wooden structures, dwellings and business blocks by steel frame apartment houses and skyscrapers has been strengthened by the growth of cities, the increased strictness of fire regulations and by the rising costs of lumber due to forest depletion.

The increasing demand for materials following upon the expansion of the industry has greatly accelerated the mechanization of the industries producing materials, in most of which output per man hour has almost doubled. Machinery has replaced manual work in the lumber mills and yards, in woodworking establishments and in the manufacture of cement. Factory methods have been applied to the production of limestone, steel and other commodities. Brickmaking machinery, although developed before the Civil War, has been extensively used only since 1890; this industry has been further placed on a mechanical basis recently by the use of electricity as the motive power. Indeed, it is now possible to eliminate hand labor in most processes of brickmaking from the time the steam shovel takes the clay out of the ground until the hodcarrier gives the brick to the mason on the wall. These new methods, however, have not been universally applied in the United States and are even less generally utilized in most of the European countries.

The mechanization of the building worker's job is much more recent. The hydraulic and pneumatic riveter, rock drill, the power hoist and derrick, all now indispensable in building construction, came into general use for building purposes only after 1900. The steam shovel, although invented in 1839, was not available until the eighties for railroad construction and only after 1900 for building purposes. Hoisting engines which came on the market after 1880 have recently been improved by electric and gasoline motors and even compressed air. With the increasing use of concrete, power mixers replacing the old method of hand mixing have become of importance. Woodworking machinery for sawing, planing, molding, mortising and boring has resulted in the manufacture of wood products in the shop and their delivery to the job ready for installation. The cement gun and the paint spray have reduced the labor of painting over 50 percent. A sanding machine for floors operated by one man can do as much as six hand workers. The high wage rates of building labor since the war and the shortage of labor for a brief period after 1921 helped to accelerate this whole process. Its extent is

somewhat indicated by the fact that in 1925 over 500 manufacturers were producing machinery for construction purposes; the recent practise of renting machinery is even further strengthening this tendency.

This cumulative mechanization has resulted since the war in a decrease for large construction projects of from 30 to 40 percent in the time required for building. In road building, for instance, it is estimated that the daily output of lineal feet of road surfacing per man has increased from 4.7 in 1919 to 17.7 in 1928, an increase due largely to vast improvements in power driven equipment but affected also in part by better organization of work. The development of new techniques has been stimulated by the appearance of wholly new types of activity, such as the construction of airports.

But while mechanical methods have been perfected for mass operation, on individual small jobs and for light tasks very little machinery is used even at the present time. The work of the mason, roofer, tile setter, carpenter, plasterer or painter is still commonly a hand operation even on large jobs and especially on residential work. This is particularly true in European countries, where incentives to the adoption of mechanical methods have not been present to the same degree as in the United States. Since the war, however, German house building has made enormous strides in mechanization; standardization of design and the factory production of actual portions of houses have resulted in a new record for speed of erection, not matched by American builders.

The very enumeration of these improvements suggests the wide ramifications of the industry and its consequent importance in the industrial life of the nation. This is so true that economists and business men in general have within the past decade come to regard the condition of the building industry as a barometer of the general trend of business. Only in recent years, however, have statistics of construction been available in sufficient detail to indicate with any accuracy the size and extent of the industry or to make possible a significant comparison with other industries. At the present time in the United States information is not available for all the states, and the most complete sources on building volume are the figures compiled by the United States Bureau of Labor Statistics or by the F. W. Dodge Corporation, representing the value of building permits issued in a large number of cities. These figures, however, give only estimates of the possible cost of the projects; they do not include projects outside cities nor government projects for which no permits are required. The figures for contracts awarded are more frequently used, but these also do not cover most low cost structures, alteration work or construction in rural districts.

On the basis of this incomplete statistical material the United States Department of Commerce estimated that in 1926 the total volume of construction for the United States aggregated more than $7,000,000,000 in value. This may be compared with the figure of $6,449,000,000 representing the gross operating revenues of the steam railroads in the same year, and with $3,371,857,000, the figure for the value of motor vehicle manufactures in 1925. According to an estimate of the National Bureau of Economic Research 8 to 12 percent of the national income is spent on construction. The following figures, although they take no account of price changes, give some indication of the volume of construction work in the United States, its rise or decline since the war and the proportions of the total expended on the various branches of construction work:

CONSTRUCTION CONTRACTS AWARDED BY CLASSES, 1919–28, IN MILLIONS OF DOLLARS

YEARS	TOTAL VALUE	RESIDENTIAL	COMMERCIAL	INDUSTRIAL	PUBLIC WORKS AND UTILITIES	EDUCATIONAL AND OTHER
			TWENTY-SEVEN STATES			
1919	2580	849	406	513	502	310
1920	2533	566	420	589	566	392
1921	2360	879	338	173	459	512
1922	3353	1347	496	325	562	623
1923	3494	1582	446	379	557	530
			THIRTY-SIX STATES			
1923	3981	1735	513	443	666	624
1924	4485	2050	596	355	724	760
1925	5822	2672	836	463	886	965
1926	6152	2579	880	677	1068	948
1927	6084	2490	897	476	1213	1008
1928	6404	2715	848	603	1289	949

Adapted from reports of F. W. Dodge Corporation as cited in Gries, John M., "Construction" in *Recent Economic Changes*, 2 vols. (New York 1929) vol. i, p. 220.

Some further indication of the size of the industry can be gathered from a survey of the number of laborers employed. The United States Census of Occupations showed 2,467,500 employees and independent workers in the building trades in January, 1920, as compared with 1,108,424 employed on steam railroads, 1,018,967 in the extraction of minerals and

fewer than a million in textiles. The iron and steel industry, with 3,107,082 workers, alone exceeded it in number of employees. The situation may be summarized in another way by saying that the industry in the United States employs directly more than 6 percent of those engaged in gainful occupations and almost 18 percent of the workers in non-agricultural pursuits, and from ten to eleven million people are estimated as being directly dependent upon construction for a living. The significance of these figures is augmented by the fact that labor cost comprises 40 percent of the total costs, a larger percentage than in any other industry, and that these sums have an important bearing on general consuming power and prosperity. The industry's wage bill in 1926 was larger than that of any other industry, totaling approximately $3,000,000,000 in comparison with the $658,000,000 wage bill of the motor vehicle industry and a railway wage bill of $2,990,000,000. The census total of those employed in the building trades does not include those engaged in supplying the erection trades with materials and tools. Certainly another million workers are employed in subsidiary industries such as sawmills, woodworking establishments, cement plants, brick and tile plants, and in manufacturing paint, hardware and other building materials. Moreover, the industry provides a market for a preponderant percentage of such products as steel, lumber, stone, brick, paper, paint and glass. It is, for example, the second largest customer of the steel industry, consuming about 14.9 percent of the total steel output in 1927 as compared with 13.3 percent taken by automobile manufacturers and 20.4 percent by the railroads. Probably more than 60 percent of all the lumber cut in the country is used for building construction purposes. In addition, building creates an almost immediate market for furniture, carpets, furnaces and household goods.

In the United States the most important branch of the construction industry has continued to be residential construction, which accounts for two fifths of the total amount of construction awards. Figures for such building, especially in the immediate post-war period from 1919 to 1923, suggest that the pre-war and wartime shortage in housing was probably in the main compensated for and that at all times this phase of construction has kept up with the annual increase in population. The second most important branch of the industry is that of public works and public utilities, which in 1928 constituted almost a fifth of the total. This group has special significance not only for the stabilization of the construction industry itself but because of the influence of planning public works in diminishing the evil effects on employment of extreme fluctuations in the business cycle.

In the post-war period the construction industry has not only expanded rapidly; it has also effected a series of internal improvements and a reorganization of methods to eliminate some of the wastes to which attention was attracted by the 1920 report of the Federated American Engineering Societies and by the report of the president's conference on unemployment in 1921. If reported corporate profits of the industry are to be taken as an index of its prosperity, returns of 11 percent for 1926 and 10.3 percent for 1927 compare most favorably with 7.9 percent and 6.3 percent respectively for these years for manufacturing, 3.7 percent and 7 percent for mining, 7 percent and 5.3 percent for transportation and public utilities and 6.3 percent and 5.7 percent for trade. These figures, however, give no indication of the distribution of profits to the various groups in the industry.

The period of inflation in the construction industries immediately following the war and the drastic results of the 1920 recession also called special attention to the instability of the industry and to its widespread effects upon general instability. The sources of waste and instability were traced by the engineering societies' report not only to defects in public planning and in the regulation of real estate and building activities but to a number of factors in the organization of the industry. Outstanding among these was irregularity in the employment of labor and in capital investment, due only in part to the seasonal nature of the industry and closely related to inefficiency of management (to which 65 percent of the waste was charged), especially as accentuated by the contracting system which has characterized the industry. According to the report wasteful labor regulations and jurisdictional disputes account for 21 percent of the total waste, and waste due to industrial accidents, inadequate designing and planning by architects and secondary groups and to other causes amounts to 14 percent of the total.

An important factor in the instability of the construction industry has been its organization on the basis of the contracting system. The rise and persistence of this system are due to certain

problems peculiar to the construction industry. In contrast to ordinary manufacturing, which is housed and utilizes a relatively permanent labor force, a construction company is constantly moving from place to place and frequently from city to city with a consequent high degree of instability in the labor force. The delivery of materials at proper intervals presents more difficult problems in construction than in factory industries, where there is some storage space provided for delays. The product or products of manufacturing industries are fairly standardized and the processes repetitive; in construction most of the operations have to be performed on the job, the skills and techniques involved vary widely, and despite the achievement of some degree of standardization recently in materials and designs the large variations in conditions from job to job are unpredictable and therefore offer obstacles to long time planning. Construction, an out of door industry, is more seriously affected by weather changes than is manufacturing, and seasonality although not primarily and inevitably caused by weather conditions has been more marked in this industry than in others. In order to distribute the overhead burden of carrying a large unwieldy organization through the lag seasons there has developed a system of contracting peculiar to the industry, which, while it distributes the risks due to these uncertainties and changes, also diffuses responsibility and makes concerted action for improvement extremely difficult.

During most of the nineteenth century the majority of the actual building operations from the laying of foundations to papering of the walls, especially in residential construction, were carried on by one general contractor or builder hired directly by the architect or owner. This man was often merely a building mechanic possessing a rudimentary knowledge of his trade and the ability to read specifications. The advent of steel and concrete and the increasing complexity of construction brought into prominence the general contractor with business, organizing and engineering training and resulted in a departmentalization of functions that often involved the establishment of a staff organization resembling that of a factory. In order to meet the requirements of the highly specialized branches of the masonry, structural steel, woodwork and mechanical trades, specialized subcontractors have multiplied in number until at the present time as many as thirty subcontractors are engaged on some jobs. A further distribution of the risks and of the responsibility not only for skill but for storage of materials, capital investment and labor management results from the fact that each of these subcontractors is an independent entrepreneur. In such a system the general contractor becomes the organizing force for the entire project rather than the direct supervisor of any of the detailed operations.

The advantages of such specialization are endangered, however, by the methods of competitive bidding currently in use. Before awarding a contract the operative builder or architect of a project receives estimates from a large number of general contractors, who in their turn have received a large number of bids from subcontractors in the various branches, on which they base their estimates. Many general contractors and a larger number of subcontractors are inadequately equipped and trained to make a detailed cost study of a prospective job; such estimation is, moreover, unusually difficult since conditions of production are never as standardized as in manufacturing. The uncertainties are in general multiplied by this subdivision and apportionment to subcontractors, each of whom separately secures building and equipment estimates. Any benefit which the consumer might gain from this competition through lowered prices is more than offset by the money costs of the bidding system and by the shirking of quality and quantity specifications which it permits. The practise of shopping bids, which prevails in the industry and by which estimators are given the "opportunity" to revise their original figures in order to remain in competition for the job, is conducive to the acceptance of contracts below cost which lead to substandard labor rates where union control is weak, to a high rate of failures among contractors or to a shirking of specifications. This is especially possible when the general contractor is the broker type who is not himself a builder but merely compiles subcontractors' figures, adding his own overhead, and who knows nothing of labor conditions or technical requirements.

Several factors are now operating to modify or eliminate the abuses of the bidding system. Exploitation of labor is rendered difficult by the high degree of unionization. Protective associations of contractors have been formed which through codes of ethics and through their provision that all bids should be filed through the organization and made public have attempted to make competition open and above board, to

eliminate price cutting and bid peddling. These associations have been in essence price fixing associations. Another proposal emanating from the contractors is to make owners pay the costs of estimating, thus forcing owners and architects to limit themselves to those contractors considered reliable and competent. A third solution is proposed in the form of a quantity survey of all the materials needed for a project, to be made once through a central bureau rather than by ten or twelve separate contractors, in order to reduce the possibility of error or of deviations in quality. This system, which originated in England, has had a long and successful history there, but although agitation for its adoption was begun in the United States as far back as 1894 by the National Association of Builders it was not until after 1920 that quantity survey bureaus were established in many cities. Another suggestion has been use of the cost plus, or percentage, contract which relieves the builder of financial anxiety and places on the owner or architect the burden of selecting his general contractor with greater care. The system generally includes the fixing of a maximum price for the total cost of the building as a guaranty against unlimited expenditures, but it has been widely criticized as encouraging inefficiency and extravagance. In more general use is the lump sum contract, under which the contractor's profit or loss depends partly on his skill in figuring costs, partly on his luck in escaping unpredictable delays or problems. This system gives rise, however, to many disputes as to compensation for extra work, and until the recent establishment of the practise of introducing arbitration provisions in contracts it led to frequent charges of arbitrary and unfair decisions.

The most striking manifestation of waste, reciprocally aggravated by the contracting system, can be found in the irregularity of operation from month to month within the industry. From 1904 to 1916 an average of 25.6 percent of union building trade workers in the state of New York were unemployed, as compared with 19.8 percent in all occupations. The figures for New York are descriptive of the conditions in most sections of the country. Every process in the industry is organized, equipped and managed to meet a peak or maximum demand which is maintained only for brief periods. Building trade workers in Philadelphia lose an average of eighty-six days, or 31 percent of the possible working time, every year; in Boston in a normal year the workers are employed only 75 percent of the time, with a compulsory idleness of about three months each year; building workers in New York City are employed approximately 83 percent of the time. Not only the erection processes but also a host of industries subsidiary to construction are affected by this irregularity. Manufacturers of material, dealers, contractors and architects are also subject to the same periods of feast and famine.

The principal causes of this instability, which it should be noted is only in part seasonal, are climatic conditions, customary practises prevailing in the industry and such factors as the concentration of leasing dates, inefficient contracting methods, incompetent management, specialization and lack of coordination between the slack season and repair work. Recent studies made by the United States Department of Commerce suggest that the difficulties of inclement weather are not so serious as is generally supposed. In fact, weather conditions alone cannot explain why the number of days worked per year in New York City, St. Paul and Montreal with their severe winter weather is about the same as in Los Angeles, San Francisco and New Orleans, although the number of rainy days in the three latter cities is much less than the number of cold days in the former cities. Available data indicate that various methods of scheduling operations, the dovetailing of different trades, the installation of improvements which reduce the effect of cold and rain, all make possible a longer building season. In view of the amount of indoor work necessary the great majority of the workers in the building trade as now organized could be occupied the year around. Peak and dull seasons have been created by customary methods of carrying on building operations, such as that of interior decorating during the summer, a justifiable practise before the advent of heated buildings but one no longer necessary. Thus much unemployment results from the failure of management to adapt itself to new situations and techniques.

These conditions have had serious consequences for all the groups in the industry. Hourly rates become a poor index by which to judge the prosperity of the building worker. Moreover, three months of unemployment per year lead to chronic dissatisfaction with wages, no matter how high the hourly rate may be. Seasonal unemployment has also had a very direct effect upon the efficiency of the building trades. Restriction of output, a rather wide-

spread practise in the industry, is encouraged by the knowledge that a long period of idleness will follow the completion of a job in the fall months. Organized and unorganized workers have therefore adopted practises which seek to stretch out the job for a longer period of time.

The seriousness of these problems has led to considerable effort to provide more regular employment for building trade workers. The labor unions have for a long time proposed the shorter working day and the five-day week as a solution to the problem. More recently the employing groups have undertaken reforms such as increased utilization of technical improvements, better planning in the coordination of repair and new construction jobs and the attempt to maintain a steady working force through the upkeep of a skeleton organization or through pooling of labor supplies. Managerial wastes cannot all be laid to the failure of the contractors as such. The greatest obstacle to efficiency has been the existence of so many entrepreneurial and managerial groups—contractors, subcontractors, financiers, owners, architects, and manufacturers and distributors of material and equipment—whose activities have not until recently been coordinated through any organized body.

In recent years the institutions which supply credit to the building industry have been recognized as influential agencies for stabilization. The most important sources of building credit are building and loan associations, life insurance companies, savings banks, trust companies, national banks, mortgage companies, private investors and surety companies. The 13,000 building and loan associations in the United States with assets of over eight billion dollars offer savings and loan opportunities to twelve million members. Their loans are made in the main to individual builders of homes. Loans made by life insurance companies are for shorter terms and are more closely regulated by law, but since the war such companies have greatly extended their loans for home construction. The savings banks, trust companies and national banks are also heavy investors in mortgages of all sorts, including those on residence buildings. Financing of large apartments, hotels and office buildings has been done mostly by mortgage bond issues, a post-war financing development. The exemption from income tax of interest on local government securities has led to an equally ready supply of funds for public construction.

Although in the period of inflation in 1919 there was some complaint of high cost of financing, obtaining credit for building has not been a serious problem in the United States. On the whole there has been an actual surplus of capital seeking investment possibilities in construction, especially since the passage in 1927 of the McFadden Act, which permits national banks to invest as much as one half of their savings deposits in realty loans for periods up to five years. This situation is of course in sharp contrast to that in European countries, where construction activities have been hampered by a dearth of funds. The surety and bonding companies which underwrite the contracts of builders in the United States have been criticized for not being sufficiently selective in the bonding of questionable contractors. On the other hand, such financing institutions often maintain architectural, engineering and real estate departments to safeguard against unsound building, and twice, in 1906 and in 1925, a group of them reached an agreement to limit loans on construction projects in order to prevent overdevelopment.

A less healthy influence on the industry has been exerted by the owners, consisting of the large group, in the main home builders, who own the completed buildings and the speculative or operative builders who erect for sale. The first group is of minor consequence because of its temporary interest in construction activity and its wide dispersion. But the speculative builder, who erects most of the large city structures, plays an important part in determining conditions in the industry. The operative builder is primarily a real estate investor; he is interested in getting his project completed in the shortest possible time in order to have it ready for the customary renting season. As a result the problems of the industry or of the consumers are not of permanent concern to him and he therefore avoids affiliating with organizations of other entrepreneurs to remove the more unwholesome practises. Only in recent years has the movement to improve competitive practises affected this group; many of the larger operative builders are now active in cooperative movements of building contractors.

The architect and engineer occupy a definitely professional position in the industry. The influence of the architect in restricting competition to reputable contractors and in limiting their number has been of considerable aid in correcting some of the evils which excessive competition has produced. The higher standard of tech-

nical architectural and engineering training necessitated by the new architecture has not only strengthened this tendency but has been reflected in improvements and desirable standardization of design and specifications.

Probably no group within the industry is better organized than the manufacturers and distributors of building materials and equipment. With the aid of government bureaus, especially of the Division of Simplified Practice of the Department of Commerce, considerable standardization of qualities and types of products has been achieved, and delivery and use of materials have been greatly facilitated by the development of the motor truck and by the institution of a system of machinery rental. There has been complaint of excessive prices for building materials, a charge which gains plausibility from the high degree of organization of this group, but the downward trend of prices of materials since 1923 is generally regarded as a sign of a gradual remedying of the situation.

In any stabilization of the construction industry an important part can be played by local, especially municipal, governmental authorities. Through their power to draw up building codes and regulations and their authority to grant permits for construction they can direct in many ways the development of building practises, while in the construction of public buildings they can take the lead in adopting desirable methods. To a certain extent local administrations have made use of these opportunities.

A source of waste which cannot be easily attributed to any single group in the industry is that involved in the high accident rate and in certain branches the high morbidity rate due to industrial poisoning. It has been estimated that $30,000,000 is expended in the industry annually as compensation for deaths and total and partial disability due to accidents; if viewed in relation to possible accident prevention these accidents can be considered to cause a loss of twelve million working days a year. According to the National Safety Council's estimate of accident frequency and severity in a large number of industries and occupations from 1925 through 1927, both rates are increasing in the construction and are higher there than in any other industry or craft with the possible exception of certain crafts in the extractive industries. In New York State death and total disability rates in the construction group were twice as high as in manufacturing, and the number of cases requiring compensation amounted in 1927 to 20 percent of all cases. A large proportion of these accidents might be prevented through education of all groups within the industry to a recognition of the necessity for safeguards and through enforcement of existing standards of safety set by the state. Less easily preventable are the ailments caused by exposure to changeable weather which are frequent in certain crafts. Moreover, 50 percent of the total number of deaths from lead poisoning in the country are attributable to the painters' crafts, and the morbidity rate from this and other industrial poisons due to materials and processes used in construction continues to be very high. The resistance of unions to certain innovations, such as the spray gun in painting, and their demand for shorter working periods are related to the formulation of a program of lessened exposure to these poisons.

The organized labor groups within the building industry have been subjected to considerable criticism, with reference rather to allegedly unfair working rules, wasteful jurisdictional conflicts and abuse of power or corruption on the part of their leaders than to wage or hour disputes. The hourly rates of building workers are, it is true, higher than those of any other group in industry and the rate of increase has been high as well. This is also true of skilled building workers in the European countries and is in both cases due to the early success and the completeness of unionization as well as to the strategic position of the worker. The local character of the industry has helped to increase the bargaining power of the labor organizations, and the presence of a large number of small and unorganized contractors who are able to shift wage increases to the building owner has prevented any effective opposition to the union demands. In addition, the large volume of building construction since 1923 has given the workers a considerable advantage in any contest involving wage increases.

Hourly wages in the building trades of the United States have increased steadily since 1907; they doubled between 1913 and 1921. The combined index number for all trades in the industry shows a steady upward trend, which was only temporarily checked in 1922; in 1927 it stood at 257, with 1913 as the base. The business depression in 1921 affected building trades wages much less than those of other industries. Even when compared with changes in the cost of living the figures show an improvement in the economic position of the building trades worker;

thus in 1926 the cost of living was approximately 70 percent higher than in 1913, while the building trades hourly wage index was about 150 percent above 1913. The statistics on European building workers' wages made by the International Labour Office in its study of post-war housing conditions would suggest that the rate of increase in their earnings had been almost as high, although of course such figures are not always strictly comparable. Nevertheless, in any consideration of the actual position of the worker it must be remembered that these hourly wage indexes are misleading because of the high rate of seasonal unemployment. The length of the working day has also been reduced during the past two decades. By May, 1929, 66 percent of the painters, 38 percent of the lathers and 65 percent of the plasterers, representing 25 percent of all building workers, had succeeded in establishing the five-day or forty-hour week and 72 percent of all workers in the building trades had a forty-four-hour working week.

It is, however, not the question of wages and hours but rather jurisdictional disputes and problems as to working rules which cause most conflict within the construction industry. The existence of such disputes is to be explained in part by the nature of the industry and the dynamic changes which have taken place in it and in part, especially in the United States, by the circumstances of union history.

As far back as 1824 effective local combinations of building craftsmen were already in existence in the United States, although in England, as a result of the combination acts, building trades unions did not appear until 1832. Then, however, in contrast to the continuing local character of American unions several effective national organizations made their appearance and functioned for many years. The demands of these early unions both in England and in the United States centered primarily about two grievances: wages and hours. The nature of the grievances concerning wages was a result of the position occupied by the middleman contractor who intervened between the worker and the owner. The contractor hired his workmen at stipulated wages, and since he did not purchase his own materials his profits consisted of the difference between the amount he received and the wages he paid. Since wage increases could not readily be shifted to the owner, the worker felt that the lot of the contractor was not much better than his own. In many localities it was not uncommon for contractors to align themselves with the workers against the merchants who, the contractors stated, "live by working us harder and working us cheap." In the United States, and in Great Britain except in so far as they reflected in their programs the influence of Owenism in the period between 1832 and 1836, the first unions confined themselves mainly to the protection of wages and hours.

In the United States the development of national unions resulted from the growing strength of the local groups, who gradually came to realize the inadequacy of local organization in providing sufficient financial reserves, disciplined membership, stable leadership and control of other than local conditions when confronted with business fluctuations. The formation of national craft unions began in the period preceding the Civil War and, only temporarily arrested by the business depression of 1873–79, proceeded steadily until the end of the century. The stonecutters formed their national union in 1857, the plasterers in 1865, the bricklayers in 1856, the granite cutters in 1877, the carpenters and painters in 1881, the steam fitters in 1888, the plumbers in 1889, the machine woodworkers in 1890, the electrical workers in 1891 and the ironworkers in 1896. Other trades of lesser importance followed in the succeeding years. Before 1900 there was a national union in every organized trade in the building industry of the United States. Since 1900 there has been a steady growth in the membership and influence of the seventeen national unions in the building industry of the United States. From 553,000 in 1913 the membership increased to 1,014,000 in 1927, a gain of 461,000 in slightly more than a decade. In the larger cities of the country the building trades unions have succeeded in what approximates complete organization of the workers in the industry and the percentage of organization for all trades for the country as a whole is about 50 percent. The building trades unions constitute at the present time more than one third of the total membership of the American Federation of Labor. This development of organization on a national scale did much to relieve unfair competition and to overcome abuses of power by local officials as well as to standardize working rules in so far as the great local variation of work permitted. It is interesting to note that the unions of Germany, although troubled with none of the jurisdictional disputes resulting from craft unionism, have

until recently had difficulty in overcoming localism.

The existing national trade unions in England date back to the fifties, the unions of the thirties having failed to persist in the face of adverse conditions. Interunion controversies have been present among the building unions in England and Germany, although not to such an extent as to result, as in the United States, in internal dissension among the unions and in instability for the industry. Demarcation disputes, as these conflicts of frequent occurrence before the war were known in England, have more recently been looked upon as practises not "in fashion," and the "scabbing" which in the United States frequently accompanies these controversies is in Great Britain regarded as a decidedly unethical trade union practise. The same attitude is found in Germany and there, moreover, the organization of the building trades on an industrial basis has practically ended such controversies.

Under the craft form of trade union organization each variety of work becomes reserved for members of one particular union. When a worker attains skill at a particular specialized trade he regards this as his property and will fight stubbornly against trespassing upon his vested right. Moreover, each trade has a deep conviction that the amount of work is limited. The rapid technical changes which have characterized the construction industry in the United States have clouded the boundary lines between the work of one trade and that of another. As a result disputes between conflicting unions have accounted for 75 percent of the strikes in the building trades. Employers, workers and the building public have long complained against the inability of organized labor to find a method of settling these controversies without resort to direct action.

The introduction of new building materials has been one of the most potent causes for jurisdictional controversies. The introduction of metal trim, metal doors and windows, shingles and similar products has threatened to reduce the amount of work available for the carpenter. Steel and concrete have further cut down the woodworker's job and forced the carpenters' union into an aggressive fight to protect its claims against rival organizations. The bricklayer has had to meet the competition of concrete, tile, plaster block and other substitutes. An equally effective cause has been the introduction of machinery. The production of wood products in factories deprived the outside carpenters of much work they had formerly done and flooded the trade with "saw and hatchet" men from the mills who displaced the skilled carpenters on the job. A costly struggle between the carpenters' union and the woodworkers' union for control over machine woodworkers, which lasted over twenty years, was finally settled by an amalgamation agreement. The plumbers and steam fitters disputed their rival claims for nearly two decades. No organization in the building industry has been free from these disputes.

Because of their number and importance the search for a solution of jurisdictional disputes has been a pressing problem. There have been two main methods of approach. One has sought to utilize the trade unions themselves to this purpose, first, by referring disputes between national unions to the American Federation of Labor, which, however, has failed to mediate successfully because of the power of the autonomous national unions; and, secondly, by the encouragement of the formation of local, state and national councils of allied building trades, which have been fostered also because of the need for more effective collective action in relations between employer and employee. The second approach has concerned itself with the setting up of local and national arbitration councils comprising representatives of all interested groups, including the public.

Building trades councils of the various unions have been organized in most of the larger cities of the country; in New York, Chicago and San Francisco they were powerful bodies even before 1900. While such local and national councils represent a movement in the direction of industrial unionism, the affiliated organizations still possess a large measure of craft autonomy. The existence of these councils has greatly strengthened the bargaining power of the building trades unions. In many of the larger cities the council has complete control over the labor situation, makes or underwrites the trade agreement, settles disputes between unions and through the use of the sympathetic strike has greatly solidified the ranks of the building workers. The national organizations have also sought some form of national federation which would facilitate closer cooperation, particularly in the prevention of jurisdictional disputes. With that end in view the National Building Trades Council was formed in 1897; failure to secure the cooperation of the American Federation of Labor thwarted its progress and

in 1904 it was succeeded by the Structural Building Trades Alliance, the success of which was blocked by the unwillingness of the smaller organizations to affiliate.

The need for federation of building unions throughout the entire industry finally led the American Federation of Labor to sponsor in 1908 the organization of the Building Trades Department, the primary purpose of which was to provide an agency to settle disputes between the separate building unions. Its effectiveness has been curtailed by the unwillingness of the Brotherhood of Carpenters to follow the decisions of the department where its own claims were involved. For a long time over 40 percent of the department's membership belonged to the Brotherhood of Carpenters; the remaining 60 percent was divided among the other seventeen or eighteen organizations. Had all the unions been of approximately the same size, no one of them would have dared to brook the united opposition of all the others. On the other hand, the movement toward amalgamation of related crafts which was endorsed by the 1912 convention of the Building Trades Department has decreased the number of jurisdictional disputes and has resulted in a broadening of the basis of organization. The bricklayers' union, for instance, now controls not only bricklaying but also stone masonry, marble work, tile settings and in many localities plastering. In a similar way the larger unions in the industry have been absorbing the smaller related trades, and a number of large dual unions have been eliminated. The movement has not, however, been sufficiently rapid or comprehensive to do away with jurisdictional disputes.

Voluntary arbitration of disputes was experimented with on a local scale prior to the World War. Arbitration boards dealing with all types of labor disputes existed in New York, Chicago and other large cities and in some localities achieved considerable success. But such success was possible only if both the workers and the employers were thoroughly organized and if the national unions did not oppose local decisions, and neither of these conditions existed. When contesting national unions failed to agree appeal was made to the American Federation of Labor, usually unsuccessfully, since the federation lacked power in dealing with autonomous national unions. Twenty years of experimentation along these lines finally led to a new approach immediately after the war. Contractors, architects, engineers and other groups were invited to aid in establishing an adjustment agency and to participate in its proceedings. The National Board for Jurisdictional Awards was organized in March, 1919, with specific power limited to the adjudication of jurisdictional disputes. Any interested party, labor, employers, manufacturers or architects, could present evidence to it, and strikes pending its decisions were prohibited. Each signatory to the agreement establishing the board obligated himself not to participate in sympathetic strikes arising out of jurisdictional disputes. National unions, architects' associations and other participating groups pledged themselves to discipline affiliated members who failed to comply with the awards of the board. It appeared that an effective organization with power to enforce its awards had been perfected.

In the first year the activities of the board met the expectations of its supporters. Over two dozen controversies, some of them of many years' standing, were promptly settled. In seven years the board rendered over one hundred decisions, a great majority of which were accepted, saving the industry many millions in construction costs; and it has been estimated that jurisdictional disputes have been reduced 80 percent since its organization. But the inherent weaknesses of the arrangement soon came to the front. Friction arose with the Brotherhood of Carpenters almost from the beginning, and in 1920, anticipating an unfavorable award, they withdrew from the board, which was thus left to operate without the cooperation and support of the largest union in the industry. Their absence and the repeated failure to secure their reaffiliation greatly weakened the effectiveness of the adjudicating machinery. In addition, several local groups, particularly in New York City, refused to discard their local adjustment machinery. Architects' and contractors' organizations were either unable or unwilling to support the board's awards to the extent of expelling disobedient members. Added to these difficulties the persistent opposition of the carpenters weakened the support of other labor leaders. In 1927 the Building Trades Department of the American Federation of Labor withdrew from the Board of Awards. In June, 1930, a new organization, known as the Board of Trade Claims, was established; it differs little in structure or aims from the old Board of Awards but at present includes all unions within its membership.

Another frequent source of friction and there-

fore of waste has been the disputes over the working rules imposed by the unions. These rules are primarily a reaction of the union to the insecurity of the job which results from dynamic changes in the industry, and they attempt to check the rate of introduction of changes in order to protect wages, hours and working conditions. They are designed to maintain wage standards and to prevent speeding up which would lead to unemployment, regulating the supply of labor through entrance and apprenticeship limitations and the prohibition against employers working on the job. They further limit the authority of the management by provisions restricting the increase of specialization as it applies to the subcontracting system, preventing the transference to the shop of work normally done on the job, forbidding the use of unskilled workers on tasks classified as skilled, restricting the use of building materials manufactured under non-union conditions, asserting some control over the quality of workmanship, limiting the employer's right to "hire and fire" and preventing non-union men from working at the trade.

Of these rules the closed shop and the regulation of apprentices have evoked the greatest opposition. In 1926, 69 percent of all construction work was done under closed shop conditions. This figure represents an average for the country as a whole, and in the larger cities closed shop operations are even more extensive. The unions' insistence on the closed shop has been due to the fear that without it the cut-throat competition of the subcontracting system in this industry, in which wages are a major item in total costs, would result in the employment of low paid non-union workers. Moreover, union experience showed that under open shop conditions control was made practically impossible by the large number of contractors, the limited duration of any building project and the wide scattering of projects throughout the country. But since the closed shop equalizes competition among contractors, thus bringing stability and lower costs, it has evoked less opposition in the building trades than in other industries.

The rules regulating the employment and training of apprentices have also been of considerable importance. The apprenticeship system was most highly developed in the guild organizations of the pre-industrial era. It still is found, although in somewhat modified form, in England, France and Germany, where it is enforced by union regulations. In the United States only the more skilled crafts seek to provide genuine training through apprenticeship, but most unions have fairly extensive regulations on entrance to the trade.

The most common restriction is a limitation on the age of apprentices, with the upper age limit usually placed at eighteen, although some unions admit apprentices up to twenty-four years. The lower limit is usually at sixteen years. The training period is also regulated; four years are required for the more skilled trades and two to three years for those not so skilled. Some unions also limit the number of apprentices allowed to each employer or in each shop; others determine the number allowed in relation to the number of journeymen employed. A host of other rules have to do with the kind of training the apprentice is to receive, the tools he is to use and the wages he is to be paid.

Many employers maintain that these regulations have made the employment of apprentices unprofitable and have therefore at times created a shortage of skilled mechanics. For some of the trades the census of 1920 showed an actual decrease from 1910 in the number of apprentices; for others it showed an increase not sufficient to keep pace with the increase in population. But other factors than union restrictions explain this decrease in the ratio of apprentices to skilled building mechanics. Modern construction methods do not lend themselves to the older individual methods of training young boys. On most large buildings, because of both speed requirements and high hourly rates, contractors refuse to employ novices; and the burden of post-school training has fallen increasingly on the small or often on the highly specialized contractor. It has been said that English employers are equally reluctant to hire apprentices and that the ranks of English skilled building labor have been filled by foreign craftsmen.

The trade school as a place in which to teach young workers became popular with the building tradesmen after 1880. The determined opposition of the unions to these trade schools, evidently motivated by fear that they would infringe on craft skills and controls, led after 1900 to the regular inclusion in the collective agreement of a stipulation for union control of apprentice training. At the present time about one sixth of the trade agreements in the building industry of the United States provide for the administration of apprenticeship by a joint committee, a joint arbitration board or a building congress consisting of all groups in the

industry. In many open shop cities employer control of apprentice training has developed.

In New York City many of the disputes arising from union apprentice regulation have been adjusted through the Apprenticeship Commission Plan initiated by the New York Building Congress in 1920. This commission is an advisory body, composed of representatives of the building unions, the employers and the congress. It makes surveys to determine the needs of the trade, develops the general principles for training and supervises the training program. The principles which it has laid down include thorough training in all branches of the trade, combination of job work with compulsory school attendance and indenture of the apprentice to the commission instead of to the employer. The actual training is in charge of joint committees in each trade, which determine the detailed rules for each craft.

While such provisions as these, embodied in written or verbal agreements, have aroused opposition, the charges against the union of unfair practises have perhaps resulted more often from the unfair enforcement of rules by the union official, the business agent or, as he was previously known, the walking delegate. As a result of the subcontracting system, the dynamic nature of the industry and the increasing number, importance and complexity of union rules, constant vigilance and immediate action have been necessary to protect union conditions. The power to call strikes has therefore been in most cases vested in the business agent alone. This power and that of dispensing jobs make the good will of the business agent of importance to the worker as well as to the employer and give him immense control over the industry's operations.

Considerable evidence has been accumulated through legislative investigations in several of the states, which indicates that this power has been abused and that graft and corruption have been associated with it. Frequently the general indifference of the membership permits the continuance of these practises, and opposition to the entrenched political machine of the business agent is difficult to secure. Contractors are often willing to buy "strike insurance" or protection against other labor disturbances, and the payment of graft is often the cheapest and easiest way for them to have the union official overlook violation of union rules. The cost plus method of building construction makes it relatively easy to pass all increases in cost on to the building owner. Nor is the owner in a position to permit the demand for graft, under whatever form it is levied, to delay the completion of the structure. The amount involved is a much smaller addition to the total cost of the project than would be incurred by the delay in completing it which might follow a refusal to contribute. These conditions, psychological and economic, help to explain the existence of unethical practises in the building trades.

It must be noted, however, that the discussion concerning graft does not apply to the vast majority of the labor leaders or of the employers in the industry. The extension of the influence of the national unions, of employers' organizations and of the trade associations, with the resultant emphasis on codes of ethics, is tending to decrease the extent of unethical practises.

The organization of contractors as employers has in all countries somewhat tardily followed the organization of labor. After many years of trial British employers are now federated into effective national and district associations. In the United States such obstacles as the large and shifting numbers in the ranks of contractors in the various trades, the small amount of capital required to enter contracting, the indifference of the average building owner to the contractors' problems and his lack of interest in industrial relations have all retarded the development of strong building trades employers' associations.

In some localities, however, contractors' organizations strong enough to counteract the power of the labor unions have long been in existence. The first modern associations of builders were the builders' exchanges, formed in the eighties and nineties of the last century. Their interest in labor problems, however, was only secondary to their concern with competitive practises. About the same time contractors were forming associations, which were limited to the members of one trade, to meet the problems arising out of the organization of unions, and after 1900 in many localities such organizations represented the employer in dealing with the labor unions and in negotiating the annual agreement. As the unions federated into city wide building trades councils, the employers in many cities formed federated building trades employers' associations, particularly in the period after 1900. Some of these associations, particularly those in New York, Chicago and Cleveland, have conducted joint relations with the unions for over twenty-five years and have succeeded in stabilizing industrial relations in their communities.

During the same period the building industry began to outgrow its local environment, and large contracting firms with operations extending from coast to coast were organized. Contractors found it necessary to combine on a national basis comparable to the national labor organizations. National associations of building trade employers now extend to every trade in the industry. These concentrate attention primarily on trade practises, only incidentally considering questions of labor relations. Others, like the National Erectors' Association, one of the most aggressive employers' associations in the building industry, have been organized primarily to deal with labor problems. The National Building Trade Employers' Association, a federation of national trade associations of employers, is mainly concerned with molding employers' opinion on vital questions of labor relations.

It was the organization of employers' associations which facilitated the introduction of voluntary arbitration as a method of settling labor disputes. The agreement between the mason contractors and the bricklayers' union in New York in 1884 was the first arbitration contract in the building industry of the United States. Arbitration in other trades made slow headway for many years. The General Arbitration Board established for the building industry in New York City in 1903 was the first adjustment agency to govern all the trades in a city. Trade arbitration boards were set up in each of the thirty-three crafts in the city, to adjudicate problems involving only the workers and employers in the trade involved. Appeal was had to the General Arbitration Board when the dispute involved more than one craft or when the trade board failed to agree. With some modifications in 1903, 1905 and 1919 this system has governed over 150,000 workers and their employers in the largest building center of the United States.

The principle of arbitration has been extended to other cities and produced stable adjustment machinery. Arbitration committees were organized in Chicago soon after the long strike of 1900, and in 1916 the Joint Conference Board, a supertrade arbitration body, was established to settle grievances and disputes whenever the arbitration committees failed to agree. The code of industrial government which is being developed by these adjustment boards, now functioning in many cities of the country, is slowly bringing about a reliance upon the method of adjudication in preference to direct action. Standards for wage adjustment, working conditions and hours of labor, by-products of every decision of an arbitration tribunal, tend to remove the uncertainty and instability which characterized these problems in the past.

Industrial cooperation between not only the workers and their employers but all the groups operating in the industry first developed out of the post-war industrial situation. In the United States it found its first expression in the organization in 1919 of the National Board for Jurisdictional Awards already described. An even more important manifestation of the trend is to be seen in the building congress movement. Local building congresses, the membership of which includes architects, engineers, general contractors, subcontractors, manufacturers and distributors of material and equipment, financial and real estate, labor and employers' organizations and similar associations have been organized in New York, Boston, Philadelphia, Portland and several other cities. In each locality the driving force behind the organization of the building congress has been some special problem pressing for correction. In New York City, for example, the particular issue was the training of apprentices. From this task and the fact of association new activities were undertaken. Purely trade matters, questions of wages, hours and conditions of work and specific trade practises were left to the trade organizations and the unions in the respective trades.

The activities of building congresses have been varied. Apprenticeship training, stabilization of employment, recognition of craftsmanship, commercial arbitration and codes of ethics have been the more important issues dealt with by the various building congresses. By discovering through systematic surveys the needs of the public and the industry, by finding and recommending ways and means for satisfying these needs, the building congress has made a distinct contribution toward the solution of the problems and toward the technique of cooperation in industry. The greatest benefits of the movement come not so much from its actual and direct results as from the degree of understanding which it fosters among different groups.

On a national scale the building congress idea of cooperation has found expression in the American Construction Council, organized in 1922, which includes, besides all groups in the industry, representatives of chambers of commerce or boards of trade, of public utility construction departments, of federal, state, county and municipal departments concerned with con-

struction. Many problems needing solution could be handled only through a national organization. The council became a national clearing house of information on the construction industry; an association of associations representing all the groups private and public functioning in the industry. It has made an effort to mold the opinion of the construction industry on several problems of national importance. It issues a periodical report on developments in the industry, particularly in regard to volume of construction. These reports seek to check the possibility of overexpansion and to stress the need for stabilization.

Close public cooperation with these groups has been facilitated by the creation of the Division of Building and Housing within the Department of Commerce. This division gave valuable suggestions during the depression of 1920–21 and has made available statistics regarding all phases of building activity.

In England, in Germany and to some extent in other European countries since the war cooperation within the industry or in conjunction with government has taken somewhat different forms. In most countries of continental Europe cooperative housing and government aid to home building have played a considerable role for some time. The post-war building situation in all these countries was exceedingly acute, particularly with regard to housing. In Great Britain a Building Trades Parliament of employers and operatives was formed as early as 1915 partly as a result of pre-war conciliation schemes and in an attempt to find a method of overcoming demarcation disputes. In 1919–20 a committee of this parliament produced a plan signed by a number of employers as well as leading trade unionists for the drastic reorganization of the industry. The program adopted went far beyond the provisions of an ordinary trade agreement. It not only sought to secure the regularization of production and employment, the maintenance of real wages and the settlement of general principles governing the conditions of employment but considered also questions of scientific management and reduction of costs, the promotion of research and the study of processes, designs and standards of workmanship. The combined energies of the employers and the workers were to be directed upon the continuous and progressive improvement of the industry. In 1920 a committee from this parliament drafted a report for a National Building Guild. Under this plan the employer was to become virtually a salaried servant and the industry, hiring its capital at interest, was to be conducted in partnership by its managers and operatives.

While this movement did not carry the endorsement of the main body of employers it aroused considerable enthusiasm in the minds of the workers. Under the leadership of Malcolm Sparkes, an employer and one of the originators of the Building Trades Parliament, building guilds were organized in London and Manchester in 1920. The movement spread rapidly and local building guilds were organized all over the country. In 1921 most of these local groups came together to form the National Building Guild.

The movement achieved rapid success almost from the start. The acute housing shortage was responsible for a governmental policy of encouraging guild operations. The government consented to the employment of the new guilds by local authorities; the use of the basic-sum form of contract gave them an added advantage; the assurance of weekly payments made possible operation with little capital; and adequate credit was available through the strength of the cooperative movement, which was favorable to the guilds. As a result work to a value of over £2,000,000 was taken in hand. Unfortunately the guilds did not count on a change in the governmental housing policies. In 1922 the government withdrew its support; this action, combined with the shortage of capital and the inefficiency and slackness of discipline due to local autonomy, soon brought about the failure of the National Building Guild. This in its turn resulted in the failure of local guilds, many of which had been in excellent financial condition. The continuing influence of the building guild movement is probably to be seen, however, in the adoption of new methods of national scope for dealing with many of the problems of the industry.

In Germany too the post-war situation brought about the formation of building guilds on a somewhat more stable foundation than the British guilds. The movement began in 1919. The ideal of the German guild, like that of the English, was socialistic, but the propaganda element was less stressed and more attention was given to developing the guilds into efficient producing units, competing with profit seeking capitalistic organizations. To this end the methods of scientific management and cost accounting were employed to raise the level of

guild efficiency. Responsibility for the job rests entirely with the local bodies, but the national organizations have a degree of control over funds. The guilds were pioneers in introducing American machine methods, especially in an attempt to foster winter construction. After a slow but consistent growth, in 1928 there were in existence 138 local guilds employing 16,828 workers. Over 50,000 well built homes have been erected by them.

The relative importance of these two experiments in the entire European construction industry is difficult to estimate, especially from a statistical point of view. There is probably less statistical information available concerning this industry, its workers, the value of its output and the like than there is concerning any other major industry of the various European countries, in spite of the fact that such scant and often not comparable data as are available show its importance. According to a recent estimate by Woytinsky in his *Die Welt in Zahlen* the four construction industries of the principal countries of western Europe, Germany, Great Britain, France and Italy, employ about three and a half million workers. They probably comprise 6.5 percent of the total working population and about 14 percent of the total number of industrial workers, which makes their relative importance only slightly less than that of the American industry. The total number of workers for all of Europe is estimated at between five and six million. In most of the European countries these workers display a high degree of unionization and are in most instances organized into highly effective industrial unions little disturbed by the jurisdictional disputes of the American craft organizations. Some indication of their strength is given by the following figures for the various countries and for the international organizations. The Building Workers' International, organized in 1903 and one of the larger groups in the International Federation of Trade Unions at Amsterdam, showed a membership in 1923 of 1,144,000 workers, with a successive decline for 1924 and 1925. Building workers affiliated with the painters' and stonemasons' internationals, separately organized, probably bring the total to a million for 1925. The Christian Labor International in 1921 claimed a membership of 98,000 building workers. The Russian trade unions which are affiliated with the Profintern or communist trade union international included an average membership of about 300,000 for the period between 1920 and 1925. Germany's building federation numbered 431,000 workers in 1924 and with additional groups from industrial unions of slightly conflicting jurisdiction probably rose to 500,000. The membership of the British unions rose to a high point in 1920 with 557,000, but because of the acute national unemployment situation has dropped to 356,000. Building trades unions in France—scattered in hundreds of locals—included a membership of 146,000 in 1920. Italy's trade union membership was only slightly lower.

Recently considerable interest in the problems of this industry has been aroused. The same forces which have brought about the organization of the building industry of each country on a national scale have tended also to foster international organization in Europe. Until the war construction everywhere was largely a localized industry, very rarely of national scope except in the field of public works and public utilities construction. It is this new development which has probably led to such studies as that recently made of unemployment and wage rates in the various European countries by the International Labour Office of the League of Nations. Organization of entrepreneurial groups on a national and international scale has been given an added impetus. To an increasing extent professional associations in the various countries, often with government encouragement, are sending commissions to study the techniques and methods of organization of the industry in other countries. At its fifth meeting this year the International Congress of Building and Public Works dwelt especially on some of the problems which were common to European countries, such as the need for rationalization, for standardization of contract forms, of designs, materials, problems of financial and credit facilities, of apprenticeship and safety, and stressed the necessity for cooperative effort.

WILLIAM HABER

See: PUBLIC WORKS; HOUSING; ARCHITECTURE; GUILDS; BUILDING REGULATIONS; CEMENT; IRON AND STEEL INDUSTRY; LUMBER INDUSTRY; REAL ESTATE; LAND MORTGAGE CREDIT; BUILDING AND LOAN ASSOCIATIONS; TRADE UNIONS; LABOR DISPUTES; DUAL UNIONISM; BUSINESS AGENT; APPRENTICESHIP; ACCIDENTS, INDUSTRIAL; INDUSTRIAL HYGIENE; EMPLOYERS' ASSOCIATIONS; WASTE; SEASONAL FLUCTUATIONS.

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CONSULAR SERVICE. A consul is an officer commissioned by a state and authorized by the grant of an exequatur from the receiving state to watch over the interests of the sending state and of its nationals within a particular locality or district. As soon as any extensive commerce between independent communities developed, the need of some kind of intermediary or protector known to the local authorities was felt. Throughout the ancient world trading groups in foreign cities took various means of securing resident representatives of their interests. In the cities of Greece a proxenus, or patron, assumed this responsibility for the merchants from a particular city. Probably many early analogies might be found for the practise, which became common with the increase of commerce among the city-states of the Mediterranean after the crusades, of colonies of foreign merchants electing one of their number to protect their interests and to represent them before the local authorities.

The evident advantage of protecting this growing commerce and using these magistrates as foreign representatives and agents influenced the newly developing European states of the fifteenth and sixteenth centuries to send to important trading centers so-called consuls of outremer, who as regular officers of the sending state soon replaced their unofficial prototypes. Before the rise of the great nationalist states, jealous of every infringement of their sovereignty, consuls exercised jurisdiction over their countrymen. This jurisdiction was necessarily most complete in states like Turkey where the legal system was not intended to apply to infidels, whose privileges were made to rest upon treaty stipulations or capitulations. Vestiges of this so-called exterritoriality now remain in a few backward states only. In general the consular

service of all the different states, based largely upon the French model, has become nearly uniform. Although in the course of this development the consul's jurisdiction and prerogatives have been curtailed by reason of the jealousy of the states of any infringement of their sovereignty, increasing international intercourse and the tendency toward centralization of governmental control have made his position of ever greater importance.

Since the primary duty of a consul is to protect his nationals from injustice, it is not correct to speak of him as a commercial agent. Although it is true that in the more civilized communities he is rarely required to protect his nationals from outrage and that he is more frequently concerned with their commercial interests, a consul is nevertheless in a more specialized sense than the diplomat a representative or political agent of his government. A consul's actual duties necessarily vary according to the nature of his post and the relations between the two states. In order to facilitate the protection of his nationals it is customary for a consul to maintain a register where they may record their names. When nationals die in a consul's district without heirs or partners to look out for their personal estates, he seeks to prevent loss and to preserve the assets for the absent heirs. He protects in general the interests of absent nationals and his interposition is also most valuable in the case of minors or incapable nationals.

Other duties which a consul may be called upon to perform include the authentication of signatures, the issuance of various certificates of fact and the performance of appropriate notarial acts at the request of nationals or others who may have need of these documents relative to transactions in the sending state or with its nationals. The care of seamen and shipping under the national flag is another important duty of the consul; he must also make the necessary quarantine inspections of vessels bound for his state. Another consular duty is to visa the passports of travelers who wish to visit his state. Because of the adoption by the United States of a policy of restriction of immigration United States consuls in the principal ports of Europe are required to make careful investigation of applicants who are desirous of entering the United States before they accord the necessary visas.

In connection with his commercial activities the consul is concerned with facilitating commercial exchanges and in aiding his countrymen to take advantage of trade opportunities which arise in his district. This function is becoming of increasing importance. A consul may not properly participate directly in trade promotion or push the sale of a particular article, although the keenness of economic competition between states and the movement toward a closer relation between governments and business tend to exert an influence in this direction. Every consul is, however, frequently called upon for answers to trade inquiries, and one of his duties is the preparation of periodical trade reports. Consuls of the United States, for instance, transmit such reports to the Department of Commerce, which publishes those of public or general interest in its weekly *Commerce Reports*.

Consuls in the principal trade centers receive assistance from unofficial local agencies, such as chambers of commerce, composed of the merchants of the consuls' nationality. Although it is difficult to establish the direct practical value of this cooperation, indirectly these chambers of commerce are of undoubted value as a moral support to the consul and to the merchant body.

In order more effectively to watch over trade interests certain states have appointed in addition to consuls commercial attachés and other officers especially concerned with the promotion of international commerce. Commercial attachés have generally been given a diplomatic status in order that they might have more extensive immunities and be able to act throughout the entire country, which the consul is not able to do because of the accepted practise that prevents his communicating directly with the central authorities. In the United States commercial attachés come under the direction of the Department of Commerce, but like all foreign agents they are when abroad under the supervision of the head of the diplomatic mission. Other departments, such as the agricultural and the treasury, also appoint attachés or foreign agents for special purposes. Treasury agents, for example, assist consuls in performing duties connected with the administration of the tariff laws. All these officials may be considered to perform duties which appertain to the consular office. Their existence is but a manifestation in our foreign service of the modern trend toward specialization which is found in every department of government.

In order that they may effectively discharge their various duties consuls enjoy certain immunities as established by international law or as recognized by local customs. In many in-

stances general consular immunities are confirmed by treaties which also accord such special immunities as are considered useful or necessary. Consuls are subject to the civil and criminal jurisdiction of the receiving state, but in the exercise of this jurisdiction the local authorities must be careful to show due consideration for the consul as an important official of a friendly state. Any interference with his communications to his government and nationals must be avoided. Above all it is recognized as essential that his archives remain inviolate.

The consul as an officer of the sending state is guided and controlled in the exercise of his functions by his instructions, but he may not perform any act contrary to the will of the receiving state. His authorization to act in an official capacity within its jurisdiction can evidently be continued only so long as the receiving state is willing. But although the consul's exequatur may be revoked at any time, this serious step is rarely taken without explanation and an effort to secure the acquiescence of the sending state to a transfer. In some instances, such as war or military occupation of foreign territory, all consuls are withdrawn. The acts which a consul performs in the discharge of his official duties when within the scope of his powers may not be examined by authorities of the receiving state, but the latter reserves the right to decide whether any act is or is not official. In case of dispute such a matter is settled through the diplomatic channel.

In order to meet the needs of governmental organization and control a hierarchy of consular offices has been set up in most countries. Consular officers are generally graded as consuls general, consuls, vice consuls, consular agents and, in certain countries, language officers. Those consuls who are permanent officers are known as professional consuls or consuls of career. At important consulates there may be stationed several consular officers of different grades as well as one or more consular clerks who need not necessarily be citizens of the sending state. In localities of less importance it is customary to appoint a local merchant as a consular agent to discharge certain of the duties of a consul, such as the certifying of invoices. These trading consuls or commercial consuls, as they are also designated, receive their compensation through fees. The honor which attaches to the office of consul is often an inducement to accept the appointment. Some countries, as, for example, France, occasionally confer the title of honorary consul, conveying with it neither salary nor duties.

The size of modern consular staffs makes necessary some administrative centralization of the system. Consuls general in foreign capitals usually exercise certain supervisory powers over the conduct of consular officers in their areas, and the efficiency of the consular service is greatly promoted through the periodical visits of consular inspectors, who hold the rank of consuls general at large. The United States law requires that consular offices be inspected at least once every two years, and the inspector has power in case of necessity to authorize the suspension of the consul or consul general and administer the duties of the office for a period not exceeding ninety days. It is of importance that the reports of such inspection affect the consular officer's efficiency record, upon which his promotion depends. But the visits are undertaken not for the purpose of inquisitorial investigation but in order better to coordinate the service.

In the United States the foreign service in both its consular and diplomatic branches was for many years a field of exploitation for politicians and ne'er-do-wells, and few of those consuls who possessed native ability remained long enough in the service to acquire any real efficiency. Public opinion was aroused by agitation for civil service reform led by the National Civil Service Reform League and some improvement was introduced through an executive order of President Roosevelt of June 27, 1906, and one of President Taft of November 26, 1909. But not until the passage of the Rogers Act of May 24, 1924, was the foreign service permanently placed upon a merit basis and its two branches united. Diplomatic secretaries and consuls are now commissioned as foreign service officers and classified in nine grades according to their salary. All new appointments, however, are made to the grade of foreign service officer unclassified, and through promotion the highest salary grade and rank may eventually be reached.

The consolidation of the two branches of foreign service is not peculiar to the United States. As early as 1883 France combined the two services and the tendency away from the traditional separation has been manifested more recently by other states, including Germany, Austria, Norway and Sweden. Logic and experience have shown that the consular service cannot be entirely divorced from the diplomatic. Since the consul in his limited sphere also acts as

a political agent of his government he should always be in close touch with the diplomatic representative. The cooperation of consuls is invaluable to the diplomat in enabling him to understand the situation in the receiving state as a whole.

ELLERY C. STOWELL

See: DIPLOMACY; CAPITULATIONS; EXTERRITORIALITY; IMMUNITY, POLITICAL; BACKWARD COUNTRIES; IMPERIALISM; EUROPEANIZATION; BUSINESS, GOVERNMENT SERVICES FOR; MARKET INFORMATION.

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CONSUMER PROTECTION. In the more primitive stages of commercial economy, when most manufacture was carried on in small local units and the domestic arts still supplied a large proportion of consumption goods, protection of the consumer was a relatively simple matter. It depended primarily upon the shrewdness of the individual purchaser. Women had a first hand knowledge of the quality of foods and fabrics; livestock was bred and traded locally; clothing and shoes were produced in the home by traveling artisans; men understood woods and the art of making furniture, tools and conveyances; houses were built to order under the eye of the owner. Manufacturers, artisans and merchants had to live by a local reputation for fair dealing.

With the introduction of more efficient power and machinery into manufacture and with the development of rail and water transportation, accompanied by the widening of markets, control by the consumer over the quality and prices of the goods and services offered him was progressively diminished. Fewer and fewer products were made in the home or the local mill or shop. The variety of goods offered for sale was increased to such an extent that no one person could be expert in judging them all. The purchaser had neither time nor opportunity to compare qualities and prices throughout the whole range of markets and competitive merchants. The arts of production became so complex and were so far removed from the experience of most individuals that it was impossible easily to recognize merit in the product except as mere appearance before use might constitute the desired quality. The art of analyzing the quality of consumption goods has advanced to a stage of expertness which the individual consumer has never had the skill or the facilities to exercise, although it may be effectively employed by professional buyers. Modern technology enhances the possibilities of high quality and low cost, but it also widens the range of possible choice before the consumer and increases the margin of his incapacity to employ the best available techniques of choice.

Cheating and deceit are as old as trade itself, but the weakened status of the consumer in the modern economic structure leaves him a prey to more forms of crude cheating than formerly. The crudest types of cheating are the use of short weights and measures, the adulteration of products and the misrepresentation of the article for sale. All these forms still survive: scales are discovered which give light weight; some gasoline pumps deliver fewer gallons than the motorist orders; patent medicines and tooth pastes are commonly advertised as cures for diseases which they cannot affect beneficially.

Modern business methods have greatly increased the hazard of the consumer by introducing new and subtle forms of deceit. Instead of buying groceries in bulk and running the risk only of outright short measure the consumer is persuaded to buy them in packages assumed to be equivalent to the old measures but which in fact often give smaller quantities for higher prices. Usually there is no legal cheating involved: the amount of contents of the package or can may be printed on the label. But the highly developed arts of advertising and salesmanship accustom the consumer to buy the

package without any measured recognition of the cost of its added convenience. Similarly, by playing upon fear, envy or the sex instinct these arts persuade consumers to pay premium prices for articles proclaimed but not proved to be superior to competitive articles. Where the quality of an article is readily revealed by the experience of the individual purchaser, a worthless article will eventually lose any large market created for it by advertising alone. But the value of many articles cannot be so judged; a laboratory test may be needed to reveal their true serviceability. When all competing products are serviceable to some degree, there is no assurance that the most serviceable will win favor over its competitors.

The increased disadvantage of the consumer in the face of modern business methods is due not so much to wider opportunities for deliberate cheating as to the unregulated system of production for profit. The manufacturer of consumption goods produces for the market rather than for an identifiable individual consumer; he tries to produce what will make the most profit, either through large sales or through wide profit margin. The easiest way to make a profit is not to wait until consumers evince a demand for a product but to devise something for which a demand can quickly be created by advertising its real or fancied excellence. Were consumers universal experts in choice, this might lead merely to rapid improvement and cheapening of goods. Actually, not only does the initiative rest with the manufacturer and his sales force but the survival of the manufacturer is conditioned by the ignorance and suggestibility of the isolated consumers. If attractive color rather than durability leads to salability, the producer will use the resources of science to discover more popular colors rather than to increase durability. Competitive manufacturers may often be as ignorant of the relative qualities of their products, judged by scientific tests of good service, as are average individual consumers. A producer offering inferior products at higher prices may be guilty not of calculated fraud but of following the most easily stimulated preferences of poorly informed purchasers or of employing the most effective trick of stimulation.

The perils of crude cheating have been recognized for centuries. Standardization of weights and measures has long been a practise of governments, and attempts to enforce the use of honest weighing and measuring devices by law are of long standing. In early English law assizes set maximum prices of commonly used products, and in all countries regulations of mediaeval guilds helped to maintain the quality of goods and the fair price. Later came efforts to assure purity of foods and drugs by law.

The new perils accompanying modern developments of industry and business have received recognition only within a comparatively few years. The principle of caveat emptor, an outgrowth of the more primitive order when the consumer could better protect himself, although still generally in effect has been in part superseded either in law or in practise by numerous types of protection. Of these perhaps the most obvious are government regulations of foods, drugs and similar products of mass consumption. The purity and quality of commonly used foods are frequently regulated by local health officials. Inspection of dairy herds and dairies, pasteurizing and grading of milk are now common. National and local laws to protect the consumer against harmful, diseased, adulterated or misrepresented drugs and foods are also quite common. However, they are difficult to administer with anything like complete effectiveness; moreover, some of them prescribe merely truthful labeling and thus do not prohibit untruthful or misleading advertising. Grading of foods for quality, a practise frequently optional with the producer, allows the consumer to discriminate among superior and inferior qualities of such products as beef, turkeys, eggs, butter, cheese, some canned products, fruits and vegetables. This practise is far from universal but is gaining ground.

Regulation of prices by governmental agencies, carried on extensively during emergencies like war, is at present virtually unknown under normal conditions, except for the narrow range of goods and services produced by government monopolies or by railroads, public utilities and similar natural monopolies operated by private capital. In the latter case the amount and quality of service are also subject to government regulation.

Consumers benefit indirectly also from such improvements in the ethical standards of doing business as may be effected by business men as a matter of self-protection. Ethical codes, voluntarily adopted by professional men, trade associations and publications carrying advertising offer a somewhat intangible protection of widely varying effectiveness, but usually operative only to the degree that it serves the interest of the producers or distributors adopting the

codes. Government agencies sometimes cooperate in the drafting of such codes. The range of effectiveness of "better business bureaus," non-governmental organizations aiming to detect and expose fraud and to encourage ethical practises as these are understood in ordinary business relationships, is somewhat similar. In the United States the Federal Trade Commission supplements private efforts in attempting to prevent "unfair methods of competition" in the form of misbranding, misrepresentation, untruthful labeling and substitution. This activity is undertaken to protect not the consumer but the producer who has developed a proprietary trade name or a good reputation and it operates usually only on complaint of the aggrieved competitor.

The industrial standardization movement, which is of considerable and growing importance in industry, also offers some advantages to the consumer. The standardization movement originated in the establishment of the fundamental units of measurement and was eventually developed to include standards of nomenclature, of size and form, of quality, of practise and of methods of test. Unlike simplified practise true standardization is often preceded by research to discover the best way or ways of doing a thing within the economic limits of the situation and is effectuated by general willingness of producers and of important consumers to concentrate their production and purchases on the standard. It tends to eliminate unnecessary styles and varieties and to relieve confusion of meaning as between buyer and seller; it substitutes scientific knowledge for commercial mystification and makes possible price comparisons for identical qualities. The final consumer obtains benefit from industrial standardization of articles in general use through assurance of quality and enhanced convenience. He may also obtain the benefits of lower price made possible by reduced costs, but this result is by no means certain. Standardization lags far behind in consumption goods and has made most progress in intermediate products and in such consumption goods as are bought also in large quantities by purchasers who are powerful, well informed and able to exert pressure.

Both governmental regulation under the police power and action proceeding from within private industry itself have frequently suffered from glaring defects. The governmental agencies charged with regulation often have an enormous task, presented by the extent and complexity of the processes to be regulated. Sometimes they are not granted sufficient powers under the law and are further severely limited by judicial review. Insufficient appropriations render them unable to compete with the regulated industries for high salaried experts and to carry on extensive supervision. Corruption or more subtle influences may damage their integrity. When such regulation involves, as it often does, a contest between the policing body and profit seeking concerns engaged in trying to circumvent it, the government is at a disadvantage. Its control over industry is negative and it can act only after the event in most cases. Its task is usually so technical that it is not much strengthened by popular vigilance and support. The efforts of industry to police itself without governmental aid have to contend not only with the desire for greater profit which can sometimes be derived from undesirable practises, but with the difficulty of obtaining unanimous or nearly unanimous consent of all the competitive groups concerned. This dilutes the quality and number of the standards arrived at and makes difficult disciplinary dealing with those who disregard them.

A potent force in this situation is the pressure of cooperative consumers' societies. They offer protection to their patrons in so far as they utilize scientific methods of buying and distribute consumers' dividends. They tend to cut through advertising and salesmanship and substitute the organized impulse of the consumers for that of the producers in determining the nature of goods. This tendency is particularly marked wherever the cooperative movement is widespread and reaches back into the wholesaling and producing processes.

In a country like the United States, where consumers' cooperation is relatively insignificant, reliance must be placed upon the pressure of large consumers who employ a scientific buying technique. The federal government with its Bureau of Standards and other similar agencies is a leader in this respect. The Bureau of Standards analyzes all the products offered to supply the needs of the government, works out specifications for the product desired and tests the delivered product to check its compliance with the specifications. The bureau's standards and specifications are available to anyone, but the results of its tests of competitive commercial products are open only to state and municipal governments. In order to make the same techniques available to retail consumers, a non-

profit consumers' research organization has recently been formed to advise them concerning the relative merits of retail goods. Through the spread of such institutions or of consumers' cooperation or possibly of the use of scientific buying technique by large commercial retailers the ultimate consumer may gain increased protection.

GEORGE SOULE

See: INDUSTRIALISM; BUSINESS; BUSINESS ETHICS; FOOD AND DRUG REGULATION; ADULTERATION; UNFAIR COMPETITION; ADVERTISING; CAVEAT EMPTOR; GRADING; STANDARDIZATION; WEIGHTS AND MEASURES; PRICE REGULATION; GOVERNMENT REGULATION OF INDUSTRY; BOYCOTT; CONSUMERS' LEAGUES; CONSUMERS' COOPERATION; STANDARDS OF LIVING.

Consult: Levett, A. E., *The Consumer in History* (London 1929); Chase, Stuart, and Schlink, F. J., *Your Money's Worth* (New York 1927); Wilbrandt, Robert, "Kapitalismus und Konsumenten" in *Grundriss der Sozialökonomik*, vols. i–ix (Tübingen 1914–29) vol. ix, pt. ii, p. 411–56; Clark, J. M., *Social Control of Business* (Chicago 1926) pt. iii; "Standardization and the Consumer" in American Academy of Political and Social Science, *Annals*, vol. cxxxvii (1928) pt. iv; Radin, Max, *The Lawful Pursuit of Gain* (Boston 1931); Wiley, H. W., *The History of a Crime against the Food Law* (Washington 1929).

CONSUMERS' COOPERATION. Consumers' cooperatives are to be distinguished from consumers' leagues or other public or semi-public organizations which seek to protect consumers' rights in the course of their dealings with producers or purveyors of consumption goods. Consumers' cooperatives are actual economic enterprises in the form of stores or shops, set up by associations of consumers to distribute fundamental consumption goods, usually staple food items, but also at times clothing, furniture and the like. In the process of expansion a group of stores may set up a wholesale distributive and may even establish its own factories and farms for the production of these goods. Or consumers' cooperatives may furnish other consumption needs, such as housing, insurance against risk, provision of gas, light, transportation. In order to set up these enterprises it is necessary to acquire capital and to found a joint stock society.

These economic enterprises differ, however, from ordinary joint stock companies not only in their aims but in their actual economic and legal characteristics. In the first place, they are not restricted as to the number of members and the number of shares but are open to anyone who wishes to join, and the last comers, moreover, are on an equal footing with the first. From this initial rule necessarily follows the corollary that the value of the shares at no time can be higher than their price at issuance and that speculation on rising values is therefore impossible. This constitution, practically impossible in an association for production purposes because of limitations both of capital and of demand, is advantageous in an association of consumers in which each new arrival brings with him his consumption capacity.

In the second place, capital as such does not play the same role or have the same rights in government or profits as in ordinary joint stock enterprises. In the consumers' cooperatives every member has an equal vote in the assemblies regardless of the number of shares he may possess. The profits of the enterprise are divided pro rata for purchases and not for shares, so that it might be said that profits are returned to those who originally paid them. In fact, in describing the return French cooperative enterprises prefer the term *ristourne*, or *trop-perçu*, to the English cooperative term dividend with its profit making connotations. Thus it might well be asserted that these returns to purchasers are not a form of profit but rather the negation of profit. Cooperatives have protested against a tax on alleged profits which they claim are non-existent because the surplus redistributed to members was based on overpayment arising from the practise of marking goods at current competitive prices.

As a result of these rules capital, whether obtained in the form of loans or of shares, is restricted to a mere return based on the cost of obtaining it or as limited remuneration for its share in the services rendered and is no longer the dominant factor in the government of the enterprise or in the distribution of profits. Within this voluntary association therefore capital and profit in their ordinary forms are virtually abolished by pacific legitimate means, without any imposition of exterior restraint or any change in the basis of the social and economic order as to property, inheritance, interest, salary or even competition. There is nothing in the nature of the association to prevent its spread by the formation of similar voluntary associations and by federation throughout the nation or even on an international scale.

These economic and legal limitations on the role of capital and profits are supplemented by certain further ethical limitations self-imposed by the majority of consumers' societies. These

include the provision that not all profits are to be returned to the individual members but that a portion is to be devoted to enterprises for collective welfare, such as the propagation of cooperative ideals and the provision of educational and recreational facilities for workers.

The special characteristics of consumers' cooperative enterprises require special legislation, for they do not easily conform to common law concepts. Thus there are special laws on consumers' cooperatives in most countries today, including countries such as Mexico and Argentina where the movement is still in its infancy.

Consumers' cooperatives, which now include over 40,000,000 members in about 60,000 societies in thirty or more countries, began in 1844 with the association of twenty-eight English weavers in Rochdale near Manchester. As early as 1827, however, consumers' societies had existed and had even developed sufficient strength to establish a wholesale; one or two societies still in existence antedate the experiment of the "Equitable Pioneers of Rochdale." Nor did the theory of cooperation arise with the Rochdale weavers. They were in fact somewhat under the influence of Robert Owen, whose use of the term cooperation made it synonymous with communism but who is often credited with the paternity of the movement because he coined the term and said: "You must become your own merchants and your own manufacturers . . . to be able to supply yourselves with goods of the best quality and at the lowest price." Both in Owen's plans and experiments for communistic settlements and in those of the French socialist Fourier in his *Traité de l'association domestique agricole* (2 vols., Paris 1822) social transformation into these forms of society was to come about through outside intervention of philanthropists. But the Rochdale Pioneers began to express this social transformation through the voluntary and independent association of groups from the very midst of the masses and thereby gave it its voluntaristic and democratic form. It was one of their members, Charles Howarth, who devised the method of disposing of surpluses which is described above, and which proved to be the indispensable practical as well as ideological tool for the accumulation of membership, capital and patronage. Prior to that time profits had been distributed to shareholders (a practise which encouraged the limitation of membership), equally divided among all members without regard to their patronage of the enterprise or else buried in an inalienable reserve fund. The essential characteristics of all consumers' cooperatives, including the sale of goods at current prices and for cash and the device of voting by membership instead of by shares, were also inaugurated by the Rochdale weavers. Although in several countries individual consumers' enterprises mainly under the influence of Fourierist disciples had been experimented with before the Rochdale enterprise, the history of consumers' cooperation throughout Europe is mainly one of the founding of societies patterned on the Rochdale practises. It is true that the Rochdale Pioneers in their original statement of aims included the emancipation of the workers from their employers through self-employment and even the founding of cooperative communities. But they themselves never carried these principles into practise, and in England it remained for a group under the moral leadership of the early Christian Socialists to attempt the fulfilment of this aim.

The development of consumers' cooperation has proceeded instead along the assumption, not clearly articulated at the outset, that production was not an end in itself but must be a response to consumption needs of society. This is illustrated in the development of consumers' societies within a country or community. Small consumers' societies commonly begin with, and often limit themselves to, the provision of simple uniform daily needs which requires neither large capital nor special technical equipment. Groceries and bakeries are usually the first types of store to be established. Somewhat later, as in the case of large English cooperatives, they extend their scope to include haberdashery, clothing, furniture and the like. Usually housing or insurance societies take the form of separate organizations. When the societies have reached the second state of development, that of a regional union among themselves, they set up a wholesale society. In the course of time these wholesales have themselves entered upon the field of production, both because the consumers' cooperatives wish to procure the articles as close to the source of production as possible in order to reduce costs and because they have found themselves at times in conflict with capitalistic production—as when a large soap concern in England objected to the dividend as a price cutting scheme and when, on the other hand, the cooperative movement joined with other socially minded organizations in a protest against the treatment of labor on native planta-

tions. Thus the wholesale societies of Manchester, Glasgow, Hamburg and Stockholm and the Centrosoyus of Moscow have established large industrial plants which at times have been able to defeat capitalist trusts.

With the entry of the consumers' cooperative into the fields of production and distribution there arose the question of its relations to the labor employed by society. In England and Germany, for instance, while a large proportion of the membership of the consumers' societies is drawn from the laboring classes, the workers employed by the cooperatives regard them as employers. These workers have of course the opportunity, of which they usually avail themselves, of joining constituent societies and thereby benefiting as consumers from the operations of the cooperatives. In fact, such students of the cooperative movement as Beatrice Webb see in the consumers' cooperative movement a new social organization which would supplement the trade union movement by organizing the workers as consumers. This has generally been the attitude of the trade union leaders and the basis of their support in most countries of the cooperative movement. On the other hand, the cooperative societies have in most cases been willing to recognize and deal with their workers as an organized group and in some cases have been of great aid to the trade union movement. In Germany standard agreements with the unions have been worked out with reciprocal obligations on both sides. This has checked the tendency of the specific trade unions involved to ask for standards above those which they set in their agreements with ordinary commercial and industrial enterprises. A highly praised expedient for dealing with this problem is that employed by the Scottish wholesale of making workers eligible to membership not only in the constituent societies but in the national federation itself, in which they are granted voting power in proportion to the total membership. A suggestion has been made of permitting representation of the employees either upon the board of management or upon the advisory board of the wholesale society.

Moreover, the English societies in particular found themselves in competition not only with capitalistic trusts but with workers' producing cooperatives, which in many cases they finally absorbed. When the field of production is agriculture, new conflicts arise with agricultural cooperators, who are a far more powerful group than the workers' producing cooperatives ever were. In Scandinavian countries and elsewhere, where on the whole agriculture and industry are equally important, central clearing houses functioning between the various types of organizations have been set up with varying degrees of success. The wholesale cooperative of so industrialized a country as England has entered into cooperative agreements with the central clearing houses of other countries, but it has come into conflict with the agricultural cooperative movement within the empire, especially in Ireland. The problem is by no means resolved and is a matter of great concern for the cooperative movement.

Conflict with other types of cooperatives either in practise or in ideology arises also in the second state of development of the cooperatives, when individual scattered local societies form into a national organization. The tendency at first is to unite all types of cooperatives in one federation, but inevitably conflict has arisen which has led to the establishment of separate types of nationals. Similar conflict arose in the third stage of development, when national federations formed in 1895 the International Cooperative Alliance. Although it is nominally an alliance of all types of cooperation, conflicts have resulted in the withdrawal of many agricultural and credit societies and in the refusal to admit that type of profit sharing enterprise known as copartnerships, until now more than three fifths of its membership are affiliated with consumers' cooperatives.

These three stages of development—the formation of local consumers' societies (which in most countries of Europe began about 1865), then the formation of national associations about a decade later and finally the affiliation with an international organization—have not been undergone by the cooperative movement in all countries, for development has not been equal in all countries. In France and to some extent in Switzerland large numbers of individual societies are not affiliated with the national federation, and the consumers' society membership of the International Cooperative Alliance includes only 33,000,000 out of 40,000,000 in all countries. Cooperation is far more active in the north than in the south. Thus in the north are the three great countries of cooperation—Russia, Great Britain, Germany—and the two smaller countries which are from the point of view of intensity and quality of the movement of great significance—Denmark and Finland. In Belgium, Switzerland, Czecho-

slovakia, Austria, Hungary and Poland the movement also flourishes. But in Italy, Spain, Rumania, Portugal and even in the southern half of France itself consumers' cooperation is poorly developed. In some of these countries, however, agricultural and credit cooperative movements are more flourishing.

More specifically, the development of cooperative movements and of their particular types is bound up with the stage of development of general economic and social forces. In countries but poorly developed except in agriculture and there suffering from certain defects of primitive organization it is only natural to find credit and agricultural and not consumers' societies. Moreover, consumer's cooperatives flourish best in societies of large membership—in London they reach numbers of 100,000 or even 300,000—whereas other cooperative forms can be founded among small groups. Since the interest of the consumer is far less apparent than that of the producer and since he is usually passive in his role, the consumer's cooperative is more difficult to develop.

The success of the consumers' cooperatives within a country can be judged by membership figures, by the proportion of the total population which this membership includes, by the total extent of its sales, by the average sales per member and by the proportion of the member's income which is spent in his cooperative store.

Russia with a membership of over 15,000,000 in consumers' cooperatives accounts for almost half of the total consumers' membership of the International Cooperative Alliance; Great Britain follows with a membership of 5,600,000, almost a sixth of the total membership; Germany and France follow with about 4,000,000 and 2,500,000 respectively. But the movement in some of the smaller countries, such as Switzerland and Hungary, represents as high a proportion of the total population as in Great Britain and a great deal higher than in France. There is a similar variation in the proportionate purchases per member. In Great Britain, Hungary, Russia and Switzerland, for instance, the membership of consumers' cooperatives represents one tenth of the total population, and since this usually includes only one member of a household of four or five persons it is apt actually to represent almost half of the population. In the community of Basel practically the entire population belongs to cooperatives.

Another test of the strength of the movement is in the degree to which it has pervaded the lives of its membership. This is shown not only in the extent of membership or of sales but in the development of education along cooperative lines, in the development of the cooperative press and of educational courses within the movement itself and in the introduction of courses on cooperation in the schools and universities of the country; in the establishment of "people's houses" as in Belgium, in the extent to which the women and children have been drawn into the movement and in the democratic participation of its entire membership. It is true of course that, as the movement gains in numbers and geographic extent, the last named activity becomes a problem. This is closely linked, however, with the development of an able leadership both for the technical administration of the business of the cooperatives and for its educational work.

Broadly speaking, the consumers' cooperative movement has certain fundamental rules, evolved by the weavers of Rochdale, which are everywhere observed. They are: absolute equality in elections—one man, one vote; the return of profits to the buyer pro rata for purchases after the deduction of a specified levy for collective works of education, recreation and solidarity; and sale at current price for cash.

In addition to these basic principles there have appeared attempts to give the movement a broad theoretical and ideological basis. Theorists have not been in complete agreement—a natural situation when the origins of the separate movements and the variations in nationality, social background, political affiliation and even economic grouping of the membership are considered. Internationally the movement is politically neutral. In certain countries and communities, however, it is socialistic or socialistically inclined. Thus the Belgian cooperative movement was begun by socialists and although not restricted to them in membership still maintains its socialist character; in Russia the movement is of course communistic. In certain countries separate socialist federations have been formed, and almost everywhere there exist socialist minorities.

Diversity of opinion within the movement itself in the determination as to what attitude it should take toward other forms of cooperative endeavor, toward socialism, trade unionism, profit, the capitalistic order and the state has accelerated the formulation of a theory. In England the work of Beatrice Potter (Mrs. Sidney Webb) in her *The Cooperative Movement*

(London 1891) was epoch making. In Germany, under fire from the socialists on the one hand and the marketing and credit cooperatives on the other, the leaders of the consumers' societies were slow in evolving an ideology. Earlier than any of these attempts, however, was that begun in 1886 by the group which came to be known as L'École de Nîmes and which has most emphatically stated the doctrine of cooperation.

This group sees economic government passing from the hands of the producers and capitalists to the hands of the consumers, whose ranks include all classes. This placing of the consumer in the first rank was a new idea, for previously he had been accorded the most negligible of roles in theory and practise. The English cooperatives, for instance, even today carry not the name of consumers' societies but rather that of distributive societies. This point of view means to consumers' cooperatives the loss of a specific working class character. It does not, however, imply any desire to ignore the essential working class origins of the movement in most countries or even its general socialistic and radical leanings, especially as exemplified by the Belgian socialist cooperatives and political and economic alliances between the English cooperatives, the trade unions and the Labour party. It refuses to accept the Marxist statement that labor is the sole creator of wealth and declares that it is consumption, or need, which creates value. With equal force cooperation refuses to capital the right to control production and to draw profit, and it has thus encountered the opposition of the middlemen and manufacturing capitalists. Where the state is markedly capitalistic it too has reflected the opposition to consumers' cooperation.

The socialists on their side have had a rather varied and complicated attitude toward cooperation. At the beginning of the cooperative movement in the middle of the last century they were very sympathetic to the idea, especially to producers' cooperation, since it was a specific proposal of such socialists as Owen, Fourier, Louis Blanc, Lassalle, Mazzini. The failure of this type of cooperation and the formulation of Marxism caused a rejection of all cooperation on the grounds that it was a purely reformist and bourgeois program. Nevertheless, in actual practise such examples as the reciprocal role of cooperation and socialism in Belgium, the actual assistance rendered by consumers' cooperatives in many countries during periods of industrial struggle and a recognition of their general importance have led to a revision of the socialists' attitude. They recognize cooperation, however, only as an annex of socialism for the purpose of furnishing them with resources at times of strikes and political elections. Thus the cooperative, the trade union and the party are all three yoked to the socialist chariot and must be proletarian in character. If the cooperative remains neutral it is more of a hindrance than a help, for then it will be more serviceable to the petty bourgeoisie than to the workers or might even transform the proletarians into small capitalists greedy for bonuses and completely uninterested in all revolutionary action. Nor do the socialists accept the thesis of L'École de Nîmes that the control of the economic world should belong to the consumers; they naturally claim it for labor.

The claim of the French school has also been criticized by economists, especially those of the "liberal" school. Part of their criticism of cooperation centers about the relation of the movement to the state. The "liberal" economists of course profess a strong antipathy to the intervention of the state in the economic order, and thus they object to the existence in some countries of favorable legislation, subventions, exemptions from taxes and other privileges which are accorded to cooperative societies. It is necessary to point out that on the whole these privileges have been more frequently accorded to agricultural societies, credit or marketing or producing societies, than to consumers' organizations. In some countries the consumers' movement has been initiated with state aid, although in others municipalities and other public bodies have expressed hostility by forbidding their employees to be members of consumers' cooperatives. The cooperative movement has carried on an effort, sometimes against great odds, for legislation recognizing its peculiar status; and its sponsors cannot be classed with those advocates of voluntary mutual aid who will not recognize any right of legislation on the part of the state. In certain countries, as in Russia, and in such communities as the city of Basel where practically the entire population belongs to the cooperatives, the state can with justice be considered merely as the political expression of the economic unity. On the part of the state itself there has been a tendency to enter the field of consumers' cooperation, which is best illustrated perhaps by the cooperative public boards developed in Belgium and to some extent in Italy and Austria. These consist of cooperative

organizations set up by national, provincial or municipal government bodies for the purpose of providing gas, light, water, transportation, credit and housing for these communities. The dividends of these operations are divided according to consumption use. They are an example not of "stateizing" the cooperatives but of placing certain functions of public administration on a cooperative basis. In this identification, however, there is no retreat from the cooperative ideal of opposition to constraint. It was the element of constraint which led the International Cooperative Alliance between 1917 and 1921 to refuse to admit the Russian cooperatives because of their obligatory character, and it is for the same reason that the alliance still refuses to accept the Fascist cooperatives. The relation of the cooperative movement to the state during the period of the World War was of a similar character. In every country the cooperative movement rendered so great a service in the supply of food and other necessities to the population as to merit governmental approval. The International Cooperative Alliance, however, at all times held fast to its ideal of peace between the nations as embodied in its endorsement of such pacifist measures as disarmament, arbitration, commercial union and the removal of tariff barriers; and during the war it was one of the few international bodies which maintained relations between warring countries.

Within the field of economic endeavor itself the criticism of the "liberal" economists has centered on the claim that consumers' cooperation introduces a new element into economic theory and practise. A few of their number have chosen to see in the attempt of the cooperatives to formulate standards as to a "just price" and a "just measure" interference with the salutary effects of competition as it operates in supply and demand under a regime of self-interest. Others, however, look upon the fact that consumers' cooperatives base their prices on current "fair" prices, as established by ordinary competition, as proof that they too are governed by supply and demand and that the dividends, so called, are in reality a form of profit.

On the whole, however, the economists have not condemned cooperation, since in the last analysis it is a form of free association. They are willing to admit that it is of considerable service: to the consumer in serving as a check on the extortion of merchants and in reestablishing the desired effect of competition, which so far as the consumer is concerned is threatened today by the coalition of producers; and to the worker in permitting him to utilize most advantageously the purchasing power of his wages and even by the redistribution of bonuses to realize savings which may permit him to acquire property.

This limited concept of cooperation, particularly as formulated in the second half of the last century by Paul Leroy-Beaulieu, Léon Say and M. Pantaleoni and reaffirmed more recently by Robert Liefmann in his article "Monopolies and the Interests of the Consumers" (in *Review of International Cooperation*, vol. xxii, 1929, p. 201–10), has been accepted by some groups of cooperators and is held in high repute by the leaders of Fascist cooperation. The French school realizes that this program in itself allows a vast field of action, but it reaffirms its belief in the capacity of the consumers' cooperative to go beyond these limits. In the economists' criticism is implied a denial of the assumption that an economic order based on a recognition of the needs of the consumer can replace one in which production operates through the motive of individual self-interest expressed in the form of profits. L'École de Nîmes does not postulate its assumption on the abolition of personal interest or the hedonistic principle, but it insists that mutual help is more efficient than self-help and points to the existence of the widespread consumers' movement as proof of the fact that enterprises can live and prosper without the profit motive as it exists in commercial enterprises. This is all the more remarkable because even by definition consumers' cooperation, in contrast to producers' organizations, is an association of non-professionals. Nevertheless, they have developed technical and administrative ability of a high order, and the questions of sharing profits or even of paying high salaries to management, although they have occasionally come up for discussion, have never had to receive serious consideration. As Alfred Marshall pointed out in a presidential address to the Cooperative Congress in 1889, this is probably because cooperation is "at once a strong and calm and wise business, and a strong and fervent and proselytizing faith." It is, in other words, an economic enterprise not wholly in the service of Mammon.

CHARLES GIDE

See: COOPERATION; COOPERATIVE PUBLIC BOARDS; CONSUMER PROTECTION; HOUSING; FOOD INDUSTRIES; RETAIL TRADE; MIDDLEMAN; COST OF LIVING; PRICE REGULATION.

Consult: Webb, Sidney and Beatrice, *The Consumers'*

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CONSUMERS' LEAGUES are voluntary organizations of retail purchasers seeking by their own patronage and by research, education and publicity to improve working conditions. The founder of the movement in the United States, Mrs. Charles Russell Lowell, explained its purpose in the statement that "the responsibility for some of the worst evils from which wage-earners suffer rests with the consumers, who persist in buying in the cheapest market, regardless of how cheapness is brought about.... It is, therefore, the duty of consumers to find out under what conditions the articles which they purchase are produced, and to insist that these conditions shall be at least decent and consistent with a respectable existence on the part of the workers" (Nathan, p. 25).

The first consumers' league was organized in England in 1890, and the movement in the United States was begun at about the same date. The first local league was formed in New York City in 1891 as a result of a report of conditions in retail shops made in 1890 by Alice Woodbridge, secretary of the Working Women's Society, the forerunner of the Women's Trade Union League. She brought this report to the attention of Mrs. Lowell, founder of the Charity Organization Society, who interested Dr. Mary Putnam Jacobi, first woman member of the New York Academy of Medicine. A small group, including Mrs. Maud Nathan, who became president of the organization, proceeded to organize the league. Its first activity was to prepare a white list of shops paying minimum fair wages and having reasonable hours and decent sanitary conditions.

The movement was extended about 1896 to Brooklyn, Philadelphia and Boston. State leagues were organized in Illinois, New York, Pennsylvania and Massachusetts. At a convention held in New York on May 17 and 18, 1898, these bodies federated to form the National Consumers' League. Mr. John Graham Brooks was elected president and Mrs. Florence Kelley, who had been at Hull House, Chicago, was made executive secretary, a position which she has since held continuously. Mr. Newton D. Baker succeeded Mr. Brooks as president in 1915 and was followed in 1923 by Dr. John R. Commons. Local and state leagues were formed throughout the country, and five years after the organization of the national league there were sixty-four branches in twenty states.

Consumers' leagues following the American example were organized in France, Holland, Belgium, Germany and Switzerland, and two international conferences were held: one in Geneva in 1908 and another in Antwerp in 1913. As a result of the Geneva conference the delegates pledged themselves to work for minimum wage boards in their respective countries.

The first investigation undertaken by the National Consumers' League in the United States concerned the conditions of manufacture and sale of women's and children's stitched cotton underwear. It began in New York and continued for about fifteen years in other states. Investigations were thereafter extended to other branches of the needle trades, to insanitary tenement home work and sweatshops, to laundries, restaurants, textile mills, canning establishments and candy factories. In one case a local consumers' league brought about sanitary handling and inspection of milk. Reports of the National Consumers' League were usually pioneer revelations of undesirable working conditions and were accepted as authoritative by legislators and educational institutions.

The instruments employed by the movement have been varied. One of the earliest, which has become relatively less important in recent years, is the white list of concerns endorsed by the league, intended to affect conditions by attracting the attention of individual consumers. At first such lists were printed as paid advertisements in newspapers, but large advertisers who were omitted boycotted the papers which accepted the league's advertisements thus causing the suppression of this means of publicity. White lists are, however, printed and distributed in leaflet form. One of the most recent, which deals with candy manufacturers, specifies in detail the qualifications for inclusion in this list and is based upon a thorough study of conditions in candy factories

Another method used for several years by the league was the white label, which manufacturers or retailers were by contract permitted to attach to goods made and handled under conditions approved by the league. It was impossible to extend the application of this method to a large variety of products, due to the difficulty of inspection by a volunteer private agency. The task of educating consumers to understand and respect the white label was a gigantic one, which, although prosecuted with energy by means of exhibits, speeches, literature and general publicity, was probably more effective as a means of moral pressure on business men than as a method of influencing the purchases of any large percentage of consumers. Use of the white label on garments—on which it had chiefly been employed—was abandoned when the International Ladies' Garment Workers' Union adopted the Prosanis label for goods made under proper sanitary conditions in union shops.

Reports and agitation of the league were probably more influential in the field of legislation than in any other way and affected particularly the passage, enforcement and defense of laws governing the employment of women and children. Such laws have to do with safety, sanitation, night work, maximum hours, limitation of child labor and in some cases minimum wages. Investigations, reports and publicity are made the basis of pressure on legislatures and Congress for the improvement of enforcement, and in these campaigns the league has frequently had the cooperation of the American Association for Labor Legislation, the National Child Labor Association and the League of Women Voters. It has also stimulated the creation of official bodies either for special investigation or for continuous administration, as in the case of the federal and state bureaus of women in industry and the federal Children's Bureau.

Although not always in agreement with trade unions the league has often cooperated with them in achieving ends jointly desired. It has frequently obtained the active cooperation of employers in raising standards in instances where the ultimate interest of the employer coincides with that of the worker. An outstanding example was the campaign for early Christmas shopping, in which the league was a pioneer, and which was taken up not only by important merchants but also by the United States Post Office Department.

The national league's support of welfare laws when they were attacked in the courts as unconstitutional has been of special value. Briefs prepared by Louis D. Brandeis, its counsel until he became a justice of the United States Supreme Court, Josephine Goldmark and Felix Frankfurter have established a new method of defending social legislation in the courts. The argument against such laws usually rests on some abstract principle, such as violation of freedom of contract. The cases against them are usually built up on the grounds of legal precedent drawn from periods in which the same social and economic forces were not operative or from situations which were in fact widely dissimilar. The briefs in support of the laws have utilized exhaustive studies of the conditions which the legislation in question has been designed to remedy and of its efficacy in remedying them. The relation of the general public welfare to the health, morals, safety and social welfare of workers has demonstrated the justification for the limitations imposed on the right of contract. These laws have dealt with hours of labor, night work for women and minimum wage, and in a long series of cases, beginning with the Oregon ten-hour case [Muller *v.* Oregon, 208 U. S. 412 (1908)], they have usually been sustained. The principal defeat suffered by the league was in the District of Columbia minimum wage cases, the law being declared unconstitutional by the Court of Appeals of the District in 1920. The decision was affirmed by the United States Supreme Court in April, 1923, by a vote of five to three (Adkins *v.* Children's Hospital, 261 U. S. 525), Mr. Justice Brandeis not voting. This series of briefs has been printed by the league and has been distributed to law schools, libraries, colleges, universities and students of economics and has had a profound influence on public opinion in addition to its direct effect on court decisions.

In the course of time it has become clear that the consumers' league movement is not so much one which can depend on the power of consumers acting in their immediate interest—although that interest is involved in maintaining sanitary conditions—as one which rests on the public spirit of those actuated by reformist or social motives. Even though the zeal of its active spirits never flags, it must depend for its financial support on membership fees and voluntary contributions and for its social credit on the state of public opinion. This constitutes both its strength and its weakness. In periods when the spirit of social reform is active, when the social conscience is more easily stirred by

exposition of abuses which ought to be remedied, its membership is most numerous and its effectiveness is greatest. When, however, confidence in this type of action wanes, when people become cynical concerning reform or careless of social welfare, it declines. Thus in the period following the World War the consumers' league movement was severely handicapped not only in the United States but abroad. It is weak also in nations where more radical political or economic movements become powerful and force the pace in regulation of economic life. Such an organization is well nigh inconceivable in Russia, for instance, and even in England and Germany the corresponding groups have been overshadowed by the socialist and trade union movements. It is noteworthy, however, that in the United States the support for social legislation has in the past three decades come chiefly not from trade unions, which in many cases have opposed such legislation, but from the consumers' league and similar bodies.

GEORGE SOULE

See: LABOR LEGISLATION; HOURS OF LABOR; MINIMUM WAGE; CHILD LABOR; WOMEN IN INDUSTRY; HOME WORK, INDUSTRIAL; FOOD INDUSTRIES; INSPECTION; BLACK LIST; BOYCOTT.

Consult: Deslandres, M., *L'acheteur, son rôle économique et social; les ligues sociales d'acheteurs* (Paris 1911); Nathan, Maud, *The Story of an Epoch-Making Movement* (Garden City 1926); International Conference of Consumers' Leagues, Antwerp 1913, *Compte rendu* (Lyons 1914) vol. ii; Müller, H., *Konsumgenossenschaftliche Entgleisungen* (Zurich 1915); Moniez, Denise, "Consumers' Leagues in France" in *Charity Organization Review*, n.s., vol. xxxv (1914) 242–46; Ross, J. E., *Consumers and Wage-Earners* (New York 1912); Brooks, J. G., *The Consumers' League* (3rd ed. Cambridgeport, Mass. 1899?); Kelley, Florence, "Aims and Principles of the Consumers' League" in *American Journal of Sociology*, vol. v (1899–1900) 289–304; McVey, F. L., "The Work and Problems of the Consumers' League" in *American Journal of Sociology*, vol. vi (1900–01) 764–77; National Consumers' League, *The National Consumers' League; First Quarter Century, 1899–1924* (New York 1925), and *Annual Reports*, 17 vols. (New York 1900–16).

CONSUMPTION.

IN ECONOMIC THEORY. Consumption is commonly stated to be the end to which the other stages in the economic process, production, exchange and distribution, are means. If consumption is viewed not only economically but also ethically and psychologically as the end of activity, it appears that consumption is practically synonymous with the whole of man's activities, that it is his way of life. Such a concept inevitably leads on to the multiple problems of relative values in life, wherein consensus of opinion is scarcely to be expected.

Although interest in the theory of consumption is of fairly recent origin, the history of sumptuary laws is evidence that standards of consumption have had a perennial public interest. Such prescriptive rules, whose basis has been at times one of class distinction, at others one of enforced righteous conduct or as under mercantilistic practise one of consumption directed to home industries and enforced frugality of the working classes as a means to national wealth, have in general tended to relax or disappear with the rise of the individualistic regime.

The relative neglect of consumption in the social theory of the eighteenth and early nineteenth centuries is to be explained only by referring to the points upon which such theory centered: first, the means of promoting the well-being of the generality of mankind and, second, a scientific statement of the laws governing the actions of men in society. Although ramifying into the fields of ethics and political science the subject of consumption under both these headings was afforded a somewhat tentative and uncertain admittance to political economy. Admitting as axiomatic the dictum of Adam Smith that consumption is the sole end of production, most economists were nevertheless prone to regard habits of consumption as private matters, except in so far as they affected the production of wealth, and to accept market demands as self-sufficient phenomena from which to proceed to an examination of the production, distribution and terms of exchange of economic goods. Despite the general emphasis upon the merit of accumulation of capital by saving, an outstanding exception in this respect was Lord Lauderdale, who in 1804 in writing on public wealth and private riches condemned individual riches as representing scarcity value, with the conclusion that great expenditures increase public wealth while savings diminish it. The early concentration upon production was in some degree a heritage from mercantilism; and mere abundance, induced by pecuniary incentives, was to many laissez faire economists the rude test of economic welfare. Moreover, assuming freedom of individual choice and action on the basis of self-interest, it was possible to construct an objective system of laws of production, distribution and value of a sort not attainable for so personal a matter as consumption. Working thus objectively upon a given range of problems

economic theorists hardly saw that there was a problem of consumption except in so far as it directly affected these "basic" problems.

The early nineteenth century economists were divided upon whether to admit consumption as one of the principal subdivisions of political economy. J. B. Say in his *Traité d'économie politique* (1803) included consumption as a subdivision, but the English economists in general did not follow his example. They did, however, discuss elsewhere the same topics that were classified under consumption by others. These latter were equally divided as to the appropriate subject matter, and under the general heading of consumption one may find treated such miscellaneous topics as the following: the distinction between productive and unproductive consumption and the general relation of habits of consumption to progress in productive efficiency; the relation of thrift to capital accumulation; class standards of consumption and the relation between consumption and the distribution of income; standards of consumption as evidence of social progress; taxation, both as affecting private power to consume and as furnishing the basis for "public consumption"; the relation of standards of consumption to the growth of population; the economic effects of the consumption of luxuries; and the relation of consumers' demands to the stability of economic life.

In English political economy most of these topics appear under the various headings of production, distribution and exchange along with other topics such as the effect of costs of production upon consumption through the process of substitution of demand and the extent to which it is possible to separate the interests of consumers from those of producers. Such topics were not a fruitful field for scientific generalization; but for this were substituted edifying homilies upon "judicious" consumption and the virtues of thrift. The emphasis given to production later gave rise to the criticism that in spite of Adam Smith's axiom economists tended to regard production as the end of the economic process rather than as a mere means to human satisfaction. The theory of welfare based upon freedom of economic enterprise naturally gave rise to criticism from nationalistic, humanitarian and aesthetic angles: List, Ruskin and William Morris, for example, declared that welfare implied a qualitative excellence of products and taste which was not induced by merely pecuniary incentives. Most socialistic theory, however, centered upon the distribution of wealth and was as much concerned with production and as little concerned with consumption—except in its class aspects—as was liberal theory.

The recent prominence of consumption in economic analysis may be attributed to several causes: the elaboration of technical value theory, developments in the science of psychology, a scientific interest in the dynamic or evolutionary aspects of economic life and a reconsideration of the problems of economic welfare.

It was the central characteristic of the so-called psychological school of economists that they gave causal priority in the fixing of market values to the process of subjective valuation in the minds of the purchasers (consumers) of goods and made the processes of production and exchange subordinate to consumers' choices. They developed the elaborate mechanism of diminishing and marginal utility in explaining consumers' choices which still thoroughly colors most contemporary value theory. Essentially this was a theory of consumption of a presumably scientific character and when combined with the earlier analysis of production eventually resulted in the equilibrium theory of price.

The validity of the utility theory has been widely questioned on the ground that it relies upon a hedonistic psychology. Much recent psychology has tended to deny the general dependence of individual choices upon a rational consideration of alternatives and to emphasize such factors as the instinctive basis of conduct, the dependence of individual conduct on social habits or modes and the emulative character of conduct. There exists no theory of human behavior which commands a professional consensus of opinion, but the various theories are sufficiently antipathetic to the utilitarian calculus to have reduced the utility theory of consumption to a minor and disputed status, capable perhaps of throwing light on the market demand for goods but incapable of explaining contemporary standards of consumption. There exists today a strong tendency to develop the theory of economic consumption by the behavioristic method of inference from extensive observation.

The declining prestige of the utility theory is also a reflection of the extent to which the interest of economists has turned to the dynamic or genetic aspects of economic life. The utility theory assumes the existence of desires, while the genetic problem is to explain their existence. The divergence in approach has been up to the

present time sufficiently sharp to prevent the construction of any composite or unified theory of consumption adequately covering both social influences and individual choices.

Giving rise to the idea that economic welfare was a matter of "maximum satisfaction" the utility theory became entangled with reform movements, furnishing arguments for both the competitive and socialistic regimes. The idea of maximum satisfaction is dependent upon a quantitative comparison in purely individualistic terms of the satisfactions of consumption with the irksome labors of production. Recent discussions of welfare have tended to emphasize congenial and useful employment as an essential element in individual welfare and to indicate how social interests are damaged by consumption which may be satisfying to the individual. This tendency results in a partial obliteration of the "ends and means" relation of consumption and production and reduces consumption to an auxiliary position in the theory of welfare. Moreover, in America at least, the extraordinary increase in the productivity of industry and in the supply of investable funds has resulted in declining interest in thrift. Emphasis has recently been placed upon the organization and financing of consumption for maintaining the uninterrupted productive efficiency of the industrial system.

In the attempt to treat consumption realistically numerous aspects of modern economic life have been noted: for example, the extent to which consumption is essentially non-volitional, as in the consumption of housing in an industrial city; the extent to which consumption standards are imposed by the selling methods of producers with a pecuniary interest; the unorganized and haphazard character of consumer buying; the extent to which consumption is dictated respectively by the minimum needs of life, by the nature of one's occupation and by social pressure. Current discussions of consumption may be said to be in this essentially descriptive stage. The discussion relates itself, however, to current psychological and sociological theories. Its primary interest perhaps lies in the relation of consumption to the possibilities of human betterment, but it has an independent scientific interest. Professional economic opinion is at present divided as to whether economic science can proceed without a theory of consumption or whether such a theory is an essential prolegomenon to the science without being a part of it or whether it is an essential constituent part of a well developed descriptive analysis of economic action and motivation.

PAUL T. HOMAN

PROBLEMS OF MEASUREMENT. The interest of the empirical economist as distinct from that of the economic and social theorist in the subject of consumption centers about such problems as the quantities of various commodities consumed in relation to the general level of prices and incomes, and the fluctuations in their quantity and quality among different peoples and at different periods. A fairly definitive answer to such questions is possible on the basis of available quantitative data.

Empirical, historico-statistical investigation has at its disposal two kinds of sources: information regarding the consumption of commodities of single families and information regarding the consumption of whole commonwealths. The sources of the first kind for past times are individual descriptions, more or less typical, and not statistical mass observations. Here belong the descriptions of extreme wealth and luxury and extreme poverty and destitution, which establish standards for comparison with the present and also make possible conclusions regarding the consumption of the middle classes during the periods in question. The precise moments at which the pocket handkerchief, the looking glass, the bathtub ceased to be the peculiar perquisites of kings and later of nobility and chief burghers can be fairly accurately determined. Certain conclusions may also be drawn on the one hand from information, in so far as it is available, regarding the income in money or in kind of people of particular social orders and on the other from information regarding the prices of grain, meat, wine and cloth. Also the houses and the samples of domestic inventory extant (mostly belonging to the well to do classes) make possible a picture of the character of the consumption of former centuries. The same may be said of the descriptions of primitive households as reported by itinerant investigators.

Present day information regarding consumption of single families is based upon statistical investigations of large numbers of family budgets. If the number of reports is large and the sample representative, casual deviations in each direction will cancel each other and the picture obtained may be regarded as typical. An important source of error, to be sure, arises from the fact that the material is necessarily supplied by people who are more than usually exact,

diligent and frugal, for others can scarcely be induced to fill out useful questionnaires. In order to preserve their mass character most investigations are confined to the lowest classes of income, which include the overwhelmingly greater part of the industrial population of the cities. Some investigations have also been made of budgets of farm families. The determination of farm consumption, however, offers peculiar difficulties, since it includes to a considerable extent home grown rather than purchased commodities, whose money value can only be estimated; furthermore, farmers' family budgets, as also the family budgets of artisans and small shopkeepers, are often hard to separate from the outlay for means of production. Detailed reports of the budgets of the middle and upper classes present still greater difficulties; they cannot be dealt with by the method of mass observations because of the important differences among households.

It is possible to determine approximately the consumption of whole commonwealths in the case of those goods for which there exist statistics of production and of foreign trade, since, setting aside possible changes in stocks, the consumption may be set forth roughly as production plus import minus export. In the case of goods not produced in the country, such as, in Europe, all luxuries of exotic origin like tea, coffee and cocoa, the consumption is the same as the importation after subtracting the reexport and again ignoring any movements of stock. To the extent that taxes are collected upon commodities as they enter into consumption, such as tobacco goods, alcoholic liquors and sugar, tax statistics furnish immediate data. Finally the data of family budget statistics selected at random as samples may be used as a basis for the appraisal of national consumption, if the ratio which the numbers at each income level bear to the whole population is known.

Using the sources as above outlined it becomes possible to compare individual with national consumption, portraying against the general background the consumption of a particular group. If per capita figures of consumption expressed in units of quantity are used they must tally with those derived from the family budget statistics, taking into consideration the social composition of the population. If, on the contrary, consumption is expressed in monetary units or in percentage of income, then allowance must be made for the fact that budget statistics are stated in terms of retail prices, while production and foreign trade statistics, which afford the basis for an estimate of national consumption, are stated in terms of manufacturers' or wholesale prices.

Table 1 represents an attempt to compare the estimate of the apportionment among different types of expenditure of the German national income in 1913 (as presented by E. F. Wagemann in his *Konjunkturlehre*, Berlin 1928, tr. by D. H. Blelloch as *Economic Rhythm*, New York 1930, p. 40, and somewhat modified by the writer) with the apportionment of the family incomes of the lower income levels as ascertained from the family budgets of 853 families of German working men and officials (Germany, Statistisches Amt, "Erhebung von Wirtschaftsrechnungen minderbemittelter Familien im Deutschen Reiche" in *Sonderheft zum Reichs-Arbeitsblatte*, no. 2, Berlin 1909). The comparison shows the relatively insignificant place that savings and dispensable expenditures have in the budgets of the lower income classes.

TABLE I

ALLOCATION OF INCOME AMONG DIFFERENT TYPES OF EXPENDITURE IN PRE-WAR GERMANY

TYPE OF EXPENDITURE	PERCENT OF EXPENDITURE FOR THE COUNTRY AS A WHOLE *		PERCENT OF EXPENDITURE FOR 853 FAMILIES	
Food	33		40.0	
Drinks and tobacco	10		5.5	
Total group 1		44		45.5
Rent, including heat and light	8		18.7	
Furniture and upkeep of dwelling	10		3.4	
Clothing	10		12.6	
Total group 2		29		34.7
Personal service	2		.6	
Transportation	1		1.3	
Savings	17		4.6	
Other expenditures	6		13.3	
Total group 3		27		19.8

* The margin of error in the percentages in this column is greater than 0.1; for this reason no decimals are given and the subtotals are larger than the exact sum of the individual items.

The percentages indicating the distribution of annual national income by types of expenditure are based on manufacturers' or wholesale prices adjusted by the addition of a mark-up in order to make them comparable with figures derived from budget statistics, which are necessarily based on retail prices. The figure for national expenditure on personal service is an estimate by the writer from the number of domestic employees. Similarly the transportation figure is an estimate by the writer from the annual

TABLE II

INTERNATIONAL COMPARISON OF PER CAPITA CONSUMPTION OF SELECTED COMMODITIES BEFORE THE WORLD WAR

COUNTRY	PER CAPITA CONSUMPTION						PER CAPITA INCOME IN 1914 (RELATIVES U. S. = 100)
	MEAT 1903–11		PURE ALCOHOL 1904–05		TEXTILES PRE-WAR YEARS		
	KILOGRAMS	RELATIVES (U. S. = 100)	LITERS	RELATIVES (U. S. = 100)	MARKS	RELATIVES (U. S. = 100)	
United States	88	100	6.4	100	85	100	100
Great Britain and Ireland	60	68	10.5	164	66	78	73
Germany	46	52	9.5	148	59	69	44
Austria-Hungary	46	52	9.0	141	32	38	30
France	41	45	22.4	350	66	78	55
European Russia	22	25	2.6	41	20	23	16
Italy	20	23	14.1	220	31	36	33
Japan					17	20	9

Source: The meat figure for Germany is from Esslen, J. B., "Die Entwicklung von Fleischerzeugung und Fleischverbrauch auf dem Gebiete des heutigen deutschen Reiches . . . " in *Jahrbücher für Nationalökonomie und Statistik*, vol. xcviii (1912) 705–69. The meat figures for the other countries are from Ballod, Carl, "Die Volksernährung in Krieg und Frieden" in *Schmollers Jahrbuch*, vol. xxxix (1915) pt. i, p. 77–112. The alcohol figures are compiled by Emil Struve and quoted in the *Handwörterbuch der Staatswissenschaften*, vol. iv (3rd ed. Jena 1909) p. 761. The textile figures are from Kertesz, A., *Die Textilindustrie sämtlicher Staaten* (Braunschweig 1917) p. xx. The income figures are from the table adapted by the National Bureau of Economic Research from the study of Sir Josiah Stamp in *Income in the United States, 1909–19*, 2 vols. (New York 1921), vol. i, p. 85; the income figure for European Russia is based on an estimate of S. N. Prokopovich cited by L. N. Litoshenko in his "The National Income of the Soviet Union" in *Quarterly Journal of Economics*, vol. xlii, 1927–28, p. 70–93.

turnover and cost of material of transportation enterprises. The item "savings" cannot be made strictly comparable in the two columns. In the national economy the income withheld from consumption as capital investments appears in concrete form as commercial plants, factory buildings and warehouses; it takes the form of obligations only as it consists of claims on foreign countries, for the mutual obligations of the individuals comprising the commonwealth cancel each other when summed up. In the individual household, however, the acquisition of claims such as bank balances and insurance premiums must be reckoned among savings. The item "other expenditures" in both individual and national consumption contains the expenditures for educational, social and health needs, and in the case of individual incomes it includes gifts, payment of interest and repayment of debts.

In attempting international comparisons of consumption such variables as climate, social structure, standards of living, size of towns and divergent composition of population make generalization difficult. It is possible, however, to compare nations and periods according to per capita consumption for specific commodities. These per capita amounts may be obtained from the statistics of the aggregate consumption of single countries regardless of income levels and other classifications.

It is evident from the figures for meat and textiles in Table II that the consumption of indispensable commodities varies much more regularly with the income and depends much less upon national differences than does the consumption of dispensable articles such as alcohol.

Still more constant than the proportion spent for single commodities of urgent need, as meat, is the proportion spent for whole groups of commodities, e.g. food, serving similar urgent needs. For example, about the same percentage of income spent for food within comparable income groups is shown in four European countries investigated by the British Board of Trade.

TABLE III

INTERNATIONAL COMPARISON OF PERCENTAGE OF INCOME SPENT FOR FOOD IN DIFFERENT INCOME GROUPS

WEEKLY INCOME IN SHILLINGS	GREAT BRITAIN	GERMANY	FRANCE	BELGIUM
Under 20		68.7	62.7	66.1
20 to 25	67.3*	64.5	60.8	64.8
25 to 30	66.2	62.3	58.6	63.6
30 to 35	65.0	59.2	57.9	62.1
35 to 40	61.0	57.7	56.1	61.2
40 and over	55.9	56.3	52.8	57.0

* This figure is for weekly incomes of under 25 shillings.

Source: Great Britain, Board of Trade, *Report of an Enquiry by the Board of Trade into Working Class Rents, Housing and Retail Prices, together with the Standard Rates of Wages Prevailing in Certain Occupations in the Principal Industrial Towns of the United Kingdom* (London 1908), *of Germany* (London 1908), *of France* (London 1909), *of Belgium* (London 1910).

Particularly important are the attempts to use the statistics of consumption and family budgets to test the abstract hypotheses of economic theory, especially the concepts of the demand curve and elasticity of demand. It is impossible to obtain, except by dealers' estimates, a demand curve showing quantities which would be taken at a varying schedule of prices or to hold the prices of all other commodities constant while measuring the changes in quantities taken resulting from a change in price of one commodity. Nevertheless, significant approximations to these goals can be attained. Inasmuch as a rise from a lower to a higher level of income is equivalent from the point of view of the individual to a simultaneous lowering of all prices, the resulting changes in apportionment of expenditures reflect the relative importance of the commodities. The changes also give some indication of the elasticities of demand for the particular items.

The more indispensable a class of expenditure is, the more stable this expenditure remains with rising income and therefore the lower does its ratio to income fall. Inversely, the higher this ratio rises, the more surely may it be concluded that the expenditure is not physiologically indispensable but is culturally or socially conditioned. This kind of expenditure seems to be peculiarly dependent upon the "emulation urge," the effort of the individual to adapt himself to the social class above him and to separate himself from the lower classes.

On the whole, as Oldenberg has observed, the statistics of family budgets of various countries show an almost universal tendency for the percentages for various classes of expenditure to vary with rising incomes in the following manner. The proportions spent for food (Engel's law), for rent (Schwabe's law) and for heat fall. The statement regarding rent is true only in the lower income classes, however, for in the middle classes rent is an item of conspicuous consumption and the proportion spent for it rises at the expense of food. The percentage spent for dress, which likewise serves the purpose of emulation, rises as income rises. The proportion for underclothes also rises, although more slowly than that for dress. The percentages spent for transportation, drinks and pleasure articles rise, although in the highest classes of income the percentage is constant. The proportions for savings and insurance rise steadily, while those for education and personal service rise especially fast.

The tendency for the proportion spent on food to fall with rising income must also be qualified. With equal income the percentage spent on food tends to increase with growth in size of family. As, however, the consumption of children varies according to their age, consumption units which are more accurate than per capita expenditure have been devised. The best known is the Quet consumption unit, equal to the food consumption of a newborn child, although there are other scales such as the Atwater and the Lusk calorie scales and the Ammain unit based upon the consumption of the adult male. The normal need of a family may be expressed in Quets upon a basis of physiological experiments according to age and sex. The direction in which the number of people in the family, its age and sex composition and hence the Quet quantity for the family move with increasing income cannot be definitely predicted theoretically and can only be determined empirically. The fact that birth control is little practised in the lower income classes and that wages of industrial workers usually decrease after about forty years of age tends to shift the center of gravity of large families to the lower income levels. The earning power of grown children is a factor in the opposite direction as well as pensions, old age allowances and children's bonuses and possibly also the diminishing mortality of children with increasing prosperity. The family budgets of American white working men, German working men and officials and Russian peasants show the preponderance of the second group of factors, which greatly weaken the operation of Engel's law.

If account is taken of all the complicating circumstances by appropriate choice of material (by comparing only families of like race, size and age condition), then for each type of expenditure a degree of dispensability may be computed as the ratio of the percentage increase in the expenditure to the percentage increase in income as the family is passing from a certain income level to the next higher. The degree of dispensability thus indicates about how many times greater than the income increase is the increase in the particular expenditure under consideration. Table IV illustrates the results of computation of degrees of dispensability based on American budget statistics for 1918–19 (United States, Bureau of Labor Statistics, "Cost of Living in the United States," *Bulletin no. 357*, 1925).

Table IV shows that, leaving out of account the highest levels of income in which the situa-

TABLE IV

MEASURES OF THE DEGREE OF DISPENSABILITY OF VARIOUS GROUPS OF EXPENDITURES FOR THE UNITED STATES, 1918–19

	FAMILY INCOME LEVELS (IN DOLLARS)						
	UNDER 900	900–1200	1200–1500	1500–1800	1800–2100	2100–2500	OVER 2500
Average number in family	4.3	4.5	4.7	5.0	5.1	5.7	6.4
Average family income	812.89	1075.38	1343.80	1631.54	1924.87	2272.18	2790.25
Degree of dispensability							
food		0.71	0.52	0.51	0.53	0.76	0.91
rent		0.71	0.80	0.71	0.67	0.39	0.21
clothing		1.24	1.28	1.15	1.07	1.40	1.36
furniture and house furnishings*		1.57	1.01	1.44	0.65	0.92	0.61
musical instruments		5.85	2.74	3.43	1.91	1.96	0.65
care of health		0.84	1.13	1.03	0.48	0.61	0.74
pleasures		3.16	2.57	2.49	2.19	1.78	2.63

* Exclusive of musical instruments.

tion is complicated by increase in the size of the family and beginnings of financial assistance from the children, the expenditures for pleasures grow two to three times faster than the income, while the expenditures for clothing about keep pace with the income. The expenditure for food, however, shows a rate of increase which amounts to only about one half to three fourths of the rate of the increase in income except in the highest income level. These facts become especially pronounced when the needs are still further subdivided: thus, for example, while the group "furniture and house furnishings" has a degree of dispensability which varies between two thirds and one and one half, musical instruments (principally phonographs and records) show a degree of dispensability which lies between two thirds and three and one third and in the lowest level, comprising in part young couples, rises almost to six.

The degree of dispensability shows how the rise in income affects its apportionment. At the same time it shows what effect a general and uniform change in prices would have with stationary income. Groups of expenditures with a degree of dispensability less than one, e.g. food and rent, when there is a general and equal rise in prices while the income remains stationary, undergo a fall in the quantity taken which is less than the degree of the rise in prices, so that the money outlay for this group increases. Commodities with a degree of dispensability above one undergo a lowering of total money outlay in spite of the rise in price, since the quantity taken falls faster than the price rises.

The study of dispensability can also be used to discover the effect upon the quantities taken of an "isolated" rise in price of single commodities or of groups of commodities (as distinguished from a general rise in prices), if the expenditure upon the commodity in question represents but a small part of the total family expenditure, as is indeed the case with many single items of the family budget. When measures of dispensability computed for particular income groups are combined into a weighted average, in which the weights are derived from a study of the distribution of national income among these groups, the result obtained is the elasticity of the aggregate demand. Pioneer work in elasticity of demand, in which the demand curve of the individual consumer has been used as the starting point, has been done by A. C. Pigou, A. V. Tschayanoff (Chayanov) and F. Vinci. Various attempts have also been made to measure elasticity from the angle of empirically ascertainable prices and turnover on single markets. H. L. Moore, Henry Schultz, Elmer Working and some of the members of the United States Bureau of Agricultural Economics have done experimental work in this field. Corrections are made so far as possible for the variation introduced by the time element, leaving the pure relationships of quantity and price to be studied. As a matter of fact, however, the statistical demand curve derived from market data never succeeds in ruling the time element out of consumption and hence presents not a market demand curve but a series of points on successive demand and supply curves. This dilemma leads to attempts to isolate these two factors after the manner of the theory of probabilities, such as those recently undertaken by Vassily Leontiev (in *Welt-*

wirtschaftliches Archiv, vol. xxx, 1929, p. 1*–53*). On the other hand, the demand curve derived from the study of family budgets relating to the same period of time may be considered as fairly representative for that period and is not subject to the distorting influence of the time element. Further progress may be looked for in a mutual control of the two methods, that of family budget statistics and that of price statistics.

Consumption statistics have important applications with respect to economic policy. Not only are budget statistics essential to the determination of real incomes and changes in the cost of living; they have been used in connection with protection of workmen's standards of living in tariff revisions; and a scrutiny of the farmer's budget, considering means of production as well as commodities of consumption, is necessary for a rationalization of agriculture.

Budget statistics may also afford information regarding the economic effects of changes in income. Thus in Table v, which is based upon American budget statistics for 1918–19 and an estimate of the distribution of national income by various income classes for the same time, we have deduced the probable increase in various types of expenditure with a rise in income. Such deductions involve of course the assumption that the families whose budgets have been studied are typical of the entire population in the same income class, an assumption the validity of which is not in question in the present instance because Table v has only illustrative value. Allowance must also be made for the fact that the "number of income recipients" (division i) is not the same as the number of families. These increases in expenditures with a rise of income may be related to the total outlay in the corresponding expenditure category. The total outlay in the United States in 1918–19 on food, furniture and clothing, as estimated by multiplying the average family expenditure by the number of families in each income class, is as follows: $11,000,000,000 on food, $1,610,000,000 on furniture and house furnishings and $5,210,000,000 on clothing. By relating to these figures the totals under IV in Table v we obtain

TABLE V

INCREASE IN EXPENDITURES BY INCOME CLASSES WITH AN INCOME RISE OF ONE LEVEL AND OF 10 PERCENT

	FAMILY INCOME LEVELS (IN DOLLARS)						TOTAL SIX INCOME GROUPS
	UNDER 900	900–1200	1200–1500	1500–1800	1800–2100	2100–2500	
I. Number of families (in thousands)*	4,550	8,530	6,610	3,480	670	1,350	25,190
	INCOME RISE OF ONE LEVEL†						
II. Increase of average income (in percent)	32.3	25.0	21.4	18.0	18.0	22.8	
III. Increase in the average family expenditure (in dollars)							
food	84.5	59.4	56.2	54.8	85.3	148.1	
furniture	17.5	14.1	22.4	12.9	19.5	16.3	
clothing	44.8	50.0	50.9	49.6	77.3	118.8	
IV. Increase in the aggregate expenditure of income class (in $1,000,000)							
food	384	507	371	191	57	200	1,710
furniture	80	120	148	45	13	22	428
clothing	204	427	336	173	52	160	1,352
	INCOME RISE OF 10 PERCENT‡						
V. Increase in the aggregate expenditure of income class (in $1,000,000)							
food	119	203	173	106	32	88	721
furniture	25	48	69	25	7	10	184
clothing	63	171	157	96	29	70	586

*Based on figures in National Bureau of Economic Research, *Income in the United States, 1909–19*, 2 vols. (New York 1921) vol. i, p. 132. By using the ratio of husband's earnings to family earnings and subsequent interpolations, the above mentioned figures relating to number of income recipients were transformed into a rough estimate of the number of families.

†Figures in this division indicate an increase in income and expenditure with the transition from one income group to the next higher income group. Figures under IV are a product of figures under III and the corresponding figures under I.

‡Figures in this division measure an estimated increase in expenditure with a 10 percent rise in income. The computation involves division of the figures under IV by the corresponding figures under II and multiplication of the result by 10.

the following percentage increases in expenditure with an income rise of one level: 16 for food, 27 for furniture and 26 for clothing. Similar figures for an income rise of 10 percent are: 7 for food, 11 for furniture and 11 for clothing. It appears thus that with a rise in the lower incomes the demand for industrial products, e.g. textiles and furniture, is enhanced considerably more than the demand for agricultural products, e.g. food. Similar results have also been obtained for Germany. According to the German budget statistics of 1907 one might expect from a rise in wages of approximately 25 to 30 percent a 6 to 7 percent rise in the consumption of foods, a 15 percent rise in the demand for clothing and a 14 percent rise in that for furniture. The expenditures for health and the care of the body would increase by 22 percent. As the several branches of production have different ratios of fixed costs and therefore respond with different unit costs to changes in output, such figures for percentage increase in expenditure offer a clue to the economic effect of changes of income, provided the cost schedules of the respective industries are known.

With the aid of family budgets similar estimates may be made of the savings that are to be expected from a fluctuation of income. A closer appraisal of the economic effect in this respect, however, would presuppose that one had at one's disposal a picture of the income outlay for the lower, the middle and the upper classes of income—especially a picture of the apportionment of the expenditures for capital investment and luxury needs. With such information consumption statistics might offer basic material also for the development of a national policy of capital formation and hence guidance in solving more concrete problems such as those arising in connection with the income tax.

JAKOB MARSCHAK

See: ECONOMICS; VALUE; DEMAND CURVES; PRODUCTION; ABSTINENCE; ECONOMIC ORGANIZATION; PUBLIC WELFARE; STANDARDS OF LIVING; SUMPTUARY LEGISLATION; ADVERTISING; FASHION; CONSUMER PROTECTION; CONSUMERS' LEAGUES; CONSUMERS' COOPERATION; COST OF LIVING; FAMILY BUDGETS; NATIONAL INCOME.

Consult: FOR THEORY: Jevons, W. S., *Theory of Political Economy* (4th ed. London 1911) chs. ii–iii; Walker, F. A., *Political Economy* (New York 1888) pt. v; Keynes, J. N., *Scope and Method of Political Economy* (4th ed. London 1930) p. 101–11; Marshall, Alfred, *Principles of Economics* (8th ed. London 1920) bk. iii; Dickinson, Z. C., *Economic Motives* (Cambridge, Mass. 1922); Hobson, J. A., *Work and Wealth* (London 1914); Watkins, G. P., *Welfare as an Economic Quantity* (Boston 1915); Cooley, C. H., *Human Nature and the Social Order* (rev. ed. New York 1922), and *Social Process* (New York 1918); Veblen, Thorstein, *Theory of the Leisure Class* (new ed. New York 1918); Mitchell, W. C., "The Backward Art of Spending Money" in *American Economic Review*, vol. ii (1912) 269–81; Kyrk, Hazel, *A Theory of Consumption* (Boston 1923); Waite, W. C., *Economics of Consumption* (New York 1928); Hoyt, Elizabeth, *The Consumption of Wealth* (New York 1928); Wirminghaus, A., "Die Lehre von der Konsumtion und ihren Verhältnis zur Produktion" in *Die Entwicklung der deutschen Volkswirtschaftslehre im neunzehnten Jahrhundert*, 2 vols. (Leipsic 1908) vol. i, ch. xii; Bücher, Karl, "Die Konsumtion" in his *Die Entstehung der Volkswirtschaft*, 2nd ser. (3rd and 4th ed. Tübingen 1920) p. 313–48; Oldenberg, Karl, "Die Konsumtion" in *Grundriss der Sozialökonomik*, vols. i–ix (Tübingen 1914–29) vol. ii, p. 103–64.

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CONTAGIOUS DISEASES. *See* COMMUNICABLE DISEASES, CONTROL OF.

CONTARINI, GASPARO (1483–1542), Venetian political writer and theologian. Contarini was of a distinguished family of the ruling patriciate. Highly cultured and versed in the humanism of his day, he entered the service of the Republic of Venice and concluded the alliance with Spain in 1523 and the peace with Charles V in 1529. In 1535 he was created cardinal and worked with untiring devotion for the church. He represented a clarified, deeply spiritual and ethical Catholicism which went far beyond mere piety and in his doctrine of justification closely approached the Protestant interpretation. He was papal legate at the Diet of Ratisbon in 1541, where with his characteristic conciliatory attitude he vainly strove for a reunion of Catholicism and Protestantism.

Contarini's best known work is his *De magistratibus et republica venetorum* (written 1534, published Paris 1543; tr. by L. Lewkenor, London 1599). In this work he set forth his conviction that the Venetian constitution presented the wisest and happiest combination of democratic, aristocratic and monarchic forms of

government and that in this respect Venice had even surpassed the republics of antiquity. The Republic of Venice, in his somewhat idealized description, appears as a pyramid with the doges as the monarchic apex, the senate representing the aristocratic principle and the grand council the democratic base of the commonwealth. This interpretation of the symbolic harmony of the structure of the Venetian state had a strong influence on Italian political theory of the time, and many of its phrases were repeated by the publicists. The French political philosopher Bodin, however, attacked Contarini's main thesis and pointed out the indubitably aristocratic structure of the Venetian state.

WILLY ANDREAS

Consult: Andreas, W., *Die venezianischen Relazionen und ihr Verhältnis zur Kultur der Renaissance* (Leipsic 1908) ch. ii; Brown, H. F., *Studies in the History of Venice*, 2 vols. (London 1907) vol. ii, p. 110–33; Rückert, H., *Die theologische Entwicklung Gasparo Contarinis*, Arbeiten zur Kirchengeschichte, no. vi (Bonn 1926).

CONTEMPT OF COURT in Anglo-American law is generally such conduct as impedes the proper administration of justice or tends to bring it into contempt. Acts of contempt may be roughly classified as to their range as follows: (1) contempts *in facie curiae*, or "in the immediate view and presence," as they are called in the books, which consist of such misbehavior in the presence of a court as interferes with its proceedings; (2) contempts not in the immediate presence of a court but which are nevertheless explicit interferences with judicial authority, such as assaults upon witnesses or tampering with persons or property under the jurisdiction of a court; (3) contempts of process or orders in the course of an action or proceeding; (4) contempts by publication, consisting of objectionable extraforensic criticism of the conduct of a court with reference to pending causes.

The first class of contempts are usually called direct contempts; the others indirect or constructive contempts. A distinction is also made between civil and criminal contempts. A contempt is said to be civil when it is punished primarily for the benefit of a party to an action to enforce his rights and is said to be criminal when it is punished primarily to vindicate the dignity of the court itself or its process. The distinction between civil and criminal contempts, however, has been said to be vain and confusing. An act may be both and whether it constitutes one or the other depends often upon no more than the form of the proceeding. If it is upon motion of a party to an action it is usually civil. On the other hand, if the action is taken to vindicate the court as an institution it is criminal. But to increase the confusion the contempt is not always criminal in the sense that it is a crime punishable in the ordinary course by information or indictment followed by trial by jury. The procedure in such cases is usually the summary one of immediate arrest and trial without a jury by the judge who has deemed himself contemned or by one of his colleagues. Thus the word criminal is really used to stigmatize the act of contempt as being of the kind that tends to undermine the very foundations of justice and hence as one that should be treated as a crime even if it is not. Where there is no statute that punishes the act as a contempt the courts proceed upon the theory that all superior courts of record have an "inherent" constitutional power (in England, however, only by virtue of the common law) to vindicate their authority. But where a criminal statute does exist which makes certain contemptuous acts crimes the classificatory problem becomes even more complex. There exists then a true crime of contempt. The aggrieved court has the choice of proceeding summarily as for a criminal contempt or of instructing the state prosecuting officers to lay an information or bring an indictment for the crime of contempt.

All legal systems which have reached the stage of maturity have developed closely analogous forms for securing and protecting the administration of justice. But, as must be apparent from its great complexity of classification and its exceptional procedure, the Anglo-American law of contempts is peculiar. The law of contempts has become an exceptionally prominent problem in the common law system, and great abuses have grown up particularly in the United States. While the power to punish for contempt in some form has generally been admitted, the manner and extent of its exercise have precipitated the most bitter controversies. Each class of contempts has, however, involved different considerations. There has been little or no objection to summary punishment for direct contempts in the immediate view and presence. Among indirect or constructive contempts the most vehement objections have been raised against punishments for contempt for violation of labor injunctions and against the suppression of free criticism of the work of the courts by the invocation of the doctrine of "contempt by publica-

tion," based upon the fiction that an extraforensic attack is in effect in the immediate view and presence. The summary power to punish for contempt without the intervention of a jury has been considered particularly aggravating in these classes of cases.

As far as direct contempts *in facie curiae* are concerned, and also those extraforensic acts which are to be considered as in direct defiance of judicial authority, their range was naturally larger and they were more severely punished under autocratic conditions than at present. The powers of *coercitio* of a Roman magistrate possessed of the *imperium* were practically limitless. The judicial prerogative was similarly protected by European kings until long after mediaeval times. There was, however, very little refinement of a doctrine of contempt peculiarly applicable to the judicial office only. The term contempt of court is not to be found in the Norman *Consuetudines et justicie* at the end of the eleventh century. *Contemptus curiae*, however, is spoken of in Normandy under the French kings in the thirteenth century, but it has been said to be a borrowing from English law. At any rate, not only judicial but executive and administrative officials of the king could be contemned. What we would describe as contempt was simply one of the innumerable forms of *lèse-majesté*. There is a fable reported by Jousse to the effect that Francis I of France carried an arm in a sling for a time after an outrage had been offered to one of his magistrates, in order to show that he felt the injury in his own person. The question which the jurists debated at this time was whether the magistrate had to be "outraged" during the exercise of his functions. Faranacius thought that the punishment was the same whether the offense was committed then or afterwards, provided, however, it was *in contemplatione officii*. Menochius supposed simply that the penalty should be severer if the offense occurred during the exercise of the magistrate's function.

In England contempt of court was a well established concept before the end of the twelfth century. Indeed, it was mentioned in the early Anglo-Saxon "oferhyrnes," and "contempt of justice" was considered an offense in the first half of the twelfth century. Contempt of the king's writs is mentioned in the laws of Henry I. But contempt was still conceived in a sense as a form of treason against the king. Even Coke speaks of it in these terms, as is clear from his use of the word misprision in connection with the raising of tumults in court. Furthermore, disobedience of any officer of the king was contempt of the king: a sheriff could be contemned as well as a judge. This was natural when almost everyone in the kingdom was being "amerced" for all sorts of slights of royal authority. The doctrine of contempt was particularly invoked in England in the conflicts of the numerous inferior and superior courts for jurisdiction. Formerly it was contempt of the admiral to deprive him of jurisdiction by suing in a court other than his, and the ecclesiastical courts similarly attempted to meet the competition of other judicial bodies. Moreover, not only courts punished for contempt. There is an instance of a contempt of a bishop by the disturbance of his Grace in church. Parliament also punished for contempts not only in the disturbance of its proceedings but for any indirect disregard of its privileges, and it still has the power to punish even for constructive contempts. Today inferior courts do not possess contempt powers unless specifically conferred by statute.

The ancient mode of procedure in cases of direct contempt in England is perhaps somewhat doubtful. But it seems that summary punishment developed slowly in the centuries after the Conquest. Solly-Flood has come to the conclusion that summary process in cases of contempts committed by a stranger to a suit *in facie* did not come into existence until long after the time of Henry IV, but Fox believes that it existed by the time of Edward I. Certainly, since in some of the early cases the offender was amerced, a jury must have been summoned. The direct defiance of authority which contempts of this class imply has naturally tended to make summary punishment the rule in the modern law. Whatever objections have been raised on this score have been quickly silenced. Indeed, the courts have been criticized for failing to invoke the summary power to curb liberties of press publicity within the court room. Lest, however, the summary punishment of direct contempts be thought not merely convenient but inherent, it should be pointed out that a more deliberate procedure is not only possible but has been tried in other than Anglo-Saxon countries, where the judge merely orders the court bailiff to take the offender in charge during the sitting of the court which he has disturbed, after which ordinary criminal proceedings are commenced against him. It is interesting to note that this was precisely the mode of procedure proposed by Edward Livingstone in his famous draft of an ideal penal code.

Contempts *in facie curiae* may, however, be regarded as unimportant in comparison with contempts of process or orders, since the efficacy of the courts are more seriously undermined by these. Contempts of this class are very numerous and show interesting phases of legal history. The contempt may be of oral orders, as a refusal on the part of the witness to comply with a direction to testify; or it may be, as usually, of written orders. The process or order may be interlocutory, as a summons to appear or answer interrogatories or produce documents; or it may be final, as judgments and decrees usually are. These may be simply for the payment of damages or for some forms of specific restitution. The contempts, moreover, may be committed by the parties themselves or more or less unwittingly by strangers or even by the officers of the court themselves.

It is apparent, however, that not all of these contempts need necessarily be punished to make it possible to vindicate private rights. The personal compliance of the defendant is necessary only in cases where he has to perform some affirmative act. In all other cases, the court can disregard him and order its own officers to put its judgment or decree into effect. In early law this attitude toward contempts is prevented by the treasonable implications which are deduced from them. It is not likely to be conceded that the defendant subjectively may be wholly unactuated by any motives of contempt. Moreover, in early law, in its arbitral stage and often late in its passage to maturity, since the procedure requires the observation of certain dramatic formulae by the parties, the presence and participation of the defendant is deemed necessary at all stages. His mere failure to appear and plead is considered contempt, and a judgment by default is held to be quite inconceivable. One of the tests of the degree of maturity of a legal system may be said to be the extent to which it admits the doctrine of default not only with respect to appearance but final execution. The abolition of imprisonment for debt may be regarded as the admission of default with respect to the payment of mere money judgments.

In English law suitors were frequently amerced for mere default in appearance. In the time of Henry II the failure of a tenant to attend court on summons might be punished as a contempt (Glanvill, bk. i, ch. xxxviii). In the manorial court it was contempt to depart without answering a complaint, and the same was true of the departure of a burgess from the borough court. Well might Pollock and Maitland say, speaking of this procedure: "The law is irritated by contumacy." Indeed, down to 1875 in suits in equity appearance might be compelled by attachment even where the defendant did not have to answer interrogatories.

In English law the extensive invocation of contempt powers may be laid to the great procedural accident which resulted in the development of a dual system of courts and hindered the extension of the doctrine of default. Indeed, it is to the proliferation of equity orders by the chancellor in his struggle with the common law courts that Blackstone attributes the multiplication of contempts in English law. The contempt power was necessary to harmonize the conflicts arising from the strange anomaly of the dual system. The common law courts proceeded *in rem*: i.e. they could by the mere operation of their decrees transfer titles and could enforce judgments through their officers; hence the contumacy of defendants was of little importance. On the other hand, the chancellor sitting as a court of equity could proceed only *in personam*: i.e. he could not directly order the seizure of property or directly affect the transfer of title or secure the performance of acts. But the chancellor as keeper of the king's conscience could under the Great Seal order litigants to do or refrain from doing certain acts which would result in the surrender of their common law rights. If they chose to disregard the Great Seal they were in contempt, and imprisonment for contempt became the normal method of enforcing obedience to equitable decrees. Since these were of a very great variety, the occasions for contempt proceedings became very frequent and began to permeate the judicial system.

The countries of the common law have, however, been slowly moving in the direction of a more rational system. The English Contempts Act of 1830 allowed transfer of title by a master in cases where the defendant remained contumacious and preferred to languish indefinitely in jail. The American states began even earlier, and most of them now have statutes ranging in date from 1785 to 1901. But they do not circumvent as many cases of contumacy as they might, and even today New Hampshire, New Mexico and South Carolina appear still to rely solely upon process *in personam*. The accident of equity jurisdiction also still results occasionally in imprisonment for contempt for the mere nonpayment of money, as in actions of account or more frequently in alimony cases. Curious but

more vivid illustrations are a few cases where well intentioned British dowagers have been punished for contempt when they attempted to arrange marriages between their minor children, the contempt arising from the circumstance that by law the latter were official wards of the chancellor. More serious instances are to be found in the United States in the punishment of workers for contempt for calling a strike in a business which happened to be at the time in the hands of a receiver, the contempt in this case arising from the fact that the latter is in law an officer of the court of equity.

But whether at law or equity, there can be little objection to punishment for contempt where personal compliance is necessary in the enforcement of rights. Nor can very great exception be taken to the summary nature of the commitment in such cases. The contempts, however, should be regarded as strictly civil. Indeed, it was not till the nineteenth century in England that the chancellor under the influence of the summary procedure in other cases began to regard them as "criminal" and to consider their punishment as "vindicating the court." Where injustice has usually resulted it has been due either to an anomaly in the substantive law allowing the equity jurisdiction or to the fact that strangers to the original suit have unwittingly become involved. This is particularly true in cases of punishment for contempt for violations of injunctions in labor disputes. This whole subject, however, requires a consideration of the unusual factors in such disputes and belongs more properly to a discussion of the injunction in labor cases.

A more "natural" system of execution, as it has been called, developed earlier in continental countries. Penalties were levied for non-appearance, and various fictions employed in execution at various stages of the Roman law and canon law, as well as of the Frankish and Germanic laws. The *actiones famosae* and the *missio in possessionem* may be mentioned as illustrations of this history. But the important factor is that continental countries escaped the English dual system of courts. It is true that the formulary procedure of the Roman law was suggestive of the division of function between courts of common law and equity. Since the praetor, who alone was endowed with the *imperium*, participated only in the creation of the formula and left the actual trial of the issue to the *judex*, who was a private citizen, the latter found himself without power to compel the personal obedience of the parties. In the imperial period, however, the twofold process disappeared in the extraordinary procedure. In the unified system only the objective necessity of securing enforcement of decrees tended to determine the scope of the process of contempt.

A marked difference between Anglo-American and European courts in the exercise of contempt powers is to be found in administrative law. Generally speaking, while Anglo-American administrative bodies can issue subpoenas they cannot themselves punish for disobedience to them. Their powers are supported either by making the disobedience a misdemeanor or by authorizing the administrative authorities to invoke the contempt powers of the superior courts. But in Germany, for instance, direct administrative penalties are permitted. Again, in Anglo-American law the fact that administrative officers are public officials does not prevent the courts from punishing them for contempt if they disregard orders made after review of administrative error. But such contempt powers are unknown in continental law. Administrative courts exist to review the legality of administrative action, but their judgments are simply declaratory. The danger of disobedience is, however, practically non-existent as a result of the hierarchical subordination of the administrative authorities.

The degree of attention which contempt by publication has attracted in England and the United States may be laid to the existence of a tradition of free speech, making the lengths to which the doctrine has been carried seem extreme, particularly as to the manner of punishment. The summary procedure is said by the courts to have an immemorial origin, but the contrary has recently been established by Sir John Charles Fox, basing himself upon some earlier researches of Solly-Flood. Although at common law the king's judges did punish for defamation of themselves as indirect contempt they never did so except in the normal course according to the law of the land after information or indictment. It was the great chief justice Wilmot who first assumed the existence of the summary power, in a case which arose from the Wilkes prosecutions in 1765. The Star Chamber was at this time undermining English justice, and Wilmot was led astray by its example. Moreover, his opinion was never actually delivered and it was not published till after his death; but meantime it had been communicated by him to Blackstone, who gave it currency in

his *Commentaries*, and the authority of the two names was such that the view has been accepted ever since.

American state courts began by assuming the existence of the summary power but were soon generally deprived of it by statute after celebrated cases in New York and Pennsylvania. The same result was effected also in the federal courts. The Judiciary Act of 1789 creating the federal courts had contained no language conferring summary jurisdiction over constructive contempts. Nevertheless, to remove all doubt they were expressly deprived of it by act of Congress in 1831. This came after a storm of indignation had swept the country when Judge Peck of the District Court of Missouri summarily imprisoned for contempt a member of the bar of that state for publishing a criticism of an opinion pending appeal in his court. Peck was impeached, but although he was acquitted (chiefly because of his age and blindness) the act of 1831 was passed providing for indictment and jury trial in all cases of contempts except direct ones. The federal courts respected this act of 1831, as is shown by two decisions in 1835 and 1842 respectively, and in 1873 the Supreme Court itself held the law constitutional.

But in 1918 the Supreme Court reversed itself in an opinion delivered by Chief Justice White (Toledo Newspaper Company et al. *v.* U. S., 247 U. S. 402). This decision was made possible by the fact that in the course of the years in the numerous revisions of the revised statutes the remedial act of 1831 had been dismembered: one section was transported to the judicial code and the other to the criminal code. The language of these sections was affirmative, granting power in the cases enumerated. But since the background of the act had receded into the dim past, it was forgotten that the power was conferred in these cases *only*. The decision coincided with the inauguration of the era of the general suppression of free speech. It is interesting to note that in the previous year the Supreme Court had refused Congress the power to punish for contempt by publication after a rather sarcastic New York critic had launched an intemperate attack upon one of its subcommittees [Marshall *v.* Gordon, 243 U. S. 521 (1917)]. The Supreme Court overruled the existing British parliamentary precedents. The decision in the Toledo Newspaper Company Case encouraged a long series of prosecutions in the state courts for contempts by publication. Many of the state remedial acts which had been on the books for decades began to be held unconstitutional. In the federal courts occurred the celebrated case of Craig *v* Hecht [263 U. S. 255 (1923)] arising from the commitment of the comptroller of New York City by Federal Judge Mayer for contempt in criticizing the latter's management of a public utility receivership in which the city was officially interested. Only executive clemency saved the financial head of the largest city in the country from a term in jail.

Meantime in England the practise had become more moderate. While English judges technically still had the *power* to punish summarily for contempt, the more usual procedure adopted by them was the ordinary one of indictment. Mr. Justice Holmes has said, for instance: "The English courts seem to think it wise, even where there is much seeming reason for the exercise of a summary power, to leave the punishment of this class of contempts to the regular and formal criminal process." As early as 1883 Lords Bramwell and Fitzgerald in inveighing against summary attachments for contempt assumed that it did not exist in any other civilized country. It is true that of late there has been a retrogressive tendency in England, but the situation is still less troublesome than in the United States [see Rex *v.* Editor of the *New Statesman*, 44 T. L. R. 301 (1928)]. In republican France no special protection against denunciation is now given to either administrative or judicial magistrates. The law upon the subject is found in article 181 of the *Code d'instruction criminelle*, article 222 of the *Code pénal* and in the Loi du 29 Juillet 1881 sur la Presse. The French journalist who attacks a judge for misconduct is allowed to make proof of his charges in the Cour d'Assises before a jury.

The doctrine of contempt by publication has been criticized as giving judges a greater immunity from criticism than is desirable upon democratic principles. The critics have been editors, lawyers and business men and even officials. The law of contempt often has a reach beyond the ordinary limitations upon free speech. A judge who feels his honor impugned may like any other citizen bring an action of libel. But while in such an action a plea of truth would be a defense it is not if the charge is contempt by publication. This arises from an ancillary doctrine that a judge in such a case acts to vindicate not his own honor but the dignity of the court as an institution. This same doctrine has also resulted in the six jurisdictions of Arkansas, Georgia, Michigan, Missouri, Ver-

mont and Virginia in the rule that a judge's action may not be criticized even after the termination of a cause. But even under the normal rule laymen have very great difficulty in determining when a cause is no longer pending. After the initial verdict many cases begin to stretch themselves over a period of years, and the possibility of appeals and motions for new trials still leaves them legally pending. Moreover, many judicial actions are definitive in their nature and bear little relation to the further progress of the litigation. A ready example is the propriety of reducing, increasing or refusing bail. Again, criticism may be directed at the very fact that a cause is still pending—in other words, at the law's delay. A contemptuous publication is supposed to interfere with the functioning of the courts, but this is usually only assumed and hence exists only in a constructive sense. In fact, the rule in some American jurisdictions (and elsewhere in practical effect) is that the contemnor has the option of retracting. If his words obviously belie him he may be prosecuted for perjury, but he must be discharged as to the alleged contempt. In the language of the books, he is said to be purged. This purgation in contempt has been traced to a persisting memory of mediaeval compurgation and the force of the privilege against self-incrimination.

The limitations upon the freedom to criticize the judiciary, inherent in the doctrine of contempt by publication, exist in the face of modern needs. A tremendous expansion of the sphere of social legislation to be interpreted by judges has taken place. When there is hardly any aspect of human life that is not touched by legislation, the function of the judge becomes supreme. His decisions involve not merely private rights but the public welfare. Moreover, if this is true generally in modern democracies it is especially true in the United States, where under the influence of constitutionalism the judges have become the final arbiters of legislative policy. They partake of the legislative process, but their judgments cannot be as freely examined as those of other legislative agents. Thus the right to subject the judiciary to the free play of public opinion is curtailed precisely in the country where it is most urgent that it be given the greatest scope. But not only do American judges ultimately decide social issues of public policy under the power of judicial review: they also, particularly in the federal courts, administer enormous business corporations and railroads in equity receiverships and thus control a great deal of the national wealth. In this process of business reorganization they act in an administrative and not a judicial capacity, and it should be noted that administrative tribunals do not generally possess contempt powers of any kind. The mere fact that a business is passing through judicial hands does not alter the problem of oversight.

The present temper of the courts is such that probably only constitutional amendment can abolish the summary powers over extraforensic contempts where they are exercised. Impeachment as a remedy is cumbersome and uncertain and too political in its nature. Moreover, it can be used only to remove a judge who is obviously corrupt and has acted in manifest bad faith. The adoption of the recall of judges has not been urged as a remedy for the abuses of contempt powers, but it is interesting to note that where recall has been adopted the tendency has been to weaken the underlying structure of the law of constructive contempt.

WILLIAM SEAGLE

See: COURTS; PROCEDURE, LEGAL; JUSTICE, ADMINISTRATION OF; JURY; JUDICIARY; INJUNCTION; FREEDOM OF SPEECH AND OF THE PRESS.

Consult: Fox, J. C., *The History of Contempt of Court* (Oxford 1927); Oswald, J. F., *Oswald's Contempt of Court* (3rd ed. London 1910); Dawson, Thomas, *The Law of the Press* (London 1927) ch. xi; Rapalje, Stewart, *A Treatise on Contempt* (New York 1884); Thomas, J. L., *The Law of Constructive Contempt* (St. Louis 1904); Huston, C. A., *The Enforcement of Decrees in Equity*, Harvard Studies in Jurisprudence, vol. i (Cambridge, Mass. 1915); Cambiaire, Jean de, *Des outrages envers les magistrats* (Toulouse 1908); Engelmann, Arthur, *Der civilprozess*, 3 vols. (Breslau 1889–1901) vol. ii, tr. by R. W. Millar as *A History of Continental Civil Procedure*, Continental Legal History series, vol. vii (Boston 1927); Freund, Ernst, *Administrative Powers over Persons and Property* (Chicago 1928); Solly-Flood, Frederick, *The Story of Prince Henry of Monmouth and Chief-Justice Gascoign* (London 1886); Laski, H. J., "Procedure for Constructive Contempt in England" in *Harvard Law Review*, vol. xli (1927–28) 1031–43; Beale, J. H., "Contempt of Court, Criminal and Civil" in *Harvard Law Review*, vol. xxi (1907–08) 161–74; Frankfurter, Felix, and Landis, J. M., "Power of Congress over Procedure in Criminal Contempts in 'Inferior' Federal Courts—A Study in Separation of Powers" in *Harvard Law Review*, vol. xxxvii (1923–24) 1010–1113; Nelles, Walter, and King, C. W., "Contempt by Publication in the United States" in *Columbia Law Review*, vol. xxviii (1928) 401–31, 525–62; Palmer, J. C., "Constructive Contempt" in *American Law Review*, vol. i (1916) 368–414; Curtis, C. P. and R. C., "The Story of a Notion in the Law of Criminal Contempt" in *Harvard Law Review*, vol. xli (1927–28) 51–68; Hale, R. W., "Public Opinion as Contempt of Court" in *American Law Review*, vol. lviii (1924) 481–99; Potts, C. S., "Power of Legislative Bodies to

Punish for Contempt" in *University of Pennsylvania Law Review*, vol. lxxiv (1925–26) 691–725, 780–829; Flynn, J. T., "Our Courts and Free Speech" in *Harper's Magazine*, vol. clv (1927) 397–406.

CONTESTED ELECTIONS. The validity of an election may be attacked on various grounds; for example, because of malconduct on the part of the election judges or corrupt practises on the part of the successful candidate or because the latter is ineligible or has profited by the casting of illegal votes. In the United States under such circumstances the election is said to be "contested." English authorities, whose terminology has in general the merit of greater precision, prefer the term "disputed" or "controverted"; for with them, technically speaking, an election is contested whenever more than one candidate has been nominated for the same office.

There are two distinct methods of settling contested elections. The function may be regarded as political, the decision then being entrusted to political agencies; or as judicial, jurisdiction being conferred upon the courts. At common law *quo warranto* affords an appropriate remedy by which a candidate may contest the validity of his opponent's election, that is, he may ask for the removal of a usurper and possession of the office for himself. Nowadays, however, this method has been supplanted by constitutional and statutory rules of procedure which vary not only in different countries but with respect to different offices. Legislative bodies that possess so-called sovereign power, like the American Congress and state legislatures, judge the election of their own members and of important executive officers as well. In the case of subordinate offices contests are referred to the courts.

In France the National Assembly has held final authority over election contests since 1789; and the constitution of 1875 makes each chamber judge of the eligibility of its members and of the regularity of their election. The members of a new Chamber of Deputies are divided by lot into eleven sections called *bureaux*. The election returns and all documents bearing upon them are distributed among these *bureaux* for examination through the medium of small committees. A report made to the Chamber on each election shows whether the candidate was eligible, whether he obtained the required vote, whether the electoral operations were in accordance with the law and whether there were any circumstances, such as corrupt administrative influence, that would vitiate the election. If the facts prove difficult to establish, the Chamber may authorize the appointment of an investigating committee of eleven members, one named by each *bureau*, with power to compel the attendance of witnesses and put them under oath. The Chamber acts finally, without any restriction upon its prerogative. It has usually been influenced by partisan considerations rather than by a nice sense of justice, and hence proposals have been made to transfer the function to the highest administrative court, the Council of State.

With respect to French local assemblies the procedure is laid down by statute. The administrative courts settle all contests. Where a seat in a municipal council or district (*arrondissement*) council is concerned, the complaint goes before the administrative court of first instance, the prefectoral council, with right of appeal to the Council of State; and the same procedure applies where the election of a mayor or adjoint by a municipal council is called in question. The Council of State has original jurisdiction over contests affecting the general council (assembly of the *département*), which formerly (before 1875) settled them itself.

The practise of France and other countries has been derived mainly from English precedents; and therefore a special interest attaches to the experience of the mother of parliaments over a period of three centuries or more. The House of Commons first clearly asserted its right to judge disputed election returns late in the reign of Elizabeth. That it took this position in the face of a statute of 7 Henry IV, which gave jurisdiction to the lord chancellor, indicated a sense of growing power and a determination to get free from executive control. Although James I, stubbornly resisting the new claim, forced the House to accept a compromise in the Buckinghamshire election case of 1604, from that time the jurisdiction of Chancery was never asserted and that of the House was never questioned. The House now had the means of counteracting the abuse of royal authority in the management of elections. Along with it, however, came the abuse of partisanship. Political interest swept aside the dictates of justice. Each vote upon disputed returns became a test of party strength, irrespective of the merits of the case. It involved the fate of the ministry. So Walpole fell in 1742, his defeat in the Chippenham election case being regarded as tantamount to a vote of want of confidence. The scandals were so flagrant that in 1770 the Grenville Act took the power of deci-

sion from the House itself and transferred it to a committee of fifteen members. The elaborate process required for the selection of the committee was designed to secure impartiality; but, while it did bring about a considerable improvement, the old evils by no means disappeared. Nor did public opinion, growing more sensitive and critical as the nineteenth century advanced, find the later modifications of the Grenville plan satisfactory. If the reconstituted committee showed less partisanship it nevertheless did little to check the corrupt use of campaign funds and rendered decisions that were uncertain and contradictory. At last in 1868 by a complete change of principle the matter was placed in the hands of the High Court of Justice. Two judges (only one before 1879), who are chosen by the other judges of the court, try the election petition in the borough or county where the issue arises and certify their decision to the speaker of the House. The decision is in effect final and authoritative; for while the House is legally competent to override the judges and substitute its own jurisdiction it never does so.

In the United States every state constitution contains the provision that each house of the legislature shall be judge (sometimes "sole" or "final" judge) of the qualifications and election of its members. This rule had been firmly established in colonial practise before the close of the seventeenth century. The courts are disposed to interpret it narrowly. Thus, maintaining that the power is vested exclusively in each house and cannot be delegated, the supreme court of Massachusetts in 1916 (Dinan *v.* Swig, 223 Mass. 516) held unconstitutional a statute under which three judges of the superior court could void an election because of corrupt practises. Nevertheless, a number of states, including Wisconsin and Oregon, have adopted the English procedure. The court certifies its findings to the secretary of state; he in turn transmits them to the presiding officer of the appropriate house of the state legislature or Congress; and the house itself remains legally free to accept or reject them. In more than forty states the legislature also judges the election of state executive officers. The only remaining exception to the jurisdiction of the courts is found in cases where, as in California, the legislature is authorized to invest city councils with the power to judge the election of their own members and of municipal executive officers; and even when this power has been conferred the concurrent jurisdiction of the courts remains, unless the legislature has unequivocally manifested the intention of taking it away.

The federal constitution makes each house of Congress "judge of the elections, returns, and qualifications of its own members." It provides further that the votes for president and vice president shall be counted in the presence of both houses and that when a majority vote is wanting the House shall choose the president and the Senate shall choose the vice president. But the constitution does not say who shall count the electoral votes or how their validity shall be determined. The matter has therefore been regulated by statute; and the existing procedure, established in 1887, is so well designed to meet possible complications that such a menacing situation as developed in the disputed presidential election of 1876 cannot occur in the future. In judging the election of their own members House and Senate alike have usually acted upon considerations of party advantage. Thus between 1865 and 1903 the majority party decided 82 of 91 House contests in their own favor. In the Fifty-first Congress the Republicans, finding their majority inadequate, seated eight more of their partisans in the place of lawfully and regularly elected Democrats. In view of such circumstances Speaker Reed observed that "the decision of election cases invariably increases the majority of the party which organizes the House and which herefore appoints the majority of the Committee on Elections" ("Contested Elections" in *North American Review*, vol. cli, 1890, p. 114). In 1895 a report from the committee on elections itself declared that decisions were made not according to justice but by mere numbers and that during the preceding twenty years 45 seats had been taken from the minority and substantially none from the majority. A defeated candidate, relying upon partisan support, would bolster up dubious charges and contest an election on the most flimsy pretexts. In recent years, however, perhaps as a consequence of secure Republican preponderance in the House, scandalous perversions of justice have not occurred. In addition to partisan considerations another abuse has been delay; in some cases a sitting member has been unseated only a day or two before the close of the congressional term. But since 1924 a House rule has required the several elections committees to report on all contested elections within six months after the first assembling of the Congress.

The adoption of the English system—the trial of election petitions by the courts—has several

times been proposed. In 1895 the House committee on elections made a strong argument in favor of the change; in 1923 a bill was reported giving the Circuit Court of Appeals jurisdiction. So competent an authority as Robert Luce endorses the plan without qualification. "Not a single reason of weight militates against it," he says, "and it ought to prevail" (*Legislative Assemblies*, p. 204). After all, the traditional parliamentary prerogative originated at a time when the king exerted pressure in elections and when the judges, being subservient to him, were distrusted. It is now something of an anachronism. No doubt the English system has revealed certain defects. Aside from the delay and expense which litigation ordinarily involves the judges sometimes rest their decisions on technical or trivial points; and the petitioner who has charged extensive corruption but failed to establish specific instances to the satisfaction of the court may find himself sustained on the ground that his opponent paid the railway fare of a single non-resident voter. But at least the judges have kept themselves free from any suspicion of political bias. Public opinion would not tolerate a return to the old system. Indeed, the efficacy of the laws against electoral corruption depends upon their enforcement by the courts and upon the automatic forfeiture of the guilty candidate's seat. English practise has been imitated not only by the dominions but more recently by European countries as well. The constitutions of Austria and Poland give jurisdiction to the supreme court; that of Czechoslovakia, to an electoral court. The German constitution provides for a small electoral commission of judges drawn from the administrative court and of members of the Reichstag.

EDWARD MCCHESNEY SAIT

See: ELECTIONS; LEGISLATIVE ASSEMBLIES; CORRUPTION, POLITICAL.

Consult: Luce, R., *Legislative Assemblies* (Boston 1924) ch. x; Houston, H. J., and Valdax, L., *Modern Electioneering Practice* (London 1922); Rabany, C., *Guide général des élections* (4th ed. Paris 1928); Anson, W. R., *Law and Custom of the Constitution*, 3 vols. (3rd ed. London 1907–08; vol. i, 5th ed. 1922) vol. i; Fraser, Hugh, *The Law of Parliamentary Elections and Election Petitions* (3rd ed. London 1922); Alexander, D. S., *History and Procedure of the House of Representatives* (Boston 1916); Rammelkamp, C. H., "Contested Congressional Elections" in *Political Science Quarterly*, vol. xx (1905) 422–42.

CONTINENTAL SYSTEM. This term (in French usually *blocus continental*) has been given to Napoleon's attempt to crush Great Britain by means of commercial war. The system was formally inaugurated by the decrees of Berlin, November, 1806, and Milan, December, 1807, but it had already been begun at the outbreak of the war with England in 1803 and its origin is much earlier even than that date. The British countermeasures, especially the series of orders in council issued in 1807, are also often included under the term.

The measures of Napoleon were ostensibly framed as reprisals against the infringements of neutral rights through the British "paper blockade," but the military reason for them was the mastery of the seas on the part of his enemy. His conquests of the coasts of the continent appeared to open up possibilities of a plan which he had long entertained—to exclude from the continent all British goods as well as commodities belonging to British trade and shipping, especially colonial produce. The economic principle underlying the plan was intensely mercantilist and the reverse of that which dictated the blockade of the World War of 1914–18. Britain was to be ruined by being prevented not from satisfying her own needs but from satisfying the needs of the continent; her exports as well as her carrying trade were to be strangled; she was to be "vanquished by excess." The means was to be a self-blockade of the continent. The series of orders in council which constituted the British reply is less easily summed up by a single formula. But in the main it was intended to meet the French plan squarely: as France had said she would have no trade with England, she was to have no trade except with England. Hence the adoption of the rule that all ships must call at a British port. This rule, however, was more than a mere reprisal; it was also in agreement with the *entrepôt* principle which was at the basis of the old colonial system.

Napoleon had many reasons for believing that his plan would ruin England. To begin with, he held the fundamental mercantilist idea that an abundance of commodities was a national calamity. In addition he believed that an adverse trade balance and a consequent outflow of precious metals would be particularly dangerous at that time to the credit system of Great Britain, the weakness of which seemed to have been borne out by the Bank Restriction Act of 1797. And he expected that the wealth of the country, generally believed to center in the Bank of England, and the credit of the state, already endangered by an enormous national debt, would follow the credit system into the abyss.

He foresaw labor disturbances also, and in his eyes these constituted a more serious menace than many lost battles.

Actual developments neither proved nor disproved the validity of Napoleon's reasoning, although there is every reason for doubting it. In spite of his apparently unlimited political power Napoleon was unable to carry out his plans, owing to the widespread desire of the populations he ruled for British and still more for colonial goods. Hardly anyone, consequently, could be relied upon to carry out the system, and the *autos-da-fé* and other spectacular measures against the smuggled commodities very often proved a farce. The prevalent corruption of the administration in most countries made smuggling an ordered and extremely lucrative trade, especially in the countries not under the emperor's immediate sway. In this situation Napoleon, through the so-called Trianon and Fontainebleau policy of 1810, entered upon a sort of competition with the smugglers, admitting colonial goods on the payment of duties calculated to be just below the cost of smuggling. These measures were based upon an enormously extended system of licenses for such trade as was officially prohibited. The use of licenses, as well as false ship's papers and other bogus documents, was even greater on the part of Great Britain. More than 18,000 licenses were issued by that country in 1810 and the greater part not only of British but also of international maritime trade in general was carried on by means of them. There was a fundamental difference between the two, however, in that British licenses were breaking through the self-blockade of the continent, while those issued by Napoleon were undermining the system he had hoped to establish. The Trianon policy converted the continental system into a gigantic provider of revenue, deflecting it from its beautifully conceived purpose of waging commercial war on extreme mercantilist lines. Upon the fall of Napoleon the system was forthwith abolished.

The economic consequences of the Continental System cannot be rated as very important. For France it acted as a system of excessive protection, but with the important disadvantage that it checked the supply of raw materials to the industries which it was fostering, especially cotton. The only important results were the establishment of some chemical industries, principally the Leblanc soda process, and the furthering of beet sugar production. The technical foundation of the latter industry had been laid earlier, but it did not survive the reopening of the frontiers in 1814. Only a few years later, however, it took on a new lease of life, so that the embargo may have had an influence on its development. As to the rest of the continent, many places suffered through the ultraprotectionist policy of France proper, which prevented the use of that country as a substitute market for those which had been lost. This was especially true of the Grand Duchy of Berg, the present Ruhr district. As a whole the Continental System retarded the adoption of British methods, begun before 1789, and contributed through this to the lateness of the industrial revolution outside Britain.

ELI F. HECKSCHER

See: MERCANTILISM; COLONIAL SYSTEM; ECONOMIC POLICY; PROTECTION; EMBARGO; BLOCKADE; SMUGGLING.

Consult: Heckscher, Eli F., *Kontinentalsystemet* (Stockholm 1918), tr. by C. S. Fearensido (Oxford 1922); and for a somewhat different interpretation, Melvin, Frank Edgar, *Napoleon's Navigation System* (New York 1919).

CONTINGENT FEE is defined as "a fee, the payment of which is conditioned upon success in a proposed litigation, the fee to constitute a certain percentage of the amount recovered or a fixed sum to be paid out of the amount recovered."

The history of legal fees in general has conditioned the attitude of the law toward the contingent fee. Fees were an issue even in the Roman world. The patron who had accepted the promise of fealty from the client was obligated to give him assistance and advice without payment. Later it became customary for the client to offer a gratuity to his patron in advance for his services. Although there was no legal obligation to pay the gratuity, those litigants who were unable to do so could not obtain representation in the courts. The Cincian law and the laws of Augustus, which were designed to correct these abuses and forbade the acceptance of gratuities, proved ineffectual. They were followed by Trajan's ruling that no advocate was to receive his fee until the cause was decided. The patron usually received a share of the spoils which he collected for his client, a custom which closely resembles the modern contingent fee.

In England the history of the contingent fee is the history of champerty and maintenance. In early feudal days a suitor frequently assigned his claim to some powerful lord for the purpose of obtaining the lord's influence at court. The lord,

of course, would be compensated by participation in the recovery. Juries were largely made up of dependents of the lord and, as Blackstone said, perverted "the privileges of law into an engine of oppression." The *Statutum de champertie* and *Statutum de conspiratoribus* resulted, carrying severe penalties against these practises.

These influences of Roman law and early English law have left so deep an imprint in English jurisprudence that the statement of Blackstone concerning the payment of counsel fees may be regarded as the attitude of the English bar today: "and so likewise it is established with us that a counsel can maintain no action for his fees; which are given, not as *locatio vel conductio*, but as *quiddam honorarium*; not as a salary or hire but as a mere gratuity, which a counsellor cannot demand without doing wrong to his reputation" (bk. iii, sect. 28). By statute a solicitor is prohibited from stipulating for payment on a contingent basis or from contracting for a share of the subject matter of the suit as his fee. The laws against champerty and maintenance have, however, been greatly modified.

In America the courts at an early date repudiated the English practise and held that fees for legal services were a proper subject of contract, for the breach of which suit could be brought. This ruling and the modification of the strict common law rules concerning champerty and maintenance were followed by the development of the contingent fee. In the Field Code enacted in New York during the middle of the last century "a fair contingent fee" was legalized and contingent fees have been sustained by the courts in all our states. In some New England states it has been held that contingent compensation is not permissible when the compensation is confined to an interest in the thing recovered. At the same time an attorney is allowed a right of action against a client, and the pledging of the proceeds of the suit as security for the payment of the attorney's fee is permitted. Some of the southern and middle western states have adopted the rule that the attorney may neither pay nor agree to pay any part of the cost of litigation, although he may contract for the contingent fee in general. These distinctions have little value.

The contingent fee came into prominence in the United States in the latter part of the nineteenth century. The expansion of industry and the machine, together with the neglect of safety measures, caused a large number of industrial accidents. Injured workers were unable to afford competent legal assistance. The legal aid societies, partly because they feared the antagonism of the bar and partly because of lack of funds, refused to take suits for personal injuries. They argued that the plaintiffs could obtain a lawyer's services through a contingent fee arrangement. With the accidents resulting from the development of motor traffic the contingent fee became an even larger factor in legal practise.

Discussion naturally began to center upon its abuses, of which the most obvious are the following: (1) it tends to corrupt the fiduciary relation of attorney and client, for the attorney has an interest in the case which may at times differ from that of his client; (2) it affects his attitude toward the court, which becomes that of a litigant rather than that of an officer of the court; (3) it brings the administration of law and the legal profession into public disrepute; (4) finally, it encourages unnecessary litigation. Cases are often manufactured and clients induced to sue for injuries which they themselves regard as negligible. "Ambulance chasing" has arisen, a system in which physicians, the police and lawyers work together on a split fee basis to procure clients in accident cases. Even this is justified by some lawyers on the ground that thereby ignorant persons are informed of their rights and prevented from giving releases to insurance company agents who generally arrive on the scene of the accident at the same time as the "ambulance chaser." The contingent fee arrangement and its accompanying evils including solicitation are of less importance in non-accident litigation.

Despite its abuses the contingent fee serves several important purposes. It is instrumental in enabling young lawyers to get a start. Moreover, it permits the poor litigant to obtain competent legal service which he could not otherwise afford, particularly in personal injury cases in which the defendants are frequently large corporations and railroads or are represented by insurance companies. Unfortunately it affords unscrupulous lawyers an opportunity to drive unconscionable bargains at a time of stress and excitement. While no rule can be stated categorically and each case depends upon its own facts, it may be said that from a quarter to a third of the amount recovered is usually regarded as a fair compensation. Often a much larger percentage is charged.

The problem of the contingent fee in industrial accidents has been eliminated in a number

of states by workmen's compensation. It has been suggested that a similar insurance plan to cover automobile accidents be inaugurated, under which all drivers would have to subscribe to a fund from which fixed compensation would be paid to persons injured, regardless of where the negligence lies. There are, however, constitutional limitations affecting such a plan. The extension of legal aid is an alternative remedy which would be less satisfactory in that it would not appreciably reduce the enormous amount of accident litigation. The cooperation of indemnity companies would of course help to alleviate the worst features of the present situation. The consensus of opinion of the American bar has been that the best solution of the problem is the control and regulation of contingent fee agreements by the courts and that solicitation should be penalized.

In New York the subject was under discussion during the so-called Ambulance Chasing Investigation in 1928. As a result rules were adopted by the Appellate Division of the Supreme Court tending toward closer supervision of contingent fees by the courts. Attorneys must now file the agreements for contingent fees in court within ten days after they are made.

NEWMAN LEVY

See: FEE SPLITTING; LEGAL PROFESSION; LEGAL AID; EMPLOYERS' LIABILITY; COMPENSATION AND LIABILITY INSURANCE.

Consult: "Contingent Fee Accident Litigation in Philadelphia" in *Massachusetts Law Quarterly*, vol. xiv, supplement no. i (1928–29) 1–80; "Mr. Justice Wasservogel's Report in the Judicial Investigation of Ambulance Chasing in New York" in *Massachusetts Law Quarterly*, vol. xiv (1928–29) 1–32; Thornton, E. M., *A Treatise on Attorneys at Law*, 2 vols. (Northport 1913–14) vol. ii, p. 653–72, 727–40; Winfield, P. H., *The History of Conspiracy and Abuse of Legal Procedure* (Cambridge, Eng. 1921) ch. vi, and *The Present Law of Abuse of Legal Procedure* (Cambridge, Eng. 1921) p. 96–106; Smith, R. H., *Justice and the Poor* (New York 1919) p. 85–90.

CONTINUATION SCHOOLS. Generally speaking, continuation schools are public or semipublic educational institutions on a part time basis for young persons between the ages of fourteen and eighteen who have completed attendance requirements of an elementary school and are not attending a course of full time education. These schools are usually provided for young people employed in manufacturing, commerce and allied industries but in certain countries are extended to those in extractive and agricultural occupations and even in domestic service. The term is usually applied to day schools to distinguish them from evening courses. Proponents of continuation education emphasize the necessity for transfer from evening to daytime attendance as a mitigation of excessively long hours for the child laborer.

The provision of continuation education has been stimulated by a number of causes, the most immediate and direct of which was probably the decline of a system of supervised apprenticeship. Fundamentally, however, there is a more or less clearly defined realization of the obligation of the community to provide some form of education and guidance for the young wage earner whose limited schooling is inadequate preparation for life and whose entry into industry coincides with the difficult period of adolescence. Three purposes, not always separable, have usually been expressed for continuation education: education for industry in general or for some particular occupation therein, education for citizenship and education which seeks the fullest development of the individual. In practise, however, there has been wide variation both from time to time and from country to country in the emphasis on vocational, cultural or civic courses, in provisions for compulsory or optional attendance and in the extent to which the schools are supported by the state or by contributions from industry. This variation is interrelated with current concepts of the purposes of education in general and of industrial education in particular, and of the mutual relations between the individual and the community. Continuation education in some form has been adopted in twenty-five or more countries; it has been developed furthest in Germany, Great Britain and the United States.

The long history of German continuation education reflects shifting changes in social values. Its origin was a result of the efforts of religious organizations to provide religious education in evening courses for young wage earners. By the Imperial Industrial Ordinance of 1869 empowered municipalities were given the authority to require employers to permit workers under eighteen to attend the *Fortbildungsschulen*, as they were known. By 1914 twelve out of the twenty-six states had enacted compulsory continuation school laws, while others had local requirements. Critics of the German system prior to the World War found it too narrow in scope and likely to reenforce rigid economic and industrial limitations. The pioneer work of Dr. G. Kerschensteiner in Munich and

the sweeping reforms brought in by the German Republic and the constitution of 1919 broadened the scope of the curriculum of the German continuation schools and extended it to cover the needs of young wage earners up to the age of eighteen. Attendance of eight hours a week for four years is the general requirement. Although the pupil's program is based generally on the occupation in which he is engaged in order to develop his skill therein, the *Berufsschulen*, as they are now called, stress the rights and duties of citizenship. These involve relationship to the political state, social legislation, the purposes and procedure of trade unions and the like. Some idea of the extent of this type of education is given by the 1926 figures for Prussia, which comprises two thirds of Germany. Out of a total of 12,314 schools for 1,105,901 students, 2200 industrial schools provide training for 745,196 students, 9697 agricultural schools for 221,373 students, 308 commercial schools for 109,423 students, 54 domestic economy schools for 15,229 students and 145 mining schools for 14,680 students. The tendency during the period of acute unemployment has been to make attendance regulations more stringent, in order that the young unemployed worker may not go completely adrift.

The systems of Czechoslovakia, Austria and Switzerland are similar to the German in their comprehensive scope and the requirement of compulsory daytime education.

France provides for voluntary continuation education (*enseignement postscolaire*) in public and private *cours d'adultes* for pupils above the age of thirteen. These courses continue general elementary education and are adapted in some places to local needs. Since 1917 several unsuccessful efforts have been made to introduce compulsory attendance. In industry and commerce employees under eighteen are required to attend part time schools, not necessarily during the day, for three years from one hundred to two hundred hours a year. The schools may be provided by public authorities or by employers subsidized by the state. Similar provisions exist in rural areas, where voluntary continuation courses are offered in agriculture and household management.

Continuation education in Great Britain has aroused considerable interest, and the Fisher Act of 1918, embodying recommendations made earlier by several special committees, provided for compulsory attendance at continuation schools of boys and girls between the ages of fourteen and eighteen not attending a full time school. For financial reasons the Board of Education has postponed the fixing of the appointed day on which the provision shall go into effect. As a result of the economic crisis of 1921 and 1922 even those local authorities, with one exception, who had voluntarily adopted a compulsory system repealed their provisions. At the present time a few large communities have voluntary continuation schools; in the rare instances where attendance is compulsory it is not necessarily limited to the daytime. Thus in 1926–27 out of a total of 750,500 students in continuation schools in England and Wales only 24,000 were attending day schools. In England, however, the emphasis in the continuation schools, as in the whole program of workers' education, is on those courses which are intended to develop the individual, and vocational and technical courses are merely incidental. This emphasis on general education is seen in the movement for "secondary education for all."

Nowhere has vocational education been so strongly stressed or so well developed as in the continuation schools of the United States. The development of continuation schools received a strong stimulus after the passage in 1917 of the Smith-Hughes Act, which provides federal aid for full and part time vocational education and makes this aid conditional on the establishment of part time schools. In 1928 there were 400,000 part time schools, of which 320,000 were general continuation schools. Twenty-seven states have passed laws requiring compulsory attendance at continuation schools, but the reservations included in these laws are generally so extensive as to limit their general practicability. In addition to numerous exceptions on personal grounds the attendance is required only in areas with a certain population or with a definite number of available pupils or where schools exist. This results in the omission of agricultural and other groups. In thirteen states attendance is required between the ages of fourteen and sixteen, in eight between fourteen and eighteen, in two between sixteen and eighteen, in two between fourteen and seventeen, in two up to eighteen, in one up to seventeen and in one no age limits are specified. Most frequently four hours of attendance per week, between the hours of eight a.m. and six p.m., are required, with a maximum usually of 144 hours per year. In Wisconsin, where the system of vocational education has been very well developed, pupils of from fourteen to sixteen years of age must attend six half days a

week; those sixteen to eighteen, eight hours a week. In the better schools, especially in Wisconsin, Massachusetts and Pennsylvania, attention is paid to vocational guidance and the avoidance of blind alley occupations; and this may at times require the shifting of the student from studies centered about his immediate occupation. The building up of a teaching staff which is especially equipped for such instruction has occasionally received special consideration. In 1928 about 9000 teachers attended training courses for teachers in part time and continuation schools. Local studies of the effectiveness of continuation school education, resulting in the conclusion that it is least useful for the fourteen to sixteen-year age group because of the limited employment opportunities open to them, has reenforced the advocacy of compulsory full time education until the age of sixteen.

The cooperation of the industrial and educational groups and institutions whose functions are closely allied to those of the continuation school has taken varied forms and has met with varying degrees of success. On the whole, labor has expressed its approval of the principle of continuation education. Early in its history the American Federation of Labor went on record in approval; the Youth Program of the International Federation of Trade Unions adopted in 1928 asks for the "introduction of compulsory vocational education until the completion of the eighteenth year, such instruction to be in working hours." Generally labor has qualified its approval by the provision that such schools be under public auspices and has linked it with a demand for a higher age requirement for entry into industry. English labor, for instance, has specifically condemned employers' "work schools." In most European countries characterized by a high degree of trade union organization the local educational committees have included union representatives as well as those of the employers. In some countries, as for instance in Austria, grants from employers' and workers' organizations are accepted; and in some cases of deficits in the total budget, to which the state contributes, levies are made against employers. In the United States one of the obstacles confronting the continuation schools is the refusal of employers to engage workers who are subject to compulsory attendance regulations, and the employer, parent and child frequently object to the reduction in earnings through school attendance.

Criticism of continuation education centers about the controversy over the type of education to be given. Even where there is a general preference for emphasis on vocational training, however, many questions arise from the dilemma in which the schools find themselves because of the necessity to strike a balance between a broad industrial training and the limited possibilities for its utilization in existing employment opportunities.

I. L. KANDEL

See: EDUCATION; INDUSTRIAL EDUCATION; VOCATIONAL EDUCATION; ADULT EDUCATION; BUSINESS EDUCATION; VOCATIONAL GUIDANCE; APPRENTICESHIP; CHILD, section on CHILD LABOR; ADOLESCENCE.

Consult: Reed, A. Y., *Human Waste in Education* (New York 1927); Marot, Helen, *Creative Impulse in Industry* (New York 1918); Evans, O. D., *Educational Opportunities for Young Workers* (New York 1926); Phillips, Margaret, *The Young Industrial Worker* (London 1922); Trumbull, F. M., *Guidance and Education of Prospective Junior Wage Earners* (New York 1929); Selden, F. H., "Have We a Just Standard of Industrial Intelligence?" in *American Journal of Sociology*, vol. xxiv (1918–19) 643–51; Weyand, L. D., "What Is Industrial Education?" in *American Journal of Sociology*, vol. xxx (1924–25) 652–64; Richard, C., *L'enseignement en France* (Paris 1925); Keesecker, W. W., *Laws Relating to Compulsory Education*, United States, Bureau of Education, Bulletin 1928, no. 20 (1929); United States, Federal Board for Vocational Education, *Annual Report, 1925*, no. ix (1925); Great Britain, Committee on Education and Industry (England and Wales), *Report*, 2 pts. (1927–28); Teachers College, International Institute, *Educational Yearbook*, vols. i–iv (New York 1925–29); Cooley, E. G., *Vocational Education in Europe*, 2 vols. (Chicago 1912–15); International Federation of Trade Unions, *The Protection of Young Workers*, International Trade Union Library, 2nd ser., Reports and Documents, no. 1–2 (2nd ed. Amsterdam 1930) p. 43–57; *Handbuch für das Berufs- und Fachschulwesen*, ed. by Alfred Kühne (Leipsic 1923); Kerschensteiner, Georg, *Grundfragen der Schulorganisation* (3rd ed. Leipsic 1912), tr. by C. K. Ogden as *The Schools and the Nation* (London 1914) ch. vi–ix, p. 313–45, and "The Fundamental Principles of Continuation Schools" in his *Three Lectures on Vocational Training* (Chicago 1911) p. 1–16; Waterfall, E. A., *The Day Continuation School in England* (London 1923); Best, R. H., and Ogden, C. K., *The Problem of the Continuation School* (London 1914); Yeaxlee, B. A., *Working Out the Fisher Act* (London 1921); Keller, F. J., *Day Schools for Young Workers* (New York 1924).

CONTINUITY, SOCIAL. This concept is used to indicate that existing culture forms are outgrowths or modifications of antecedent forms. It is theoretically possible to take civilization as a whole and trace its existing complexes back to relatively simple beginnings and thus to show that the history of man's achievements is on the whole unbroken. Culture in its entirety may thus exhibit unbroken development, but

within any given culture group there may be an element of discontinuity in the taking over of alien borrowed traits which bear no necessary relationship to antecedent stages of the given culture itself. Thus the horse, suddenly introduced by European invaders, was distinctively novel to American Indian culture. From the point of view of the borrowers such instances may be regarded as cultural mutations. Although the continuity concept is used in referring to a specific culture group as well as to the history of culture as a whole, there is a tendency to confine it to the latter. The perpetuation and continuity of culture, whether of an entire civilization or of some specific institution, rest fundamentally upon the process whereby the past is brought into the present and extended into the future. Since every social group possesses a certain culture and every social institution contains a culture complex, social continuity becomes a phase of cultural continuity.

The development of the concept of social continuity has been greatly facilitated within the last half century by research in archaeology and history which has greatly extended the time perspective of man's achievements in culture building. The "thread of history," once traced back only to the relatively recent literate civilizations, is now followed as far back into man's prehistory as the problematical eolithic age. The archaeologist, working with remains of the non-perishable traits of preliterate cultures, and the historian, concerned with those of the literate peoples, have been able to reconstruct the process of gradual accumulation of culture from its simple stone age beginnings. In utilizing these materials social theorists have considered both man's culture as a whole and certain specific culture groups and as a result have stated in various terminology the continuity concept, briefly epitomized by Wissler as "tribes may come and tribes may go, but culture goes on forever."

Perpetuation of the culture whereby continuity is achieved may be through processes that are unorganized and informal or highly systematized and formalized. In all culture groups education in its broadest sense is the product of both types. In general, it may be stated that among preliterate peoples the undirected processes predominate, while with the acquisition of writing the educational process becomes more consciously planned. In the simpler societies social values, attitudes and mores may be deliberately reinforced by elaborate ceremonials, but the perpetuation of the essential knowledge is more casual. In fact, the natural tendency of men in society to imitate or repeat what is already being done makes inertia a fundamental force for the persistence of cultural forms. Simple tasks and play, often in imitation of adult activity, occupy the children's time, and through these and especially through the play, in which adults often join, the child acquires the basic practical techniques, information and knowledge of the folkways he is to utilize in later life. In preliterate cultures the education whereby social continuity is maintained is not specifically institutionalized; rather it develops as a by-product of activities involving the several institutions with which children have contact. Nevertheless, conformity to traditional patterns of group behavior is informally achieved through the pressure of social approval. The child learns to respond to the expectations of those about him, and failure to meet these expectations results in a loss of prestige, actual censure or even physical punishment. In this manner the folkways are inculcated and maintained and become, as Sumner pointed out, social forces inducing conformable behavior. The sensitivity of individuals to group norms of behavior may also be consciously and deliberately utilized to develop this conformity.

In literate societies social continuity involves not only the mechanisms found among preliterate peoples but others that are associated with the art of writing. Traditions and techniques multiply with passing generations, since the record of the past is handed on with progressively greater effectiveness. Among primitive peoples the span of personal knowledge of the group and its ways is limited approximately to the years intervening between the great grandfather and the great grandson, but this inevitable circumscription of tradition disappears when written records are possible. Characteristic of literate societies, accordingly, is the development of formal institutions which serve systematically to select, preserve and transmit phases of the ever augmenting cultural heritage. The pressure of folkways, mores, ceremonials and incidental and casual training of the young by their elders and their associates, as in the telling of stories, myths, fables and proverbs, still are important, but perpetuation of the culture becomes more systematic. The function of formal education in schools or as an adjunct of other institutions is to impose

systematically on members of oncoming generations not only the technical knowledge necessary for life in the group but also the approved values and attitudes which surround social institutions.

In all culture groups the evaluational and attitudinal phases of the culture are acquired gradually. These assume meaning as the outgrowth of daily interaction between group members in which expected types of behavior are established in the child's mind, and these meanings are perpetuated in the same process of interaction among adults. Experience is the teacher, and learning follows the daily contacts in which the inexperienced perceive, in terms of approval or disapproval by their associates, how they may best adjust their behavior to social life. Few institutionalized forms of learning are as potent in perpetuating a culture as are these interactions of the child beginning in what Cooley has termed the primary groups. Here the norms of behavior are imposed upon the group members; habits and attitudes, which eventually will become the stimuli to the behavior of others who follow, are implanted without questioning and thus social continuity is achieved.

In complex societies, on the other hand, technical aspects of culture are more easily acquired in a formal and systematic manner. Modern educational systems are the agencies through which such essential knowledge is implanted and perpetuated. Formal, institutionalized education may also contribute in implanting attitudes and values and in establishing the mores.

In the transmission of the culture, whether formally or incidentally as in the process of social interaction, a selective factor operates, since not all technical and routine knowledge from the past nor all attitudes are to be retained. There is often a conflict of interests involving the persons interested in the perpetuation of the mores. In simple societies these may be no more than the natural vested interests of adults centering in the desire to maintain status privileges, but in societies that are more complex the vested interests become diversified and intricate. In these primitive cultures crude and cruel disciplinary means are employed to secure the absolute subservience of the young to these interests. Social stratification and differentiation involve conflicting attitudes which compete not only among adult groups but also in the process of transmission to the young. Out of such conflict arise numerous other devices designed to induce conformity, such as appeals to various loyalties, use of prestige factors, ceremonials, patriotism, veneration of tradition, control of agencies of news dissemination, and propaganda in its multitudinous guises. These assume great importance in literate cultures with their extensive culture bases and increased facilities of communication and dissemination of ideas.

Some culture phases have a more definite continuity with the past than others. What Bagehot called "the cake of custom" covers folk beliefs, mores, codes—the attitudinal and evaluational phases of the culture—more than it does techniques and the field of applied knowledge. The persistence of traits from earlier periods into a period when conditions of life have been modified gives rise to social conservatism. Conservatism is also enhanced by the presence of survivals, traits that persist after their original utility has been exhausted. Even though the inner meanings of symbols may have changed, the external forms frequently endure, thus recalling older behavior patterns in contemporary times.

Social continuity underlies social stability. It is to cultural life what habit is to individual life or biological heredity to the continuation of the species. It makes possible orderly change and usually inhibits the chaos that would follow were social changes induced without reference to existing forms and patterns. Because of social continuity group members come to expect definite types of behavior which, while not rigid, do not normally change with an abruptness that makes adjustment to group life difficult or impossible. Social change results from the pull between innovating tendencies and tendencies that make for the continuation of existing culture forms. These latter, constituting the conservative forces, have their existence in the fact that there is continuity in the cultural development of any social group.

MALCOLM M. WILLEY

See: SOCIETY; SOCIAL PROCESS; CULTURE; CIVILIZATION; CUSTOM; TRADITION; COMMUNICATION; EDUCATION; CONSERVATISM; CHANGE, SOCIAL.

Consult: Bagehot, Walter, *Physics and Politics* (rev. ed. New York 1899); Cooley, C. H., *Social Process* (New York 1918); De Grange, McQuilkin, *La courbe du mouvement social* (Paris 1923), English translation (Hanover, N. H. 1930); Giddings, F. H., *Studies in the Theory of Human Society* (New York 1922) ch. v; Judd, C. H., *The Psychology of Social Institutions* (New York 1926); Ogburn, W. F., *Social Change* (New York 1922); Sumner, William Graham, *Folkways* (Boston 1907); Tozzer, A. M., *Social Origins and*

Social Continuities (New York 1925); Wallas, Graham, *Our Social Heritage* (New Haven 1921); Wallis, W. D., *Culture and Progress* (New York 1930); Wissler, Clark, *Man and Culture* (New York 1923).

CONTINUOUS INDUSTRY. The term continuous industry is used to characterize an industry in which the operations are carried on day and night, without interruption, over extended periods and in which the necessary labor is applied in a sequence of shifts. In earlier types of economic organization such industries were few and consisted of those in which basic technical conditions did not permit interruption, such as marine transportation, blast furnaces and the like. In modern times such industries as canning and newspaper publishing have come to be operated on a continuous basis, although the forces which have induced them to become so arise out of a strongly competitive society and are economic rather than technological in nature.

Distinction should be made between continuous industry and continuous processing. The former connotes continuity in time of those processes, continuous or intermittent, which characterize the industry; the latter connotes a continuous flow of materials from one process to another whether the industry be continuous or intermittent. The term continuous processing identifies a flow of materials from one to another of an integrated series of sequential operations. The continuity is in the flow of materials from one operation to another.

An industry may be continuous because of one factor or a combination of the following factors: inherent technical impossibility of interruption, as in the operation of ships between distant ports; characteristics of the processing, in which interruption is technically possible but not economically practicable, as in some metallurgical and chemical industries; seasonal characteristics of the industry based on perishability of the product, as in the beet sugar and canning industries; customary consumers' demand involving continuous, uninterrupted production or service, as in public utilities, transportation, hotels, baking, newspapers; the desire in a competitive industry to take advantage of a peak of variable demand for a product, as in the textile industry; the desire for full utilization of special investments in plant and equipment before obsolescence of product or of facilities; national emergency, as the urgent needs of war; a force not yet actual but emerging, the belief that the social burden of labor can be alleviated by continuous utilization of equipment accompanied by a distribution of the attendant labor among workers organized in shifts.

The development of mass production in American industry during recent years has been accompanied by an increase of both continuous operating and continuous processing, inasmuch as the relatively larger quantity of product which is produced in a given time involves an intensification of processing. In any competitive enterprise representing a large investment of capital in costly equipment of specially designed and constructed single purpose machines there exists ipso facto the strongest incentive for maximum utilization of the equipment; and likewise, because of the correspondingly large investment of working capital in materials, a strong incentive for reduction of the processing turnover. There is additional incentive if the enterprise is concerned with the mass production of a perishable, seasonal raw material, in which case volume must be secured during a limited period.

Because continuous operating is so generally associated with organization of enterprise for mass production, the managerial and social problems generated by mass production—especially those pertaining to merchandising, selling, production capacity, regularity of operations and of employment—are often inaccurately attributed to its technological tool, continuous operating. These are, however, economic problems, not technological problems of continuous operating per se. They may exist where there is not continuous operating and they do not necessarily exist where there is continuous operating. The managerial and social problems pertaining particularly to continuity of operation are, on the one hand, those concerned with the selection, training and supervision of workers, the coordination of shifts, the maintenance of quality and the establishment of quantity, quality, time and wage standards, where responsibility for product is divided among shifts; and, on the other hand, those pertaining to hours of work, the employment of women and children under the particular conditions and generally the effect on the individual, family life and social institutions of the reversal among the affected workers of the customary activities of day and night.

Because continuous industry applies its labor in a sequence of shifts, the central management problem, to which most problems of detail are related, is that of making the shifts of labor and

of supervision equivalent. Efficiency is a compound of suitability of materials and of equipment, skill and attitude of workers and skill and attitude of supervision. Although the equipment and materials remain the same through a sequence of shifts, the skills and attitudes of workers and supervision usually vary. The assumption created by industrial and social customs is that the group working during the daylight hours is the normal one and that the others are abnormal. A better intelligence and skill in labor and supervision gravitate toward the day shift and are accompanied by a better emotional attitude toward goals and methods. Furthermore, studies of night work indicate that usually a worker produces less in a night than a day shift, although it is not yet clear whether this is because of inherent physiological and psychological factors or because the worker who labors at night yields to the temptation of activities during the day which preclude the securing of normal rest. Numerous variables are thus injected into the managerial situation, whereas the principal characteristic of the most advanced managerial technique is control of operations through a calculation and planning which employ constants as their factors. A peculiar task of management in continuous operating is avoidance of losses caused by these variables which may offset the economies of more complete utilization of plant and equipment. The principal method of achieving equivalence of shifts is by establishing conditions of night work fully equivalent to those of day work and by such a thoroughgoing establishment of standards of skill, materials, facilities, processes, methods, qualities and quantities as to permit measurements, specifications and comparisons of performance.

From the point of view of social welfare the principal problems of continuous industry relate to conditions of employment. It may be said that on the whole these have improved in recent years. Although not without conspicuous exceptions continuous industry requires such investments in plant and equipment that it is carried on by large enterprises which are receptive to enlightened policies concerning working conditions. Generally the two-shift system or the twelve-hour day has given place to the three-shift system of eight hours per day; women and minors have been eliminated from night shifts; and facilities, safety, heat, light, ventilation and other physical conditions have been improved throughout these industries. In some smaller enterprises operating under extraordinary conditions, such as the canning industry, which is dependent upon seasonal, perishable raw materials and subject to a short season, the incentive to organize personnel hastily and temporarily and to secure volume output in a short time has caused notorious disregard for hours and conditions of work. In other larger enterprises, especially in newer industrial regions in which workers have not organized into unions and do not enjoy the benefit of collective pressure in securing improvements in working conditions and relations and in which an industrial conscience has not yet developed, there may be a lag in progress along these lines.

On the whole, the social problems pertaining to continuous industry are not essentially different from those pertaining to non-continuous industry except in two respects. These are, first, the lag noted above toward improvement in working conditions caused by inherent managerial difficulties, as in the change from one to another number of shifts in a twenty-four hour period; and, second, the disorganization of individual and social life resulting from night work by a considerable portion of a local population. Already there is evidence that social opinion is forcing improvement with respect to the first of these problems. With respect to the second, however, the direction of progress is not entirely clear. It is probable that night work will decrease in those industries in which it is not compelled by inherent technical conditions, for recognition of a problem of economic balance among industries as well as of the relatively lesser productivity of night work is causing the economic advantage of continuous operating to be questioned. On the other hand, it is conceivable that industry may discover how to organize night work more effectively and eliminate factors now unfavorable to workers and management, and society may decide that the social disutility of such work is less than the social advantage of shorter and shorter work periods made possible by working machinery continuously with the application of labor in short time shifts.

H. S. Person

See: Factory System; Large-Scale Production; Hours of Labor; Short Hours Movement; Fatigue; Safety Movement; Personnel Management.

Consult: Federated American Engineering Societies, Committee on Work-Periods in Continuous Industry, *The Twelve-Hour Shift in Industry* (New York 1922); Florence, P. Sargant, *Economics of Fatigue and Unrest* (New York 1924); Commons, J. R., and Andrews, J. B., *Principles of Labor Legislation* (rev. ed. New York

1927); Hopkins, M. D., *The Employment of Women at Night*, United States, Women's Bureau, Bulletin no. 64 (Washington 1928); International Labour Office, *Wage Changes in Various Countries, 1914–1922*; Studies and Reports, ser. D, no. 10 (Geneva 1923); "Night Work in Bakeries" in *International Labour Review*, vol. ix (1924) 558–72, 680–707; National Industrial Conference Board, *Night Work in Industry* (New York 1927), and *Wages, Hours and Employment in American Manufacturing Industries, July, 1914–July, 1923*, Research Report, no. 62 (New York 1923); Federal Council of the Churches of Christ in America, *The Twelve-Hour Day in the Steel Industry*, Bulletin no. 3 (New York 1923); Drury, H. B., "The Three-Shift System in the Steel Industry" in Taylor Society, *Bulletin*, vol. vi (1921) 1–49; National Consumers' League, *The Case against Nightwork for Women*, by Louis D. Brandeis and Josephine Goldmark (rev. ed. New York 1918); United States, Bureau of Labor Statistics, *Industrial Efficiency and Fatigue in British Munition Factories*, Bulletin no. 230 (1917); Brants, Victor, *Le travail de nuit des jeunes ouvriers en Belgique* (Liége 1906).

CONTINUOUS VOYAGE. The doctrine of continuous voyage in international law was originally developed by the British prize courts providing that where a direct voyage between two ports was illegal the fraudulent insertion of an intermediate port would not prevent the courts from regarding the two voyages as one continuous voyage. Although the doctrine was applied in the British prize courts to contraband as early as 1761 (the *Jesus*) and to blockade about 1804 (the *Vier gebroedens*), it was in its application to the colonial trade forbidden by Great Britain that the doctrine achieved its early growth. Under the Rule of the War of 1756 Great Britain declared it illegal for neutral merchants to engage in trade between France and French colonies, on the theory that a trade closed to them in time of peace might not legally be opened in time of war. The Americans thereupon evaded the rule by carrying merchandise from the French West Indies to the United States and thence to France in a second voyage. To defeat this indirect trade the British Prize Court adopted the doctrine of continuous voyage. They refused to concede that where a voyage was in fact continuous from a foreign colony to its mother country it was made two voyages by the fraudulent insertion of an intermediate port for the purpose of gaining thereby an apparently innocent port of departure. The leading cases in which the doctrine was applied under the rule of 1756 arose at the beginning of the nineteenth century. The American government protested without avail against the decisions, refusing to admit the illegality of such a trade even where "confessedly continuous or direct."

The significant fact about the cases in which the doctrine had been applied to the colonial trade is that seizure always occurred on the second part of the voyage; thus the intent of the parties was evidenced by the overt act of continuing the original voyage. Necessarily different were the cases where the doctrine was applied to blockade or contraband. Here seizure of a neutral vessel or its cargo occurred during the first part of the voyage while the vessel was between two neutral ports. In the colonial trade both voyages, taken separately, were legal. In the application of the doctrine to blockade and contraband, however, the second half of the voyage would have been a direct violation of the belligerent rights of blockade or contraband. If seizure did not take place on the first part of the voyage it was unnecessary to invoke the doctrine of continuous voyage. But where seizure occurred in the first voyage international law required rigorous proof by the captor that there was an intention to continue the voyage of the vessel or cargo to an illegal destination.

The United States is usually charged with first applying the doctrine of continuous voyage to cases of blockade and contraband during the Civil War. But for all the Civil War cases, except those of the *Springbok* and the contraband on the *Peterhoff*, there are British precedents. Both seizure on the first part of the voyage and application of the doctrine of continuous voyage to cargo alone had been sanctioned in British prize courts, and the condemnation of the contraband on the *Peterhoff* (where the continued voyage was to be by land) had as precedent the case of the *Frau Houwina*, decided by the French in 1855. In the *Springbok* case, however, the court was altogether too willing to presume rather than to prove ultimate enemy destination of goods seized on a voyage between neutral ports.

At the London naval conference in 1908–09 the majority of the powers favored the application of the doctrine of continuous voyage to absolute contraband but not to conditional contraband or blockade. During the World War the doctrine was applied in all these classes of cases by both sides but principally by the British. Despite strong protests from the United States the British seized neutral American vessels proceeding to neutral countries and condemned them and their cargoes for having Germany as their ultimate destination. Instead of rigorous proof traditionally required in prize

courts the British courts presumed enemy destination and transferred the burden of proof from captor to captured. Although for some of the British decisions there were precedents, in other cases the doctrine was freely distorted. The United States ceased its protests upon its entry into the war, but the law as to continuous voyage probably remains where it was in 1914. Its extension may be regarded as inevitable under the existence of modern facilities of transportation and communication.

HERBERT W. BRIGGS

See: MARITIME LAW; BLOCKADE; CONTRABAND OF WAR; SEARCHES AND SEIZURES; NEUTRALITY; BELLIGERENCY; FREEDOM OF THE SEAS.

Consult: Briggs, Herbert W., *The Doctrine of Continuous Voyage* (Baltimore 1926), and works there cited; Mootham, O. H., "The Doctrine of Continuous Voyage, 1756–1815" in *British Year Book of International Law*, vol. viii (Oxford 1927) p. 62–80.

CONTRABAND OF WAR. The idea of contraband as applied to the seizure of articles which have a possible use in war and a belligerent destination appeared early, but the doctrine developed in modern times. Treaties prohibited furnishing war supplies to enemies of the parties as did the treaty of 1303 between England and France. An English example of a direct prohibition of trading is to be found in Edward III's action in 1315 when shipment of wheat or other provisions to the Scottish was interdicted. The use of the word contraband did not become common until much later. While the word contraband is employed in the treaty of Southampton of 1625 between England and Holland, even Grotius, writing at this time, does not use the word, although he classifies articles in times of war as (1) those things which have their sole use in war, such as arms; (2) those things which have no use in war, such as articles of luxury; (3) those things which have use both in war and peace, as money, provisions, ships and those things pertaining to ships (*De jure belli ac pacis*, bk. iii, ch. i, sect. 5). These categories were later called contraband, non-contraband and conditional contraband.

The law of contraband developed from the days of Grotius along with the law of neutrality and became established in the eighteenth century. From the time of the armed neutrality of 1780 there were continuous efforts to relieve innocent neutral commerce of risks in war, particularly after the introduction of steam transportation and other rapid means of communication. The Declaration of Paris in 1856 provided that the neutral flag covered enemy's goods with the exception of contraband of war and that neutral goods with the exception of contraband of war were not liable to capture under the enemy's flag.

The United States had long advocated the entire abolition of the capture of private property at sea; Great Britain, although with few supporters, at the Second Hague Peace Conference in 1907 expressed a willingness "to abandon the principle of contraband of war altogether" (Great Britain, *Parliamentary Sessional Papers*, 1908, vol. cxxiv, misc. no. 1, Cd. 3857, p. 16–17). Attempts to define the classes of contraband in more detail than is given in the general statements of Grotius had been made in many treaties and declarations. When such an attempt was made at the Second Hague Peace Conference it failed because of the impossibility of agreeing upon a satisfactory classification, but at the International Naval Conference of 1908–09 representatives of ten maritime states embodied lists of contraband in the Declaration of London. This declaration made articles of special use in war, such as arms and animals suitable for war use, absolute contraband. Articles *ancipitis usus*, "susceptible of use in war as well as for purposes of peace," such as food and fuel, were classed as conditional contraband. A list of articles not to be declared contraband was included, but it did not provide for the modern developments of means of warfare, mentioning such articles as raw cotton and rubber, and was therefore disregarded as impracticable in the World War.

In general, the number of articles listed as contraband has naturally been large when determined by belligerents and small when determined by neutrals. Often the lists have shown the influence of national conditions at the time. Russia in 1884 declared that coal was not contraband, but included coal in its absolute contraband list in the Russo-Japanese War of 1904–05. Great Britain protested against this action in the Russo-Japanese War. In 1915 Russia and Great Britain issued identic contraband lists designating fuel as conditional contraband. The Supreme Court of the United States in the case of the *Peterhoff* in 1866 said: "The classification of goods as contraband or not contraband has much perplexed text writers and jurists. A strictly accurate and satisfactory classification is perhaps impracticable" [72 U. S. 28, 58 (1866)]. "Historicus" (Sir W. Vernon Harcourt) writing during the American Civil War observed: "In

order to constitute contraband of war, it is absolutely essential that two elements should concur—viz. a hostile quality and a hostile destination" (*Letters by Historicus on Some Questions of International Law*, London 1863, p. 191).

While there has been difference of opinion as to the character of articles regarded as contraband, there has also been much difference of opinion as to what constitutes hostile destination. Destination of goods is not always easy to discover, and reasonable doubt as to destination makes the vessel liable to seizure. Neutral destination is not always clear, even though goods are consigned to a person in a neutral port, and under the doctrine of continuous voyage (*q.v.*) the ultimate destination becomes the determining fact as to liability. Although it is a fundamental principle of the law of neutrality that neutral states in time of war must accomodate themselves to the changed relations of the belligerents and that belligerents must respect neutral rights, the natural tendency is for the belligerents to endeavor to extend their rights and for the neutrals to endeavor to prevent the extension. The belligerent aims to prevent contraband from reaching his opponent. The owner runs the risk of loss of contraband if it is captured. The carrier of contraband may lose his freight and suffer delay both in taking the vessel to the court and during the trial of the case. To avoid delay some treaties have provided for the delivery of contraband to the belligerent vessel of war making a visit, after which the carrier is permitted to proceed.

There has existed in some states the practise of determining liability of the vessel itself to condemnation for carriage of contraband by a rule which takes into account the ratio of contraband to the total cargo. This had not been a uniform ratio among states, but after 1909, when the unratified Declaration of London fixed it as one half "by value, by weight, by volume or by freight," this ratio became generally accepted [the *Hakan*, Appeal Cases, 148 (1918)]. Contraband may be seized on enemy, national or neutral vessels from the time the vessel leaves neutral territorial waters, and in case of fraudulent bills of lading or other fraudulent and irregular acts in connection with the carriage of the contraband the vessel itself may become liable even though the contraband it carries is less than 50 percent of its cargo. Notice should also be taken of the doctrine of preemption, in accordance with which goods useful in war, even though not contraband, may be taken by a belligerent and paid for at a fair profit, usually reckoned at 10 percent above the market price at the port of destination.

During the World War there were many extensions of belligerent claims as to contraband. In 1914 Great Britain, France and Russia pronounced goods of the nature of contraband liable to capture even when bound for a neutral port if consigned "to order," to a consignee in an enemy's territory, or if the person to whom the consignment was made was not clear. The burden of proof of innocent destination was also shifted to the owner of the goods. Moreover, nearly everything was held to be of use in war. The British list of April 13, 1916, enumerated about one hundred and seventy groups of articles in alphabetical order from acetic acid and acetates to zinc, and there was a corresponding extension in claims as to what constituted destination. It was contended that if the goods bona fide consigned to and to be used by neutrals might be substituted for other goods which would be shipped to the enemy, the goods en route to the neutral were liable to condemnation under a doctrine of probable substitution. It was argued that "the more margarine was made for Swedes the more butter there was supplied by them to the Germans." It became evident that such a doctrine if carried to its extremes might prohibit all imports. Other devices were proposed or resorted to, such as letters of assurance by which an official at the port of departure certified as to the character of the cargo, but it was soon realized that a vessel might after its departure change the nature of its cargo. Such goods as could not be condemned as contraband were sometimes seized under the doctrine of preemption. In practise after the first few months of the World War the distinction between absolute and conditional contraband was not made. This was natural at a time when enemy governments were mobilizing all resources and population fit for military duty.

In all the changes in practise in regard to contraband some governments maintained that there were no changes in principle but merely an application of accepted principles to new conditions. The United States, however, in 1915, while a neutral, declared (Note, Secretary of State, March 30, 1915) that many of the acts of the belligerents relating to contraband were departures from rights "long clearly defined both in doctrine and in practise."

GEORGE GRAFTON WILSON

See: WAR; NEUTRALITY; BELLIGERENCY; ARMED NEU-

TRALITY; BLOCKADE; CONTINUOUS VOYAGE; SEARCHES AND SEIZURES; DECLARATION OF PARIS; DECLARATION OF LONDON; MARITIME LAW.

Consult: Pyke, H. R., *The Law of Contraband of War* (Oxford 1915), including a bibliography. For American practise: Moore, J. B., *Digest of International Law*, 8 vols. (Washington 1906) vol. vii, ch. xxvi; Hyde, C. C., *International Law*, 2 vols. (Boston 1922) vol. ii, p. 572–646; Carnegie Endowment for International Peace, *Prize Cases Decided in the United States Supreme Court, 1789–1918*, 3 vols. (Oxford 1923). For World War developments: United States, Naval War College, *International Law Documents* for 1915–18 (Washington 1916–19); Colombos, C. J., *A Treatise on the Law of Prize* (London 1926) ch. v; Garner, J. W., *Prize Law during the World War* (New York 1927) chs. xii–xiv. For cases consult reports of prize courts of maritime states.

CONTRACT

LEGAL DOCTRINE AND HISTORY. Strictly contract denotes an act or set of acts creating obligation, i.e. creating a legal relation whereby one may exact some performance of another and the other is held to that performance or to a reparation for non-performance. But it is not uncommonly used also to denote the resulting obligation and even to denote the act and the relation thought of as one category. Using the term strictly, a contract is a legally enforceable promise or set of promises. This narrower meaning became current in the common law in the nineteenth century. Before that time two wider meanings had been given to the term. The more important is that of legal transaction (*Rechtsgeschäft*, *acte juridique*), namely, the declared will of a person or persons that some legal result shall follow, to which the law gives the intended effect. This is a nineteenth century generalization of the law of continental Europe, where it has served a very useful purpose in making it possible to work out general principles applicable to all types and varieties of transactions and thus to unify and simplify the law. Systematic legal thinking in the English speaking world has not yet made much use of this generalization. But in the eighteenth century the word contract was used in a broad sense to much the same effect, as, for instance, in the clause of the Constitution of the United States forbidding state legislation impairing the obligation of contracts. Sometimes also contract is used in a still broader sense to refer to all sources of legal liability arising from legal giving effect to reasonable expectations on the basis of promise or relations or situations, as distinguished from liability for wrongs or on the basis of claims to property. Hence it is used to include all sources of duties of performance as distinguished from duties of reparation for wrongs or of restitution of possession or specific property. Legal transaction is a better term for the first of these broader meanings. The other gives us a mixed category of no logical validity and no practical utility. It has been used chiefly in philosophical discussions of the authority of legal and political institutions. In the present connection the stricter meaning is primarily dealt with. But it will be impossible wholly to exclude the broader meanings for reasons growing out of the history of law and of juristic and political thought.

A contract, then, is a legal transaction in which the declared will takes the form of a promise or set of promises; in which the intent to which the law gives effect is that one of the parties shall be bound to some performance —either by way of action or abstaining from action—which the other may exact, or that each of the parties shall be so bound toward the other. Where the performance is to be on one side only, the contract is said to be unilateral; where there are mutual promises, it is said to be bilateral. The elements are said to be (1) parties from whom and toward whom performance is due, (2) a declaration of will in such forms or under such circumstances as the law of the time and place may require and (3) an act or acts due to the one party and demandable legally by the other. The parties must have capacity for legal transactions, and the presuppositions of the transaction must not contravene the law or good morals.

Since the theory of a legal transaction was worked out in the last century, it has come to be thought that the terminology may require some modification, and the statement as to what the law does in giving effect to the transaction may perhaps call for no less. The term "will," which in the nineteenth century science of law was taken to denote a fundamental conception, is one with which the psychological science of law of today has a quarrel; and the proposition that the law gives effect to the intention of the parties is not only involved in that quarrel but had come to be in dispute already in the last quarter of the nineteenth century. A doctrine that it is not the actual intention but the declared intention which the law effectuates has gained ground and is now orthodox in Anglo-American law. But this doctrine was dictated by the necessities of enforce-

ment. In developed law, so far as practical limitations on effective legal action permit, the purpose is to give effect to intention. In order to maintain the security of transactions the law has to establish objective tests of intention or to presuppose intention where the ordinary understanding of men would take it to exist. Except for the purposes of technical discussion the old way of putting the matter is more intelligible to the non-legal reader.

It has been said to be a jural postulate of civilized society that men must be able to assume that those with whom they deal in the general intercourse of the society will act in good faith, and as a corollary must be able to assume that those with whom they so deal will carry out their undertakings according to the expectations which the morality of the community attaches thereto. In a commercial and industrial society stability of promises as a social and economic institution becomes of the first importance, and this social interest in the security of transactions calls for securing the individual interest of the promisee; that is, his claim to be assured in the expectation created, which has become part of his substance. The law has never responded wholly and indeed legal machinery cannot respond wholly to the demands of this postulate. At most legal enforcement affords an additional assurance that engagements will be kept. Indeed, because in its beginnings law seeks only to cover a narrow field of social control, law and morality have no necessary correspondence in the period of the strict law. Hence there is a reciprocal effect of customary reliance on legal enforcement and of legal enforcement on customary reliance. If the law sets out to give effect to the customary expectations of men, yet, as law and morality tend to diverge under the strict law, men learn not to rely or not to rely much on what the law will not enforce. In a later state of legal development there is a persistent endeavor to bring law and morality and even law and an ideal of morals into accord. It is in this stage that the law of contracts has its real development. In the world of today, in a credit economy, promises are so much the normal course of dealing that reliance on them goes without saying. In consequence the present day attitude is that any bargain should be enforceable unless there are reasons to the contrary. But Anglo-American legal materials took shape in a different economic order and developed under a feeling that bargains were only to be legally enforceable when reason could be shown for enforcement.

Security of transactions may be maintained through religion or through the internal discipline of a kin group or an organization in its image (primitive secret society, *collegium*) or through the pressure of opinion of an interest group, as in the custom of merchants in the Middle Ages. It may be maintained by an ingrained traditional morality such as the Roman *boni mores* and *prisca fides*, so that the clasp of hands is a sufficient guaranty of performance of business transactions. But as a specialized system of adjustment of relations and valuing and harmonizing of interests by politically organized society becomes the paramount agency of social control, legal securing of promised advantages comes to bear the brunt of external upholding of the economic order. No doubt it is easy for the lawyer to exaggerate the importance of this role of the law of contracts. In recent times increased stress upon the social interest in the individual life leads to a tendency to impose risks of non-fulfilment upon the creditor. A debtor may escape with the full sanction of the law through bankruptcy or statutory exemptions from execution and may find his legal liability mitigated in the civil law by a *beneficium competentiae* (insuring him means of maintaining himself beyond reach of creditors) or its analogues, or under statutes in the English speaking world allowing payment of judgments in instalments. Also many things which are understood in the ethics of business are not recognized, much less enforced by the law—e.g. cancelation of accepted orders. Frequently it is not possible for legal machinery to assure a full performance such as the obligation calls for. But with all allowance, legal enforcement of promises so far as it goes and so far as it may go is the ultimate reliance of the developed economic order.

Contract in the broader sense is significant also as a means of self-regulation as distinguished from governmental regulation. Certain things the law definitely refuses to effectuate or even strives to prevent. Beyond this it leaves men's affairs to self-regulation, achieved for the most part by agreement. In the latter field the law furthers the economic order by providing models or standards which may be employed but need not be; which will be assumed in the absence of agreement to the contrary and yet will yield to modification or alteration by agreement. By entering into a standardized relation

or by conforming to the pattern of some legal conception, the parties may make a whole series of legal rules and doctrines available without giving any consideration to details yet may if they choose modify or qualify or reject almost any of those details. These conceptions in practise provide convenient standardized transactions without compelling conformity to them. Thus the power of effective self-assertion in a competitive economic order is furthered and at the same time the everyday operations of business are facilitated by the possibility of adopting the standardized transactions and thus finding the details of transactions and relations already worked out. This function of providing a framework for relations and for group organization is increasingly important in an era of cooperative economic activity.

Historical jurists are wont to use the term law to include the whole of social control. Hence to them the furthering of the security of transactions by religion, kin discipline and traditional morality is not part of the prehistory of the law of contract but is not to be differentiated from the law. But the development and present condition of the law of contract can be better understood if the term law is taken in the sense of the analytical jurists, i.e. to mean social control through the systematic application of the force of politically organized society. Limiting the term thus, in the beginning law has to do only with a small part of the area of social control. Most of the relations of life are dealt with by the discipline of the kin group, by religion or by *boni mores*. For a long time the law is concerned chiefly with keeping the peace and hence with homicides, assaults, dispossessions and succession to property. Thus a Greek thinker of the fifth century B.C. laid down that there were but three subjects of lawsuits, namely, insult, injury and homicide. The law begins by ignoring the securing of promised advantages, not because men think it of no consequence but because promises are in the field of other agencies of social control. There is, however, another reason for the relatively slow development of legal securing of promised advantages. In the beginnings of law modes of establishing facts are necessarily crude. The peace which the law strives to maintain would be endangered by an attempt to try issues of fact rationally at a time when "a good stick is a good argument." Mechanical modes of trial are characteristic of early law and so law at first and for a long time thereafter calls for forms of transaction which admit of simple decisive establishment of the fact and import of the promise. The legally recognized transactions are few and rigidly standardized. The apparent exception in Greek law is attributable to the undifferentiated ethical custom and law (in the analytical sense) by which justice was administered in the Greek city-state. Rational trials were highly developed at Athens. But while Greek thought affected the subsequent philosophical treatment of legal enforcement of promises, the materials upon which that thought was employed were furnished by Roman law.

Thus the first forms of recognized promises are symbolic, such as the handclasp recognized by *boni mores* at Rome, or taken over from religion, as a calling of the gods to witness or a libation or in the Middle Ages a promissory oath; or if they are legal in origin they simulate a real transaction, i.e. one creating property rights (for example, gift, exchange, pledge) although intended to create obligation.

In Roman law and in English law the earliest type of enforceable promise is the formal contract in which the form or ceremony is not merely an evidence of the transaction but is the very transaction itself. In the Roman law the formal contracts were an oath (*jus jurandum*), a ceremony of question and answer using the sacramental word *spondeo*, implying a libation, and a ceremony with bronze coin and balance in the presence of witnesses, the precise nature of which is in dispute, but which at any rate was in form a real transaction. Another type was the literal contract in which obligation was created by entries upon the household books of account. To these were added later real contracts in which the ground of enforcement was found not in the form but in the delivery of something by the one party to the other, with respect to which the obligation arose. These real contracts were loan for consumption (with a liability to return an equivalent quantity and quality), loan for use, gratuitous deposit for safe keeping, and pledge. In the last three there was liability to do what good faith demanded in such a connection and hence to return or account for the thing delivered and to take proper care of it. Also these duties of good faith were reciprocal so that, for example, a lender or depositor for safe keeping or pledgor who delivered something in a defective or dangerous condition without notice and so caused loss to the other party could be held therefor. These

two are standardized transactions, but less rigidly so and with more detailed consequences worked out and attached to the obligation or resulting relation. To these were added four consensual contracts, i.e. transactions in which the ground of enforcement was said to be found in the mere consent of the parties. Such were buying and selling, letting and hiring, mandate (gratuitous undertaking to execute a commission for another) and partnership. The first two, however, were juristic workings over of what had been done originally by means of formal transactions.

Except for the four consensual contracts, agreement or promise of itself carried with it no legal enforceability. A mere pact was not enforceable. Yet it was recognized as involving a moral duty and hence might operate indirectly as creating a "natural obligation," so that, for example, it could be the basis of an equitable defense. Also the idea of enforcing promises grew continually under the empire. Thus there came to be an increasing number of actionable pacts, of which the most important are the so-called innominate contracts, i.e. pacts in which performance on one side turns the transaction into a legally enforceable contract. In the maturity of the law under the late empire the forms which had not become obsolete became much relaxed. The written evidence of a formal contract became itself a contract. The category of actionable pacts became greatly extended. Thus in practise, if not in legal theory, substantially all deliberate promises and business bargains became legally enforceable. But down to the end the Roman law was governed doctrinally by the idea of requiring a legal reason for enforcing promises, by a juristic presupposition that enforcement was something exceptional for which a reason must always be given. The maxim embodied in the *Digest—ex nudo pacto non oritur actio*, an action does not arise from mere agreement—has affected legal thinking ever since.

A like story may be told of the history of contract in the common law. Here too it begins with formal contracts or specialties—the written acknowledgment of indebtedness, sealed and delivered (bond) or the formal promise to do or not to do something made in a sealed instrument (covenant) or the solemn acknowledgment of indebtedness upon a condition, made in court and put on the record (recognizance). Another old category is warranties, i.e. express promissory representations incidental to other transactions. These were sued on upon the theory that the breach was a wrong but came also to be thought of analytically from the standpoint of contract and may be sued on either *ex delicto* or *ex contractu*. Another category is bailments, transactions in which the obligation results from delivery of something from one to another, with duties enforceable at first on a theory of wrongs but coming to be dealt with either *ex delicto* or *ex contractu* as incidents of the relation. Still another is what have been called mercantile specialites, formal contracts of the law merchant—bills of exchange and promissory notes, in which, as in all formal contracts, the writing is more than evidence of the transaction and is the very transaction itself. Hence if the instrument is accidentally destroyed or lost, no action is possible and a suit in equity must be resorted to in order to restore it. Still another category is debt, in which there is a duty of paying a liquidated sum of money or originally of turning over a specific thing due to the one party and detained by the other. Where the debt was not evidenced by a sealed instrument, the debtor by the old law could "wage his law," i.e. free himself of an action on the debt by his oath and that of his oath helpers. Hence with the progress of the law debts arising otherwise than upon specialty came to be enforced by an action in form *ex delicto* for the wrong in not performing a promise said to be implied by the law from the ground of indebtedness. Simple contracts, i.e. those not in the category of specialty or of bailment, also came to be enforced by an action in form *ex delicto*, i.e. an action for the wrong in not performing a promise exchanged for an act or for another promise. Thus by the nineteenth century the area of enforceable promises had been greatly extended. In the latter part of the eighteenth century, indeed, Lord Mansfield sought to establish and came very near establishing a doctrine that no promise in writing and no business promise should be *nudum pactum*. But a reaction set in and it was not until the present century that a new tendency to extend the sphere of legally enforceable promises became manifest in English speaking jurisdictions. Such an extension is obviously going on today through exceptions to the requirement of consideration, stretchings of the idea of consideration, and interpretations of transaction so as to bring them within recognized categories.

In early law status or position before the law was the significant institution. In modern

law as the human being, the moral unit, becomes the legal unit, and such legal disabilities and incapacities as remain are attached to natural conditions rather than to legal position, the regime of self-determination by legally recognized agreements becomes the significant feature of the legal ordering of society. Thus the idea of contract appeals to thinkers on law and on politics. In the philosophy of law after the sixteenth century there is found increasing endeavor to explain the institutions and doctrines and precepts of the law on every hand in terms of contract, i.e. of legal transaction. Likewise with the disappearance of the relationally organized society of the Middle Ages and the rise of a society organized about competitive acquisitive activity law ceased to appear something imposed traditionally or authoritatively from without. Instead of existing from a natural necessity, as the Greek philosopher had put it, government and law seemed to exist by human institution. Since political self-determination was extending along with the extension of the area of legally recognized agreement, the idea of contract appealed to political thinkers also. It had been resorted to earlier in the course of contests between temporal rulers and the popes. But it became a staple of legal and political philosophy in the seventeenth and eighteenth centuries. During the whole period of dominance of the conception of "natural law" jurists sought to find a philosophical basis of law and of the state in a postulated legal transaction. Some parts of the law, notably the law of public utilities, suffered long from the attempt to make the idea of contract (in the sense of legal transaction) do the whole work of systematic doctrinal development. Attempts were made to work out the duties and liabilities of a public utility in terms of a legal transaction of professing a public calling, to treat the relation of utility and patron in terms of legal transactions on the analogy of the law of bailments and to conceive of an offer by a would be passenger who signals a bus driver to stop and an acceptance by the carrier when the bus stops accordingly. Such things are perhaps the last echoes of the contract jurisprudence which reigned a century ago.

Because of the preponderant role of contract in modern law and the reliance upon the analogy of a legal transaction in classical political thinking, jurists and philosophers of law have busied themselves much with the theory of enforcing promises. Their theories have practical importance because, although their speculations have been influenced by the state of the law, they have also affected the shaping of the legal materials by juristic writing and judicial decision. In the seventeenth and eighteenth centuries it was argued that a promise as such had an inherent moral force, demonstrable by reason, and that this inherent force was the basis of legal recognition and enforcement. With the breakdown of the eighteenth century natural law jurisprudence, following the critical philosophy of Kant, metaphysical theories governed in the nineteenth century. Enforcement of a legal transaction was taken to be a giving effect to the will and thus a recognition of personality. The will having been declared, the law gave effect to it and thus enabled the free willing individual to realize his will in the external world. Accordingly in the last century a will jurisprudence succeeded to the contract jurisprudence of the two preceding centuries. Contract was explained in terms of will and the idea of liability as a result of free exertion of the will was sought to be carried out to its logical consequences in every field of the law. This will jurisprudence, through its doctrine of an abstract freedom of contract as a corollary of free will, had unfortunate consequences in the attitude of American courts toward social legislation for a generation after 1886, when the first statutes prohibiting payment of wages in orders on company stores came before the courts. In fact the common law never gave effect to promises on the basis of the subjective will of the promisor. It is true that courts of equity, inheriting modes of thought from a time when the chancellor "searched the conscience" of a defendant by an examination under oath, have assumed they had subjective data beyond the reach of a court of law. No one can doubt, however, as he reads the Anglo-American law reports, that despite strenuous attempts on behalf of the will theory on the part of nineteenth century text writers the objective theory of legal transactions prevails in the common law. It has been gaining in the civil law world for a generation. It is now orthodox to rest the enforcement of promises upon an idea of giving effect to the expectations created by the conduct of the promisor in order to maintain the security of transactions in an economic order resting on credit.

In the civil or modern Roman law, the influence of the enforcement of pacts by the church courts on the basis of the moral obligation

and of the natural law conception of the inherent moral force of a promise and identification of legal with moral obligations led to thinking not of the need of showing a reason for the enforcing of a promise but of the need of showing a reason for making it. The reason for or presupposition of making it was a reason for enforcing it. With the coming of the will theory, will to be bound was a reason for making a promise and so a reason for enforcing it. Accordingly the French law made intention of gratuitously benefiting another a ground of enforcement and the Austrian code of 1811 presumed a sufficient ground, requiring the promisor, if he would escape, to prove that there was no intention to enter into a binding undertaking. Except for some requirements of proof in order to obviate fraud, the modern law of continental Europe asks only whether the promisor intended to create a binding duty. Also the machinery of enforcement in the civil law world is modern and adequate. In the Roman law seizure of the person and holding him in bondage to coerce satisfaction from him or his kinsmen was succeeded by a pecuniary condemnation enforced in the classical law by what might be called involuntary bankruptcy. Specific relief was had through a clumsy device of decreeing performance on the alternative of a heavy money condemnation. In the law of today there is an action to require performance with "natural execution," i.e. a doing by the court or its officers, at the promisor's expense, of the things he is bound to do as ascertained by the judgment. Money relief is given if for some reason specific relief is impracticable or inequitable. Also transfer of the promisee's claim to exact a performance is fully and freely permitted except where the nature of the promise is such that it would alter in character if performed to another than the promisee. Promises to one for the benefit of another have given more difficulty. Legal logic has insisted that the relation whereby one could exact and the other was bound to performance was between promisor and promisee only. The Roman law did not allow an action by the third party beneficiary and the French civil code of 1804 followed the Roman law. But recent codes have made liberal provisions for this matter and the French law has found a way out by treating such promises not as technical contracts, governed by the code pronouncement, but as a special type of legal transaction to be given effect on the general doctrine of effectuating the declared will.

Performance of promises is not secured so completely or effectively in common law jurisdictions. The common law does not yet recognize all intentional promises, intended to be binding on the promisor, as legally enforceable. In general a gratuituous promise will be enforced only if under seal. Many American jurisdictions have abolished private seals and others have given them only the effect of creating a presumption of consideration, with no provision for anything to take their place. The Conference of Commissioners on Uniform State Laws has sought to remedy this situation by proposing a statute whereby a written declaration of intent to be legally bound shall suffice. In the case of simple contracts, for historical reasons, technical rules as to consideration stand in the way of complete securing of all deliberate promises. An enforceable promise must be part of a bargain. It must have been made in exchange for an act to which the promisee was not bound or in exchange for a promise. In the old Germanic law obligation was created by the symbolic giving of something to the promisor in return for the promise, thus creating the appearance of an exchange. From this *causa debendi*, or ground of owing performance, a theory of equivalents was worked out. Promises were enforceable where the promisor had received an equivalent therefor. This fitted well the common law conception of debt. In the sixteenth and seventeenth centuries the continental theories of reason for making as reason for enforcement influenced common law thinking. But most of all the requirement of consideration, i.e. of an act or promise exchanged for the promise to be enforced, was due to the exigencies of procedure. It was necessary to enforce simple contracts by an action in form *ex delicto*, and some detriment to the promisee was called for in order to satisfy the requirements of an action of trespass on the case. Thus a combination of procedural requirements, historical modes of thought and philosophical reasoning produced a doctrine which hardened in the nineteenth century. In the present century it has been giving way at many points under the pressure of a general feeling that business promises should be enforceable and promises deliberately made should be recognized in law as in the ordinary understanding of men.

In the old law only the promisee could enforce the promise. Transfer of promisee's claim was not permitted. Also the third party beneficiary had no standing in court. But a power of

the assignee to sue in the name of the assigner was recognized and equity protected this power. Today by legislation assignment of contract rights is fully recognized, and most American courts have in one way or another allowed the third party beneficiary to sue upon the promise for his benefit so far as this can be done consistently with due protection of the parties. But American modes of enforcement are not so satisfactory. The common law remedy upon contract is an action for damages, since the simple contract, which has become the model for all contracts, was enforced by an action for the wrong of breaking it. This is regarded as the normal remedy. Specific relief is given exceptionally in equity where pecuniary relief is "inadequate." Thus in the great majority of cases the promisee cannot compel performance in specie but must be content with the money value of performance. Nor has "natural execution" developed, as in the civil law, although legislation long ago allowed something like it in the one case of a decree for conveyance of land and the federal equity rules of 1913 have given it some further scope. Also the English courts now grant "mandatory injunctions" somewhat freely.

As the civil law has been at its best in the law of contracts and has treated torts on a contract theory, the common law has been at its best in the law of torts and has treated contracts on a tort theory.

ROSCOE POUND

INSTITUTIONAL ASPECTS. *Origins.* Contract is an ambiguous term. It is used especially to indicate (1) business agreements in fact as such (irrespective of their legal consequences and irrespective of whether they have any such consequences); (2) agreements in fact with legal consequences (which is broad enough to include barter and outright conveyance; so Ely's use); and (3) the legal effects, if any, of promises (Corbin)—including the various incidents which "adhere" to major promises of particular kinds. This last, stricter concept is most useful for the law and is here adopted. Discrimination among these ideas is needed; no discussion of the meaning of contract in society can be confined to a single one of the concepts. For the law of contract begins in the notion that legal officials should enforce or at least draw into reckoning certain of men's bargains or promises (or, primitively, even those non-refusable "gifts" which impose obligation to reciprocate). The law draws life throughout from such a notion. On the other hand, the shaping of agreements in fact depends to some extent on the type and extent of enforceability currently available at law. The beginning is in a society in which bargains and promises are rare; reliance on them merely as such is therefore unusual, unreasonable, an individual risk of the relier. Reliance on promises is itself in good part a function of usage; even more so is that perceived reasonableness of reliance which sets the first basis for official intervention. In such conditions the legal stand is that there shall be no enforcement until specific particular reason is shown. And it may have been the obviousness of such particular reason when disputes were publicly compromised which led to the early importance in law of that type of agreement. But the present stage of the development lies in a credit economy in which bargains and promises are so much the normal course of dealing that reliance on them is a matter of course; the legal approach (certain rules of procedure, e.g. on burden of showing consideration, to the contrary notwithstanding) is fundamentally that any bargain or promise is enforceable unless reason appears to the contrary.

The officials of primitive law limited their aid in enforcement to particular types of transaction recognizable by their strictly formal or formulaic character. The one form may be used for accomplishing results (e.g. promise or conveyance) which modern eyes would view as wholly diverse transaction types. Official aid on the contract side consists most commonly in an official declaration that an obligation is owed and forfeit and that the creditor is acting properly when he seizes the debtor or the debtor's assets. It may never be possible to establish whether in such cases the official sets the form and law controls practise or whether lay practise sets the form for law to sanction. Probably there was interaction with customary practise initially in the foreground, later in the background. The problem seems clearly to have been the determination of when that unusual thing, the holding of a man to a promise, was to occur; and it is essential to remember also that law in its beginning is almost undifferentiated from other forms of social pressure. Formal acts are then the manner of signifying openly a definitive intent to change the existing situation. Whether there is a ceremonial handclasp or copper or scales or a magical ceremony like the establishment of blood

brotherhood or the solemn invocation of supernatural sanction by oath or promise before official witnesses (*cf.* the acceptance of engagement ring, pledge button, or king's shilling or other earnest money) an overt sign of intent to assume obligation is present; the consequence to be expected is both recognition by law officials and—at least as soon as this has occurred—a strong tendency thereafter to limit the number of recognized forms which will move either officials to act or laymen to feel justified in reliance on the promise.

Yet to the extent that the economy changes the ritual forms theretofore established must prove inadequate both to cover engagements in fact and to protect reliance in fact. Legal obligation then diverges from non-legal obligation. This means that legal obligation ceases to function merely as an extra insurance that engagements will be performed. It functions also as a source of risk. If one party appeals to law, then (to the extent that the obligation is viewed differently by layman and lawman) the other party will either get less or be held to more than fair customary understanding calls for. Such divergence between law and lay obligation is a constant tendency as soon as legal technique becomes specialized. It is frequently present in commercial cases in American courts today (*see* ARBITRATION, COMMERCIAL). As the law of contracts thus constantly gets out of date and overformal it offers the cautious and canny layman an advantage over his unschooled adversary. This in turn sets up the constant countertendency: the subjection of law to reformatory pressure from the newer uses and understandings in the world of dealings or from perception of those abuses which arise out of the manipulation of legal technique.

Behind and beside the law, early or developed, there works not only the fact thus far chiefly discussed of credit or trust but also the opposite fact of distrust, of self-help. If oath or promise is the type of the first, forfeit and hostage are the type of the second. For all that we can see, the second roots as early and as deep; and it still continues. So in the modern use of conditions on promises, as when the continuance of life insurance is set free of any promise by the insured to pay and is instead merely conditioned upon regular payment of the premiums. So in the use of security devices from the pawn to the corporate blanket mortgage. There is indeed little question that both law and form of early contract take origin as much or more in the giving of a forfeit as in the making of an unambiguous engagement (the word itself derives from the incurring of obligation by giving a "gage"). Often the two merge. The writer dares to doubt, however, the too ready assumption by German legal historians that at the outset the picture is regularly one of a *Schuld*, or obligation, perceived as such, accompanied by a somewhat inadequately adjusted *Haftung*, or enforcement, machinery. To him it seems that in a non-credit economy it must have been at least equally prevalent to regard the forfeit as mere pressure: not "you must do what you have promised, on pain of forfeit," but "you have given up a thing which you can get back only by doing a stated thing." This at the outset involves no necessary concept of duty. But the idea of duty will develop in due course quite as well from anticipated unpleasant consequences of non-accomplishment (for instance, in religious propitiation) as from a sense of what action is by custom to be expected in the circumstances: courts still currently speak of burdensome conditions as duties. However this may be, in system after system the primitive forfeit has been refined slowly into a security device and the notion that the real and primary center of attention is the obligation to be performed has worked its way into law. The process recurs even in modern law, as in the modern German chattel mortgage. And in American instalment contracts for chattels from about 1860 to date each of the primitive features is repeated, only to yield slowly to better insight: the conception that the risk is on the creditor, as the "owner" of the chattel; the conception that failure to pay on time wholly forfeits the security, with no provision either for foreclosure or for accounting for any excess in value over debt; the conception that resorting to the security destroys any right upon the debt (this last is a refinement; in the primitive forfeit there was no right upon a "debt").

General Importance. It is trite that, viewing a status organized society as a whole, bargain is a tool of change and of growing individual self-determination and that this holds increasingly as bargains come to cover the future and as in that aspect they become enforceable if the other party breaks faith. It is hardly less trite that the self-determination aspect varies not only with the number of bargains in fact available to a particular bar-

gainor but with the degree to which their phases can be individualized to his desires or, as the case may be, can be subdivided into specialized bargains to meet his needs. The power to shift one's status a single time (becoming a priest) or even often (marriage and divorce) gets one but a short bit along the road "from status to contract." *Per contra*, to the extent that available bargains both increase their scope (for example, closed shop *v.* yellow dog or open shop *v.* company town) and become standardized for whole groups and tend to become exclusively available, a regime of contract moves a long step toward status, group building and stabilization of social relations. Equality of bargaining power has in this aspect been rightly stressed as of greater importance than the "liberty of contract" of legal—especially of constitutional law—theory. But the flexibility of the factually available bargains needs no less stress.

Bargain is then the social and legal machinery appropriate to arranging affairs in any specialized economy which relies on exchange rather than tradition (the manor) or authority (the army) for apportionment of productive energy and of product. Contract in the strict sense is the specifically legal machinery appropriate when such an economy moves into the phase of credit dealings, i.e. of future dealings in general—in which aspect the mutual reliance of two dealers on their respective promises comes of course into major importance. This machinery of contract applies in general to the market for land, goods, services, credit or any combination of these. All this, however, begs the question of why there need be any legal machinery at all for the purposes mentioned, other than mere protection of the factual results of accomplished bargains, work, deliveries and payments. The peace, and more dubiously the law of alienability and that of ownership, at least as against persons entrusted with possession—what more is needed? It is vital to recall, as one puts such a question, how seldom law touches directly any case in which a promise has been performed or in which an inadequate performance has been received in satisfaction. Promise, performance and adjustment are in this sense primarily extralegal. It needs no argument that if they did not normally occur without law's intervention no regime of future dealings would be possible. The lawyer's idea of contract, applied to these normal cases, where performance and informal business adjustment proceed to occur is thus a conceptual projection of trouble and the legal spawn of trouble upon the untroubled in fact. The lawyer's idea applied to such cases is unreal in genesis and misleading in implication unless (which is the matter of inquiry) what the courts may do in the possible case of trouble is a needed factor, or at least one factor, in promise or in performance or in adjustment.

Neither will it do to treat the mere presence of legal machinery in any particular field as of itself demonstrating a need for it there. Such presence may merely present an instance of unneeded or even of parasitic expansion of a going institution. Law early serves a prime function in offering means of dealing with some types of dispute not otherwise adjusted. Along with this goes a recurrent tendency for law to set itself up as the exclusive means for dealing with any dispute, if it be appealed to. Law regularly purports to speak for the group as a whole, which means a pressure to draw into its orbit any other important institution; it is the other institutions which offer the stuff of disputes.

Finally, rarely until modern times has expansion of jurisdiction been unprofitable to the lawmen concerned. The chief countertendency to this expansion is found in law's own formalism, and in the traditionalized character of the molds within which lawmen must move if their action is to have standing as official. Given then promises present, relied on and broken, law will sooner or later wrestle with their breach, whether or not the society peculiarly requires such wrestling.

Yet as the specialization and credit, and particularly the industrial, aspects of an economy gain ground, it becomes hard to escape the case for utility of legal enforcement of promises. Credit or reliance on a purely customary or self-interest basis presupposes for effectiveness either permanence of dealings involving long run mutual dependence or an ingrained traditional morality covering the point or dealings within a face to face community (or its equivalent, a close knit wandering guildlike interest group such as the early mediaeval merchants seem to have been) in which severe group pressure on delinquent promisors is available. These types of sanction fail in a society mobile as to instutitions, mobile as to residence, mobile as to occupation; they fail increasingly as the market expands spatially and in complexity. They fail, in a word, as

to long run, long range, impersonal bargains, as also in cases where death or transfer of rights removes from the relation what was originally a personal aspect.

Whatever the need for legal enforcement of contract in current dealings then, its place in an investment structure is obvious. It is essential to any approach to a market for capital, to any machinery for mobilizing funds or diversifying investments. Equally essential with contract itself is the transferability—that is to say, the depersonalization—of contract rights. The older view of privity as essential to legal action on a contract was connected partly with semimagical aspects of legal form; partly with a conception of contract as an essentially peculiar, unusual thing; partly with a conception that contractual transactions had no proper importance for non-participants. None of these conceptions fits an investment market; it is significant that the first free transferability (that of bills of exchange) developed among merchants apart from law proper. It is further significant that merchants found no trouble with the concept of suit by a third party beneficiary—which still gives trouble to some courts—and that they shaved the freely transferable contract right down to certain standardized essentials. In business essence, although not so strictly in law, a very similar standardizing and simplifying process occurs in the investment market today; the investor looks for six or seven particular familiar features in a stock or bond, irrespective of the length of the mortgage indenture or articles of incorporation—features familiar enough to be summed up conveniently in Poor or Moody. For business purposes too a distinction in kind between bonds and stocks tends definitely to disappear. Both are conceived and in much the same way as obligations of a corporation; both, as property; both, as giving legal rights which are important. Frequently enough only the legal sanction for the promise exists. Where other sanctions do exist (for instance, desire for continued dealings or for a business reputation) they show an unfortunate tendency to fail precisely where most needed, i.e. when stress of loss (or gain, as in the case of management manipulation of the market or merger of the debtor) is strong. Max Weber cogently remarks that ethics founded on expediency are less reliable factors in performance than are those founded in tradition. As a result, even to some extent in short run face to face dealings and a fortiori and importantly in long run ones, legal enforceability figures as an element of added security in credit matters; a partial insurance against the very case of need when credit judgment was misguided or in case of death or assignment or where supervening troubles disrupt either willingness or power to perform.

It has been mentioned that this legal insurance is commonly accompanied by an element of legal risk. What the law official will enforce is what he sees as the legal obligation. An agreement that to a business man calls for shipment of goods as close as conveniently possible to those described, with (as of course) price adjustment for defective deliveries and return and replacement of unusable articles, means to a court that the seller is to comply with the description precisely or have no rights at all. What a buyer will regret not obtaining on a rising market he can then reject with impunity if the market falls; yet this very risk of the market is one which the deal was intended to shift to him. So also agreements to renew indebtedness relied on as of course by business men are commonly unenforceable at law; while business understandings very commonly permit wide cancelations of what to the court are flatly enforceable contracts to buy. It is true that "business understanding" of what an agreement means and indeed of whether an agreement exists is by no means unambiguous and not always adjustable. It is not alone wilful default but honest difference of opinion which leads to disputes and which leaves some proper room for law officials. Both ways and norms of business practises are firm at the center but hazy at the edge; they offer little sure guide in dealing with the unusual case. Yet it should be emphasized in this connection that when the law official takes hold he is as likely as not to begin with a wholly non-customary reading of the obligation.

Indeed, if the commercial and legal understandings of whether and what performance is due should coincide, the legal security of the obligee shows holes. A contract is no equivalent of performance. Holmes long ago noted that in the pinch the measure of what it means is its meaning to the evil minded person. It is known but often glossed over that the contract as such gives rights only against the promisor in general, enforceable out of his general assets; in the event of the obligor's bankruptcy the right is reduced to ratable sharing with other general creditors. There are illegitimate but

effective devices for concealing assets. There are startling statistics on the extent and the small uses of dividends in failures. The remedy at law then, good in the one case of need—wilful breach—becomes dubious in the other case of need—economic distress or dishonest bankruptcy. The results leave it dark as to how far legal enforceability is really a factor in the initial making of future commitments and the giving of short term credit and even more as to how far such influence as it may exert on either may be regarded as healthy. Severe limits of the influence of much of commercial law in a sufficiently prosperous economy are suggested, for example, by the development and the substantial persistence until 1910 in New York of as maladjusted a complex of rules on sales of goods as our law has known. In a few cases, such as the letter of credit litigation in the decade following 1920, the inference is indeed unmistakable that the law has strengthened the credit instrument and given it further soundness. Yet the example is inconclusive; it is picked from a field of peculiarly long range and indirect contact, where peculiar financial security is expressly bargained for. None the less, it is certain that legal enforceability is a heavy factor in the handling of items once gone bad; sometimes it is a factor in inducing performance by a debtor; a salvage factor it always is, although on bad risks, which it may itself have contributed to begetting.

It is at this point that the law of contract again makes contact with the law of security. From an economic angle bargaining for security is an intensified case of the security provided by legal enforceability alone. It looks to cover in part the exact risks mere contract rights leave open. The secured creditor obtains beyond his general claim a right to satisfaction out of specified assets of the debtor; he obtains moreover a right which can be partially protected against fraud. The primitive form of security (pawn) requires transfer of possession to the creditor; the more developed forms (e.g. mortgage, pledge of bills of lading) can transfer rights without disturbing the physical things concerned. But it should be noted that sociologically and wholly irrespective of legal doctrine (for example, to the effect that property rights in specific things have been transferred) the law of security here merges with the law of contract: rights realizable only at a future time and unaccompanied by present enjoyment are own brothers of contract; their enforcement in case of delinquency is likely too to require legal process. The same holds of important portions of the law of trusts and of relationships generally which are affected by agreement (agency, bailment and, as has been indicated above, corporation) whether or not associated with phases of property. Nevertheless, the idea of security being a property matter is firmly enough ingrained in our legal system to have far reaching results and to force lawyers who are seeking security to keep the specific and present character of the assets subjectable in the forefront of their minds. Similarly, the mere contract creditor must reckon with the possible elimination from the general estate of an insolvent of all its vital assets by way of security to others. This would be too obvious for mention if it did not again raise the question of how far mere enforceability of contract at law plays a part in current future deals.

Irrespective of that question it is clear that current future deals themselves in their effect on the arrangement of economic affairs lie halfway between mere reliance on the general spot market for either supplies or outlet and propertywise assurance of either by vertical integration. On the side of services the situation is quite similar but more complex. Between "own unit" organization (property, plus an ownership and management set up framed in good part on contract and plus exclusive control of "agents" under a contract set up and of a standing force of labor) and the rather uncommon mere reliance on the general spot market (calling in the plumber or the doctor) lie a short range letting out of individual jobs (roofing a house) and a standing relation letting out of particular services (insurance coverage, deposit account, legal or advertising counsel). Perhaps the same can be said as to the supply of and outlet for working funds; yet when one is again tempted to assume legal contract or even factual promises as an utterly essential feature in present day American economy one is forced to remember that much of current financing proceeds on flexible and revocable understandings as to line and conditions of credit. Indeed, such flexibility is a marked trend in marketing of goods as well, wherever long range buyer-seller relations come to seem more important than exact definition of the risks to be shifted by the particular dicker in terms of quantity, quality or price: output and requirement contracts, maximum and minimum contracts, contracts with quality,

quantity and kinds to be specified from month to month and sliding scale price arrangements are symptomatic of an economy stabilizing itself along new lines.

The importance of contract law is not, however, to be found wholly in the field of economic life. Much of the growth of law itself is surely traceable to contract (or rather, bargain). Originally and at present arbitration of differences is by agreement; out of a practise of arbitration originally and at present official tribunals grow. Our jury trial of fact disputes was introduced by the same process, although under vigorous urging by the crown's officers. There is too the importance of "the social contract" as a concept in political theory and political life. And quite apart from arbitration as a preliminary stage in international or industrial government there is the importance of treaties as a major base of international law and of group bargain as a basis of industrial relations. The former bears obvious close relation to the technical law of contract because interpretation relies so peculiarly on private law analogy. The latter carries into another sphere—not that of legal contract theory but that of social and political effects of contract (bargain) and especially of contract as an instrument of unofficial government.

First, unofficial self-government. Official government, despite modern ramifications, reaches patently but a minor fraction of the affairs of men in society. And on the side of law it expressly leaves most of what remains open to self-regulation—in good part by agreement. It is convenient to refer to the clean cut distinction taken in European theory between iron rules of public policy (as, in American law, that there must be consideration or a seal to make an agreement enforceable; or that agreements running counter to the criminal law are unenforceable) and the "yielding" rules which hold if, but only if, there is no expression to the contrary. These latter rules Isaacs has well described as themselves forming an official standardized contract on each matter (sale, corporation, partnership, etc.) subject to alteration by the parties. They result in a curious and useful combination of status and contract values; status, in that a full set of obligation incidents are available for adoption (without thought) by any persons entering the relation; contract, in that entrance is voluntary and particular modification is possible. The field not thus covered in advance by settled rules yet open to the parties' regulation must be added. One thus finds available for self-government a number of contract or relation patterns well worked out; certain conditions and limitations on the use of each of them, leaving each, however, highly flexible; and, finally, along with a certain tendency to regard the basic accepted patterns as exclusively covering the whole field (e.g. the question so frequently raised: is this "a sale" or "an agency"?—*cf.* also the Roman nominate contracts) a countertendency to enforce many novel types of bargain more or less as made. Yet Ehrlich has soundly argued that legal contract is in these situations but a part of the picture. As is contract to government, so is mere agreement to contract; so also, usage plus initiative and acquiescence to mere agreement. In the self-government of subgroups contract (agreement) provides an original framework, a constitution, a source of ultimate sanction in dispute or breakdown. Further factual agreement from time to time, informed by usage and that running combination of initiative and passivity which does not even call for conscious agreeing, fills the framework with living content and often so stretches or overlays it as to make the initial contract a wholly misleading picture of what occurs. Law and practise of corporations, factories, trade unions, churches and households thus differ as do law and practise of the constitution.

Where the self-governmental bargain is driven between parties who are consciously in partial opposition (labor and employer; insured and insurer; as contrasted with formation of a family corporation or perhaps a cooperative) the legal aspects of the bargain take on peculiar importance. Trouble is in the offing. Law is more likely to be called upon. At the very least, appeal to the group constitution is more likely. Where bargaining power and legal skill and experience as well are concentrated on one side of the type transaction, resort to law is even more probable. Standardized contracts in and of themselves partake of the general nature of machine production. They materially ease and cheapen selling and distribution. They are easy to make, file, check and fill. To a regime of fungible goods is added one of fungible transactions—fungible not merely by virtue of simplicity (the sale of a loaf of bread over the counter) but despite complexity. Dealings with fungible transactions are cheaper, easier. One interpretation of a doubtful point in court or out of court gives clear light on a thousand

further transactions. Finally, from the angle of the individual enterprise, they make the experience and planning power of the high executive available to cheaper help and also available without waiting through a painful training period.

Where skill and power enter on one side only, however, the situation changes. Law, under the drafting skill of counsel, now turns out a form of contract which resolves all questions in advance in favor of the one party. It is a form of contract which in the measure of the importance of the particular deal in the other party's life amounts to the exercise of unofficial government of some by others, via private law. (Compare the progressive lopsidedness as one moves, for example, from auto purchase and residence or oil lease through the auto distributor's agreement to factory employment in general and finally to employment in a company town or on a sugar beet farm.) The problem has pressed toward relief, but the courts have been slow to see what was needed or to invent the remedy. Beneath the surface of the opinions the observer feels a persistent doubt as to the wisdom of any interference with men's bargains; he feels especially a timidity as to admitting any power to interfere, when no ready means appears of setting definite and wise limits to the interference. Hence interference appears chiefly case by case and almost wholly by way of construing the particular language in question not to have intended the result it did intend (see also *infra*, *re* mutuality). Life insurance is a classic instance. This procedure saves the lesser bargainor for the moment but leaves the greater a steady succession of new chances to redraft and fight again; and for him a single victory is likely to be permanent. Legislative intervention, prohibiting certain clauses and prescribing others, may remedy this, if it survives; but it comes under attack along similar lines for unconstitutionality; its sin lies in not construing, but in prescribing (*see* FREEDOM OF CONTRACT; DUE PROCESS OF LAW). Where admitted it offers the great value (for example, in insurance and labor cases) of being limited to definite matters in which regulation is shown by experience to be needed; a result less easy of accomplishment under the common law. Competition (life insurance, oil leases) may contribute toward readjustment of the bargain on more balanced lines; in general, however, the tendency when standardized contracts are used seems to be rather, even in highly competitive fields (instalment sales, investments, customer's collateral note), to borrow and accumulate seller protective instead of customer protective clauses; a fortiori, when, as in the labor field, competitive pressure on the contract drafter weakens. At this point the official's attempts to wrestle with the social implications of agreements (in first instance, by twisting their meaning; in second, by refusing official aid to an "illegal" agreement; in third, by legislative fiat, chiefly by way of visiting penalties upon the making of the prescribed agreement) cross into the broader field of the use of the law to enforce tabus on particular types of conduct. The widest laissez faire has some limits in the criminal law, and courts commonly refuse to enforce a promise looking toward commission of a crime. But courts have also refused enforcement of agreements which seemed to tend contrary to well channeled public policies, for example, to support a mistress, to induce another to break a contract, to restrain trade unreasonably, to make a mortgage non-redeemable or to give up claims against a carrier for his possible future negligence. It is interesting to observe in these cases how many of such rulings verge back into the equilibrating of the bargain made.

In the more clearly vital field of lopsided standardized agreements it is obvious but needs constant emphasis that the life meaning of the legal set up is affected seriously by factors other than the remedies directly available at law. An insurer, although discharged at law, may reinstate the policy or may even pay, as a matter of business policy. A landlord or banker may never resort to his ironclad document save when for extraneous reasons it proves impossible to work with the other party. Meticulous insistence on every detail of a construction or even merchandising contract can almost be guaranteed to force the contractor into default. The problem is therefore seldom one of a practise of tyranny (contrast the loan shark). It is rather a problem of legal power which makes tyranny possible at arbitrary will—a significant instance being the dispossession of the customary tenants by the highland Scottish clan heads as legal owners. On the other hand, the legal remedy directly available may not even suggest the extent of the legal power which derives from an ideology of contract in a given situation. The impairment of contracts clause of the American constitution and the liberty of

contract conception protect from governmental interference not only existing contractual advantages but mere expectations thereof and protect them equally in cases such as agreements with wage earners where the direct legal remedy may be illusory; so also (as for example against attempts at organization of a shop) with the injunction against "inducing breach," which has in some courts carried over even into such cases of employment at will as would not in themselves be admitted by any lawyer to constitute contract at all.

To sum up, the major importance of legal contract is to provide a framework for well nigh every type of group organization and every type of passing or permanent relation between individuals and groups up to and including states—a framework highly adjustable, a framework which almost never accurately indicates real working relations, but which affords a rough indication around which such relations vary, an occasional guide in cases of doubt and a norm of ultimate appeal when the relations cease in fact to work. The trend toward standardization, despite its values where power is balanced, raises doubts as to policy where its effects are lopsided, because the norm of ultimate appeal is then so tremendously deflected to the one side. The direct legal sanctions are not the major measure of importance. Their effect as a threat is uncertain. In the credit field they break down in the case of greatest need, unless strengthened by security. And indirect sanctions—at least in the case of "inducing breach"—may lie close to the heart of the protection sought.

Some Technical Phases in Action. Primitive contract law, whether because economic ideas are undeveloped or because legal machinery is clumsy, is affected strongly by elements of vengeance, presupposing the *Schuld* idea, and of high forfeit, which need not presuppose it. Seizing the debtor's body (even, very early, killing him); debt slavery; penalties and forfeitures—these have persisted into modern times. With the prohibition of peonage, the abolition of imprisonment for debt and the refusal of courts to enforce penalties, although agreed upon—buttressed by usury legislation and limitations on assignment of wages and future property—modern law moves definitely on to the basis of reparation for breach as the main purpose of legal remedy. Specific reparation—which presupposes that the defendant has the wherewithal to perform—has in Anglo-American law been limited largely to the case of land and has been worked out on the theory that damages are inadequate because of the peculiar nature of the thing contracted for. In the case of the irreplaceable personal services a compromise with the peonage prohibition is sought by enjoining against competitive employment. The normal remedy for (i.e. the normal legal meaning of) breach is damages; it has, unfortunately, been so overrigidified in many cases—especially on the assumption of a frictionless market—as to make the remedy inadequate. The law in Germany and legal practise in England, allowing the plaintiff to go on the market and cover, offer a fairly adequate adjustment; but in any event there will be a delay in reparation for which legal interest is no adequate compensation to a business man. Even apart from insolvency, therefore, the legal remedy appears as essentially a device in the last resort, adequate only to assure the promisor that he will by breach gain only as to delay. The heavy drive toward actual performance must therefore be found outside the law; although the law, for example, by way of an ideology of "duty," contributes to such outside drives.

This view is reinforced by the customary performance in fact of legally nugatory or unenforceable promises. In no legal system are all promises enforceable; common sense sets limits. In all the effort is to find definite marks at once to cover those which should be enforceable and signalize those which are. On the latter side, particular traditional forms and rules continue effective even when they fail to serve the former purpose. The Anglo-American effective form was once, and still is in many states, a sealed writing (covenant, indenture). The purpose was, at a time when few could write, to authenticate the making of a promise with intent to be obligated. Similar authentication and effect was had by acknowledgment in court (recognizance) or in continental Europe by having the promise recorded by a notary—there an important official. Promises legally effective through form, being typically of archaic origin, are typically accompanied by archaic effects, long since grown arbitrary. Some of these have persisted in the United States with the sealed instrument even where the primary effect of the seal itself has been abolished by statute.

But a commercial economy calls for the enforcement of less formal promises. So the

Romans admitted suits on book accounts, and the Greeks developed suits on written promises (*synallagma*). Modern continental law admits a suit on any promise with proper *causa*—very roughly meaning any sufficient justification in policy for recognition by the court. Our own requirement is the much discussed consideration—which in its modern development is definitely approaching a similar meaning, "any sufficient justification in policy," but the exact effects of which still continue to be seriously influenced by a number of overrigid rules.

The roots of the consideration requirement seem to lie, on the one hand, in the development of the informal contract action (assumpsit) out of tort; a promise, relied on and performance of which was begun ("misfeasance," not "mere" non-feasance) but badly done or discontinued to the detriment of the promisee. On the other hand, the action was brought into play as a substitute for debt, in which, by a curious degeneration of the Germanic system of awarding proof to the apparently sounder side, the defendant had acquired as of right the power to swear himself out of judgment; debt lay, when an agreed equivalent had actually been received by the defendant. The consideration requirement thus comes in time to be formulated as a benefit to the promisor (an echo of debt) or a detriment to the promisee (the tort root) which is the agreed equivalent and inducing cause of the promise to be enforced. The formulation covers most cases but not all. Indeed, it is obvious that the great bulk of business promises fit in perfectly, as soon as the arbitrary but utterly necessary logical jump is made of making mutual promises serve as consideration for each other. Four troublesome classes of cases remain: business promises like "firm offers," understood to be good for a fixed time but revoked before; related to which are, second, those promises which call for acceptance by extended action (laying twenty miles of track) but which are revoked while the work is in process. A third and important class is that of additional or modifying business promises made after an original deal has been agreed upon. The fourth is found chiefly within the family: a promise really made and reasonably relied on but which did not bargain for such reliance as an equivalent. A distinct but very uneven tendency to strain toward enforcement in the last three classes is observable in the courts. The first still goes largely untouched.

When one attempts to estimate the net value of the consideration requirement, the first step is to repeat that it does fit most normal cases in life, that it gives trouble only on the fringes. As a test of what promises not to enforce it must be regarded as somewhat formalistic. The existence of bargain equivalency does indeed commonly evidence positively that the promise was deliberate—considered—meant. Such equivalency gives also fair ground for believing that some promise was in fact made and thereby much reduces the danger from possible perjury. The giving of a bargain equivalent, be it by promise or by action, is furthermore an excellent objective indication not only of the creation of expectation in the promisee but of the reasonableness of such expectation and of its being related to the promise. Yet it will be observed that the handing over of a signed promise in writing (which is not enough for enforcement) would go far in most circumstances to assure the same values; no lawyer, for example, can fail to be struck by the closeness with which exemptions from the requirement of writing under the statute of frauds are related to the presence of unambiguous consideration, which is substantially equivalent in fact to the promise claimed. Nor is it apparent why in many cases deliberateness, due assurance that the promise was made, relied on, and properly so, might not all be evidenced by circumstances apart from either writing or consideration. The problem is acute only within the family; in business a writing might well be made a condition to the reasonableness of any reliance. All in all, as a test for non-enforcement the consideration requirement must be regarded as not yet wholly just to modern needs.

As a positive test, a test for what promises to enforce, the same must be said. For here the requirement of the positive law runs in terms not of factual equivalency but of formal equivalency under the bargain as stated. A consideration which in fact is largely even wholly formal may be enough (release of injury claim for a dollar). This is well enough when the promise is one whose enforcement is in itself socially desirable: a charitable subscription, a promise to provide for a child on marriage, an option to buy land. And it is enforcement in such cases which has given foothold for the draftsman in cases of a socially different character. But the recognition of formal consideration in general language obscures the problem discussed

above, as to government by contract; the problem so clearly seen by the courts in usury and mortgage cases and by the legislature in regulation of employment contracts: that of semi-duress in fact. It is therefore not surprising that recent years have seen in business cases the incursion into the doctrine of consideration of a further doctrine of so-called "mutuality" (at law) whereby particular promises were matched off against each other, and some equivalency in fact (e.g. to buy, if the other party has agreed to sell) frequently insisted on, even when formally adequate consideration was present. It is to be expected that this tendency will continue, and it is not unlikely that it will develop as in the past peculiarly to relieve the weaker bargainor. The lopsidedness of bargain result is thus taken as the mark of lopsidedness of bargain making. But the motivation being apparently not wholly conscious, the result has been (as so often during case law growth) confusion in doctrine and uncertainty in outcome; and—what is natural enough in a business economy—it has also resulted in a relief of smaller business men which can find little counterpart in the case of the laborer.

Closely related to the values and presuppositions of the consideration doctrine (especially equivalency) is of course the development of the doctrine of implied conditions, under which the performance promised by the one party is made to condition the duty of the other to continue; and under which, occasionally, peculiar unforeseen events destroying either equivalency or the presuppositions of the deal may result in discharge of the contract. Closely related too are doctrines—developed especially in equity and transferred to the stricter law—giving a promisor exemption (or redress or restitution) when his promise is induced by duress, fraud, misrepresentation or even some types of mistake. That similar doctrines are found in systems ignorant of consideration shows only that the latter is a device seeking in enforcement of promises the same social values which other systems seek to find by other means.

But just as no system of promise enforcement can do its work without taking account of the fact that existence of forms commonly sufficient to enforcement may be produced by illicit means, so no system may ignore the value of forms as records and vouchers of a deal having actually been made or their importance as permanent and reckonable evidence of what was agreed. Contracts are transactions, not mere events, and as deliberate transactions are capable of prophylactic regulation; since they are transactions relied upon, men have an interest in predictable security as to their legal effects. Hence for a variety of transactions, notably unperformed contracts to sell goods or land, and guaranties, the statute of frauds (*q.v.*) requires for enforceability a memorandum of the essential terms, signed by the borrower. By 1676—the date of the original statute—literacy was perhaps to be expected in England of the classes concerned in such transactions; but certainly not so throughout American history. Yet the modern developments of business—large units requiring internal written records if files are to be kept straight, officers informed, departments coordinated and the work of shifting personnel kept track of; the spread of literacy; the practise of confirming oral deals in writing; the use of forms—all these confirm the policy of the statute, all these reduce the price in disappointments exacted for its benefits. The chief difficulty lies now in the very common informal verbal understandings modifying performance under a writing once made—a problem as yet inadequately solved. On the other hand, the parol evidence rule (in Wigmore's incisive phrasing the "rule of integration") comes in to limit the enforceable agreement to what is incorporated in a writing, if an apparently complete writing is once made. Especially this rule is said to eliminate any prior or contemporaneous modifying terms. As to agreements drawn under advice of counsel, the wisdom of this is obvious; and the policy fits equally with that great bulk of agreements which are made wholly by correspondence. But in other cases—as with informal verbal modifications under the statute of frauds—the court is faced by the counterpolicy of recognizing the frequency with which vital terms of oral negotiations are in fact omitted from (or not reduced to) a formal writing. The course of actual decision has, in consequence, no approach to the predictability the rule is supposed to achieve; a point which can hardly be too strongly stressed. Yet the net effects of the two rules together, as they work into lay practise, are almost certainly wholesome not only in encouraging permanent and trustworthy record of agreements but also in inducing care in the making of the record.

In the unsystematic American law contract occupies a unique position. It is the one field in which a grand scale orderly synthesis has been attempted and with fair success achieved. And this has been lauded as the great legal accomplishment of the past century in the common law. To the modern Romanist the achievement appears partial; he sees our very object of synthesis as itself but one element in the still grander scheme of transactions. To a few American scholars this seems no reproach; they doubt the wisdom of generalizations in our law on anything like the scale attempted by a single systematization of all contract and challenge the applicability of many of the current generalizations to various important bodies of cases. This view is needed, if one is to understand the many developments, such as the emergence of a requirement of mutuality in certain contracts, discussed above. On the other hand, the vitality of the generalizing tendency may be noted not only in the scholarly work of the last seventy years, culminating in the restatement of the law of contracts, but also in the decisions themselves. So, for example, in the extensive submergence in the field of sales of the old time peculiar notions of warranty in the general concepts of promise and condition. So also in the stiffening of many courts, in the teeth of the pressure of the facts, against allowing an action when the accepted formulae as to consideration remain unsatisfied. In ultimate outcome the general theory of contract will probably come to assert a less absolute dominion over the entire field and be content to recognize considerable local self-government where that is demanded by particular fact situations. As a body of doctrine available and pressing for constant application and development wherever no compelling reason to the contrary appears, no man can doubt its high utility; the chief criticism to be made is that the field of synthesis has been artificially limited to the scope of the old assumpsit action. Meantime it pays to note that here as always doctrinal synthesis tends to distort the picture of the underlying reality. For doctrinal synthesis finds its heavy focus of attention in marginal and even pathological cases. Thus the replacement of a will theory (as on the continent) or "meeting of the minds" theory (as in American law) of contract formation by a theory of objective manifestations—apparently indicating promise —and reasonably relied on by the other party: this is a great advance. It emphasizes also, and properly, the high importance of reasonable expectation in contract (and indeed in life and law generally). Yet the very advance has obscured the sociological vitality of the older insight; if in all but amazing cases manifestation did not roughly coincide with intent, we should have no law of contract to make an "objective reliance" theory of peculiar cases necessary.

K. N. LLEWELLYN

See: LAW; CUSTOMARY LAW; STATUS; SANCTION; CONTROL, SOCIAL; JUDICIAL PROCESS; BARGAINING POWER; LIABILITY; CONSIDERATION; SPECIFIC PERFORMANCE; DAMAGES; BUSINESS; CREDIT; SALES; NEGOTIABLE INSTRUMENTS; BAILMENT; DEBT; PROPERTY; LABOR CONTRACT; FREEDOM OF CONTRACT; CONTRACT CLAUSE; SOCIAL CONTRACT.

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CONTRACT CLAUSE. No important provision of the federal constitution received less attention from the Convention of 1787 or from

the state ratifying conventions than did the contract clause, which reads: "No state shall . . . pass any . . . law impairing the obligation of contracts" (U. S. Const. art. 1 sect. 10). It was not included in either of the plans presented to the convention but seems to have been put in by the committee on style, probably by Gouverneur Morris, and was adopted without debate. The probabilities are that it was designed by its framers primarily for the protection of private contracts and that it was prompted by the unwholesome practise on the part of state legislatures during the period of the Confederation of passing laws disturbing the binding force of business agreements. Depreciated paper money was made legal tender; debtors were permitted to pay in instalments, in kind or after a period of delay; and various ingenious devices were employed to embarrass creditors in the securing of legal redress. The members of the convention knew these abuses well and were determined to establish a system of government which would correct them. The contract clause was primarily directed to this end.

It is not impossible, however, that the clause was also intended to protect contracts made with the state itself. Such a purpose fits logically into the philosophy of the social compact which dominated the political thinking of the day and which abhorred a breach of a public contract as a violation of natural right. There is also evidence that James Wilson, who probably shared the responsibility for including the contract clause, had had unpleasant experiences with the Pennsylvania legislature, which had some years before wantonly destroyed the charter rights of the College of Philadelphia and later of the Bank of North America, in both of which he was interested. That he had in mind the application of the contract clause as a protection to corporate charters granted by the states seems not out of the question (Fisher, S. G., *The Evolution of the Constitution of the United States*, Philadelphia 1897, p. 262 *et seq.*).

The judicial interpretation of the contract clause began with a series of cases which involved contracts made by the state. The first was that of Fletcher *v.* Peck [10 U. S. 87 (1810)] holding that a legislative grant of land made upon good consideration must be deemed an executed contract beyond the reach of any subsequent legislative annulment. The grant had been made by the legislature of Georgia under circumstances of flagrant fraud and bribery, but the land had passed into the hands of innocent purchasers and the grant was held protected by the contract clause. Two years later, in New Jersey State *v.* Wilson [11 U. S. 164 (1812)], a statutory exemption from taxation, supported by consideration, was held to be a contract which the legislature could not impair.

In the famous Dartmouth College Case [Trustees of Dartmouth College *v.* Woodward, 17 U. S. 518 (1819)] a corporate charter was held to be a contract within the meaning of the contract clause. Accordingly the charter which the college had received from the English crown in 1769 was beyond the reach of legislative rescission or impairment. The importance of this decision upon the development of our economic and industrial life can hardly be exaggerated, for it guaranteed to those who invested their capital under the corporate form of organization complete protection against subsequent legislative interference with the rights, privileges or obligations contained in the corporate charter. An element of security and stability was thus added to the economic life of the nation at a time when it was vastly needed, and the concept of vested interests was placed upon a secure foundation. The public, however, was exposed to some danger that the legislatures might enter into corrupt or improvident charter contracts which would then be irrevocable. The contract theory of corporate charters undoubtedly resulted in the unwise but permanent grant of many charters grossly contrary to the public interest.

The term contract thus came to be interpreted broadly as including all classes of contracts, public as well as private. The clause was held to cover contracts between states and individuals in the form of ordinary business agreements, grants, exemptions from taxation, charters of incorporation and franchises issued to businesses affected with a public interest. It also was applied to all contracts among the states, between a state or states and the federal government and to contracts made by cities or counties as agents of the states.

The question of what constituted the "obligation of a contract" came up for consideration in the case of Sturges *v.* Crowninshield [17 U. S. 122 (1819)], in which a New York bankruptcy law was held to impair debts existing at the time of its passage. Chief Justice Marshall maintained in the opinion on that case that the obligation of a contract was to be determined exclusively in terms of the agreement between the parties. The obligation of a contract of debt was therefore simply the obligation of the debtor to pay the

creditor at the specified time, and this obligation could not be impaired either by subsequent or by prior legislation. Consequently Marshall believed that state bankruptcy acts were invalid even as to debts contracted after their passage. The Supreme Court, however, in Ogden *v.* Saunders [25 U. S. 213 (1827)] established over his dissent the rule that the obligation of a contract consists not merely in the terms of the agreement between the parties but includes also the relevant law in force at the time the contract is made. The contract clause therefore forbids only laws which operate retroactively upon contracts. Accordingly not only were state bankruptcy laws valid as applied to debts made after their enactment, but, more important still, state legislatures could enact general laws reserving the power to amend corporate charters and other long continuing contracts. Of course, such power must be exercised within the limits of due process of law.

In the case of Charles River Bridge *v.* Warren Bridge [36 U. S. 420 (1837)] the court held that the charter of a corporation must be strictly construed and that any doubt as to whether the public has parted with rights or privileges in granting the charter or franchise must be resolved against the grant. Thus a charter to operate a toll bridge was held not to be impaired by a later legislative act chartering another bridge a short distance away which was soon to be a free bridge. The element of monopoly could not be read into the first charter by implication since it was not specifically included. This rule of strict interpretation has prevented the improvident enlargement of corporate powers by implication and loose construction.

While the courts have sought with considerable strictness to give effect to the central economic purpose of the contract clause they have at the same time recognized certain limitations upon its uniform application. These limitations arise for the most part from those powers of government which are of such paramount public importance that the state is held powerless to bargain them away by contract. Most important of these is the state's police power. No contract, charter, franchise, grant or other bargain which the state may make can stand in the way of subsequent valid exercise of the police power. Thus a corporate charter authorizing the operation of a lottery was held not protected by the contract clause against a subsequent prohibition of all lotteries [see Stone *v.* Mississippi, 101 U. S. 814 (1879)]. While tax exemptions given upon good consideration are protected by the contract clause, it seems clear that the state could not contract away its whole power of taxation. Nor may it contract away its power of eminent domain, its power to destroy or regulate public offices or control salaries, its power over the public waters of the state, its power to make general governmental regulations or its ordinary power of legislation. Such legislation, for example, may change the means or manner of enforcing contracts so long as it leaves a substantial and adequate remedy. But exemption laws and other laws restricting the field from which the creditor may collect have been generally held to impair the obligation of existing contracts. The contract clause cannot be invoked by private creditors to whom the state fails to make payment on a contract, since the obligation is impaired not by the passing of any law but by the failure to pass a law appropriating the necessary funds. In addition to this legal doctrine there is, of course, the provision of the Eleventh Amendment which prevents a citizen from suing a state in a federal court.

The clause by its very words limits only the states and is not in any sense a restriction upon the federal government. Congress may pass laws which impair the obligation of contracts and has done so in a very few cases, notably in those of the federal legal tender and soldiers' moratorium laws. Unless such a federal law violates due process or some other specific limitation on federal power it cannot be attacked.

The contract clause has accorded needed constitutional protection against legislative invasion of contract rights and has thus served as a bulwark to private property and vested interests. But its influence has been more far reaching. By its continued emphasis upon the importance and necessity of keeping faith in our public and private obligations it has aided in establishing in business and governmental relations the principles of honesty and reliability. It has helped to build up a sound tradition which serves to protect contract rights by preventing the enactment of impairing legislation even more than by invalidating such legislation when enacted.

ROBERT E. CUSHMAN

See: CONTRACT; CORPORATION; PROPERTY; VESTED INTERESTS; JUDICIAL PROCESS; RETROACTIVE LEGISLATION; STATE LIABILITY; POLICE POWER; DUE PROCESS OF LAW.

Consult: Cooley, Thomas, *Treatise on Constitutional Limitations* (8th ed. Boston 1927); Miller, S. F., *Lectures on the Constitution of the United States* (New York 1891); Watson, D. K., *The Constitution of the*

United States (Chicago 1910); Willoughby, W. W., *Constitutional Law of the United States*, 3 vols. (2nd ed. New York 1929); Patterson, C. S., *Federal Restraints on State Action* (Philadelphia 1888); Hunting, W. B., *The Obligation of Contract Clause* (Baltimore 1919); Shirley, J. M., *Dartmouth College Causes* (St. Louis 1879); Doe, Charles, "A New View of the Dartmouth College Case" in *Harvard Law Review*, vol. vi (1892) 161–83, 213–22; Beveridge, A. J., *The Life of John Marshall*, 4 vols. (Boston 1916–19) vol. iii, ch. x, vol. iv, chs. iv–v; Warren, Charles, *The Supreme Court in United States History* (2nd ed. Boston 1926).

CONTRACT, FREEDOM OF. *See* FREEDOM OF CONTRACT.

CONTRACT LABOR is a by-product of the international immobility of labor. The higher standards of living made possible by the development of new countries and of modern production methods have drawn masses of people from poorer and more "backward" regions. Yet inertia, ignorance and the cost of transportation tend to offset the lure of the new lands; and the migrations, great as they have been, have nevertheless often taken place more slowly than seemed profitable to employers who wished to make use of cheaper and more abundant labor. A number of expedients have therefore been employed to hasten and to organize this movement of population. Of these the most common method has been the slave trade, and various devices of "forced labor" still accomplish somewhat similar movements of workers within particular colonies. The sending out of convict labor was a temporary expedient in the Australian and American settlements. The more common method in the American case, that of using indentured labor under formal contract to serve for a term of years to work out the cost of passage, has often been employed in more modern times. It is this system that carried Pacific islanders to the sugar fields of Queensland, that supplied the kingdom of Hawaii with laborers from both the Portuguese islands and Japan and that has taken coolies from India to the West Indies and to the plantations of Fiji. Its chief use has been in the Chinese "coolie trade," which between 1847 and 1874 transported between a quarter and a half million workers to Cuba, Peru, Chile and Hawaii and which in later years—under more careful regulations—has sent many more to British Guiana, British and Dutch Malaysia, to the mines of South Africa and to the war zone of France. In some cases indentured labor has meant the slave trade thinly disguised, as in the "blackbirding" of the Kanakas and in the early practises in the Chinese trade. In others, and particularly under British, Dutch and Hawaiian control, the contracts have been strictly supervised and the laborers have often found genuine opportunities in the new land at the end of their service. But in each of these cases the legal basis has been the formal indenture under which the laborer is held for a considerable term of years to the specific performance of the work for which he is imported.

These methods are no longer of importance in "advanced" countries within the temperate zones, yet even to these lands there has been a great volume of induced as well as spontaneous immigration. This has been true both in the case of migration for permanent settlement and also for such seasonal movements as those which bring agricultural workers into France and Germany for the harvest season and which even carry laborers back and forth each year from Italy to the Argentine. Sometimes the stimulus has been merely the salesmanship of transportation companies. In the case of France it has been the government which has maintained a special recruiting service in the countries from which laborers have come; and for Australia and New Zealand the most important special inducement has been government assistance in paying the cost of passage. But in many instances, and particularly in that of the United States, the chief activity has been that of private employers or their direct agents, who have advanced ticket money on the understanding that the immigrants would work for them on their arrival in the new country. This last practise is "what is commonly but," says Professor Commons, "inaccurately called 'contract labor.'" Certainly the term is inaccurate if it is thought of as implying any such strict enforceability as in the case of formal indentures. The employer could not enforce specific performance by an unwilling laborer, and the latter's property or wages would offer little prospect of substantial damages. On the other hand, the alien himself would hardly be able to make effective use of the legal machinery of a strange country in maintaining his rights against a defaulting employer. Such "contracts," however, have often given real advantages to both parties and have no doubt commonly been carried out. To the emigrant they seem to offer both passage money and the assurance of a job. To the employer they seem to offer a supply of selected workers likely to

serve contentedly at rates below those prevailing in the high wage country. For precisely this reason the system has been vigorously opposed by organized labor, and most countries of extensive immigration have attempted to consider the interests of their own workers in framing regulations on the subject of contract labor. In South Africa, to be sure, the showing of a satisfactory contract of employment is taken as the best proof that the immigrant will not be a public charge and therefore should be admitted. On the other hand, Canada prohibits the importation of contract labor except on terms previously approved by the authorities, Cuba prohibits except in special cases similarly passed on, and Australia adds the further proviso that the immigrants shall not be brought in as strike breakers. The regulations in France rest upon special labor conventions and treaties concluded with Italy, Poland and Czechoslovakia, the chief countries from which its foreign labor comes, and provide that every immigrant contract must be made upon standard forms specifying conditions of employment in great detail and attempting to embody the principle of equal pay and equal treatment with French workers "of the same class."

It is in the United States, however, that the greatest controversy has arisen and the most drastic steps have been taken. The system in its modern form arose toward the close of the Civil War with the organization of the American Emigrant Company as "an efficient channel of intercourse between the man in America who wants help and the man in England who wants work." An act of 1864 encouraged this intercourse by permitting the immigrant's wages to be pledged for a year for the fulfilment of the contract, but this provision was repealed in 1868. Importation of contract labor, however, continued on a large scale, bringing many thousands of laborers to mines and factories and construction jobs, tapping the first flow of the "new" immigration and in one famous case importing nine thousand Chinese coolies to hasten the completion of the Pacific railroads. Native labor was bitterly opposed to these developments; and in 1885 the unions, led by the then powerful Knights of Labor, secured the passage of the Alien Contract Labor Law forbidding the importation of workers under contract. Amendments in 1887 and 1888 provided for the debarment and deportation of alien contractees, and an act of 1891 prohibited all forms of solicitation of immigrants. Court decisions defined contracts so narrowly as to make their existence very difficult to establish and limited the scope of the regulations to unskilled manual labor; but in 1907 Congress increased their effectiveness by specifically including skilled manual labor and by adding "offers and promises of employment" to the original "contracts or agreements." These provisions are substantially those of the present law. Domestic servants and skilled workmen of types needed for new industries and unobtainable in the United States have from the first been exempted, although exceptions under this second clause now require prior approval by the secretary of labor. Administrative regulations during the war shortage of labor set aside temporarily both the contract and literacy barriers in the case of the importation of Mexican laborers, and an attempt on the part of employing interests in the border states to revive this exemption led as far as hearings before a House committee in 1920. But there has been no alteration of the general policy that contract labor should be rigidly excluded, and on every border the incoming alien "eager to escape the Scylla of a public charge exclusion" must be equally careful not to "run into the Charybdis of the contract labor law."

The immigration authorities have made vigorous efforts to enforce the law both by inspection at the ports and by investigation in industrial centers. More than forty thousand aliens were debarred on these grounds in the period from 1892 to 1929, and over sixteen hundred contract laborers were found and deported between 1906 and 1929. Prosecution of contracting companies has been a more difficult matter, but since 1907 the government has in a number of cases collected substantial fines. Yet report after report of the commissioner general of immigration has complained of the great difficulties of enforcement even of the amended law, and there can be no doubt that violations of its spirit have continued on a large scale.

Particular difficulties of enforcement, as well as the most flagrant abuses, have existed in the case of the padrone system, through which the immigrant comes in under agreement not with an American company but with a contractor of his own race. At first the padrone (Italian, boss) was merely labor agent and interpreter for the employer; but as the system developed these agents became principals, themselves controlled the labor of the immigrants and either farmed them out to employers or used them in enter-

prises of their own. The practise seems to have begun with Italian labor on railroad construction and other unskilled work; among the Syrians it took the form of the exploitation of peddlers under direct control of the padrones; and still later it spread to the races from the Balkan peninsula and to Mexicans in the southwest. The system was peculiarly likely to lead to personal oppression through many forms of exploitation due to the control over the immigrant by the padrone, as, for instance, when the padrone also acted as boarding house keeper and banker. It reached perhaps its worst point in the widespread employment of young Greek bootblacks, under contracts often secured by mortgages on the family's land in the old country, in conditions of virtual slavery. In each case, however, the padrone system has tended to decline as the race becomes more firmly established in America, and together with other forms of contract labor it has become much less important with the reduction in the volume of immigration.

Under the present quota restrictions contract labor has ceased to be an acute issue, and it is now possible to see that the agitation against it was merely an early form of the general movement toward restriction rather than a movement raising major questions of its own. The chief importance of the system both to the employers who made use of it and to the unions that fought it was its effect in increasing the migration of low standard workers. The real menace of their competition, from the labor point of view, lay not in the fact that they came to a particular employer but in the fact that they came to the country at all. The contract, to be sure, often brought them directly to the scene of a strike; but their effect in lowering wages could hardly have been less had they been dumped upon the American labor market without knowing where to go. Nor would employers have taken the trouble and expense of importation had equally large supplies of tractable labor been brought to the country in other ways. The issue, then, appears to lose the unique importance sometimes attributed to it. As long as workers are to be admitted in large numbers into countries of very different standards it will no doubt be necessary to restrain employers and others from taking undue advantage of their ignorance. This may be accomplished as well by the Australian supervision of contracts as by the American attempt to prohibit them altogether, and perhaps even more effectively by placing immigrants under the protection of government employment exchanges. In any case regulation of contract labor strikes only at the terms under which workers of lower standards are to be introduced; the more substantial questions are those of the rate and amount of importation.

CARTER GOODRICH

See: LABOR; FORCED LABOR; INDENTURE; MIGRATORY LABOR; LABOR CONTRACT; IMMIGRATION; DEPORTATION AND EXPULSION OF ALIENS; ETHNIC COMMUNITIES.

Consult: International Labour Office, *Emigration and Immigration: Legislation and Treaties* (Geneva 1922); Commons, J. R., and Andrews, J. B., *Principles of Labor Legislation* (rev. ed. New York 1927) ch. ii, and *A Documentary History of American Industrial Society*, 11 vols. (Cleveland 1910–11) vol. ix, sect. iv, ch. i; Guitera, J. B., *Le contrat-type pour l'emploi des travailleurs étrangers en France* (Paris 1924); United States, Bureau of Immigration, *Annual Report*, published since 1892; United States, Industrial Commission, *Reports*, 19 vols. (1900–02) vol. xv, pt. iii; United States, Immigration Commission, *Reports*, 41 vols. (1911), especially vol. ii, p. 371–408; United States Congress, House Committee on Immigration and Naturalization, *Temporary Admission of Illiterate Mexican Laborers* (1920); Coman, Katherine, *The History of Contract Labor in the Hawaiian Islands*, American Economic Association publications, 3rd ser., vol. iv, no. 3 (New York 1903); MacNair, H. F., *The Chinese Abroad* (Shanghai 1924); Willard, Myra, *A History of the White Australia Policy*, University of Melbourne publications, no. i (Melbourne 1923) sect. 4; Campbell, P. C., *Chinese Coolie Emigration to Countries within the British Empire* (London 1923); and standard works on immigration.

CONTRACTS, PUBLIC. *See* PUBLIC CONTRACTS.

CONTRIBUTIONS, MILITARY. *See* REQUISITIONS, MILITARY.

CONTROL, SOCIAL. In its wider sense the term social control describes any influence exerted by society upon the individual. In its narrower sense, as currently used by certain economists, it has come to mean the consciously planned guidance of economic processes. The two types of control are found in varying combinations in all our social activities, and since the one term is used for both, they are easily and frequently confused. But a clear distinction must be made between those situations in which control by a group is unconscious and involuntary and those in which a group explicitly uses and directs individuals toward the realization of its own purposes. Although custom and convention, for instance, are powerful in conditioning the thought and conduct of man, society

does not exercise through them the same kind of control as it does through education or the movement toward the abolition of war. Customs are, however, continually being changed by the introduction of purposive activity on the part of some group. Indeed, as communities become more civilized, there is an attempt to take many of the unconscious, informal controls under the domination of intelligence and purpose—to make them serve conscious, formulated ends.

The American sociologists first gave currency to the term social control, and earliest among them E. A. Ross by the publication of his book *Social Control* (New York 1901). Their work has been devoted largely to the study of social control in its wider sense, to exploring the forces by which the group molds and shapes the individual—forces such as custom, belief, public opinion, tabu and ceremony. Cooley contributed much to this analysis by his vivid studies of the social conditioning of the individual, and a score of sociologists here and abroad have helped to elaborate the description of the origin, nature and extent of the stimuli and restraints under which the individual lives. Anthropology too has been of great importance in building up an objective technique for studying the forms of social control. The detachment with which one views primitive people has brought the essential institutional relationships and forces into clearer perspective.

In its narrower sense, that is, as active intelligent guidance of social processes, the idea of social control is thoroughly characteristic of the twentieth century. Other periods have had the notion of "controls" and exercised them effectively, but none has had so clearly the concept of "control." This is due on its practical side to the unparalleled achievements in the control of nature which have continually appeared, whether in the form of new mechanical devices or the discovery of unsuspected natural resources. That the waste product of yesterday becomes the valued resource of tomorrow is almost the typical drama of the twentieth century. On its intellectual side the interest in control may be traced in large part to a reaction against the schools of Spencer and the economic determinists who thought of evolution as advancing more or less automatically, regardless of man's interference. Influential in this reaction were the writings of Lester F. Ward, who labored long and effectively to make clear the role of collective intelligence in our social life. Among contemporary writers L. T. Hobhouse in England has been especially concerned to show how social evolution has come more and more to rest upon conscious control by the human mind. In America the institutional school of economics, whose outstanding figures are Thorstein Veblen, Wesley C. Mitchell and Walton H. Hamilton, has made important use of the concept of social control. Indeed, it is perhaps their central organizing principle. The emphasis of the institutionalists is that economic arrangements are man made and susceptible of almost limitless variation. While for most economists the idea of control is like a mechanical bit of apparatus, for the institutionalists it is more of the nature of the guiding formula itself.

It is the essence of the historic process that controls are constantly losing their validity and giving way to new ones. Both the nature and the agencies of control shift from age to age with the structure and functioning of society. Mediaeval society, for instance, affords illustration of controls in striking contrast to those of our own time. In the relatively static organization of feudalism custom and authority constituted powerful controls. Custom regulated the dues and services of the villeins as well as the rights and obligations of the lord of the twelfth century manor; it dictated the method of land cultivation; it prescribed the daily routine of work and recreation; it was an important factor in determining the relation of buyers and sellers in the towns. To the modern mind, however, perhaps the most interesting controls were the moral and religious restraints upon economic life which issued from the church relating chiefly to the just price and the prohibition of interest. These controls were enforced through the ecclesiastical courts as well as in the confessional and from the pulpit; they appear as part of the moral code in the ordinances of town and guild as evidenced, for instance, by the famous rules against "regrating, forestalling, and engrossing." Another great control of this period lay in the simple fact that personal relations were dominant in all the affairs of life. The face to face responsibility of master and laborer, of producer and consumer, constituted a type of control possible only in a world of small, self-sufficient units.

In the break up of localism that followed the widening of commercial life and the rise of a money economy there was a confusion of controls typical of every transition period. Out of this confusion there gradually emerged a system of control administered by a central

government, whose aim was a narrow nationalism dominated by an obsession in favor of a monetary supremacy. Through bounties, commercial treaties, colonial exploitation, high duties on imports and a vigorous policy of taxation the state built up its balance of trade. In pursuance of mercantilistic theory foreign trade, shipping and manufactures were encouraged, while agriculture and domestic trade languished. Everywhere the hand of the government was visible and its weight heavy.

The somewhat distorted controls of mercantilism led to a revolt toward the system now called economic individualism, or laissez faire. Men caught the vision of a society in which external controls should be replaced by checks and balances within the system itself. If men could only work when and where they pleased, develop any trades from which profit could be won and leave the control of quality to the consumer —free from guild and government regulation— both individual and national welfare would be served. The ultimate control of the system was individual self-interest seeking pecuniary gain and regulated by "the invisible hand" of competition, which could be relied upon to direct labor and capital into the most fruitful channels, apportion the materials of production, stimulate technical processes and finally distribute the products by "the magic of the price mechanism." The thought of this period was greatly influenced by the physical sciences, and the controls of the economic order were regarded as analogous to those of physics. Debates ran in terms of trade and industry finding their own level, of wages and commodities tending toward a "natural" price, of the "law" of supply and demand. Man made controls such as legislators or reformers could devise were considered artificial and therefore vicious. Free enterprise itself was deemed a form of control more sure and more efficient than any man could achieve.

This cluster of presuppositions called economic individualism found acceptance as a theory of social welfare during the great exploitative period of economic life in the nineteenth century, when the stores of natural wealth and the miraculously developing machine technique seemed to promise all things to all men. In this period of wasteful opulence planned guidance of economic processes seemed superfluous. There arose, it is true, a number of reform movements, some broadly humanitarian, others Christian or aesthetic in origin, condemning the inefficiency, injustice or ugliness of the system. But the nineteenth century in general lived with the conviction that progress was inevitable, that it was inherent in nature and in man. The unprecedented accumulation of wealth was unhesitatingly read as an increase in the general welfare—an interpretation which found happy confirmation in current religious beliefs. In this expanding milieu individual self-reliance and initiative had more than a fair chance to win their way and became therefore the great virtues of the economic system. This was particularly true in America with its wealth of natural resources and wide distribution of industrial opportunity. Until the virtual disappearance of the frontier neither the fact nor the philosophy of conscious social control could make much headway.

During the past few decades the interest in social control has been steadily gaining ground. The forces at work in this development are discernible at many different levels of our complicated corporate life. Largely as a result of the technological and economic changes of the past decades there has been a breakdown of individualistic assumptions in almost every field of thought, particularly in ethics, psychology, law, education and religion. The transformation is due primarily to a deeper and more subtle understanding of the interrelation of men and institutions. It is now realized that the individual is in great part what his town, his family, his recreation, his church or his club makes him. Interest therefore has tended to focus more and more on the control of determining social conditions. It is now an intelligible social question to ask "What shall be done?" Undoubtedly the Russian experience has contributed enormously in making vivid the possibility of a deliberate change in any country in both the instruments and the aim of control.

There exists today a vast multiplicity and confusing variety in the instruments of control. The government is in a sense the most obvious and clearly defined of these instruments, exercising wide powers through the general enforcement of law and order and the maintenance of many standards in the field of industrial and social arrangements. With the increasing complexity of social organization, particularly in urban development, the need for statutory regulations has increased. But regulation by law has for the average individual less immediacy and significance than a host of the more informal controls which surround him, such, for instance, as the agencies of information and communication—

the newspaper, the magazine, the radio and the movie. These pervasive influences are largely responsible for the building up of the complex thing called public opinion. They mold men's minds and fashion their tastes in everything, from the kind of words they use to the moral attitudes they adopt and the things they want to buy. It is through these agencies too, as well as other agencies of its own making, that the economic system creates the wants which it is prepared to satisfy. By advertising and a host of allied arts it exercises a continual selective pressure upon society, building up needs for specific goods and services. In the subtle hierarchy of twentieth century controls none is more persistent than this fashioning of wants and desires.

The family too must be accounted an important control, transmitting language, beliefs, ideas, tastes and standards. In spite of loosening bonds family influences are determinative for a large area of life. The family is the focus for getting and spending and for the bequeathing of property; in its relation to the industrial system it is largely responsible for the quantity and quality of the labor supply. Yet the incidence of family control is to a great extent accidental. It comes under the guidance of no generally accepted planning. This is also true of the agencies of communication—they echo a million different voices. Among them is conflict; their relation to each other is chaotic. How these controls are in their turn controlled and how they should be controlled, by what agencies and to what end, constitute a continual challenge to society.

This same challenge applies also to the educational system in school and college. Education is perhaps the most useful tool of social control but it works for militarists and class conscious snobs as well as for humanitarians and men of vision. In this as in other social institutions the critical problem is to keep it free from special interests and give it wise direction. Religion too has always exercised powerful control although with the waning power of the creeds it has lost much of its importance. Preachers today are coming to have only such authority as is possessed by writers and educators. They no longer bring a special kind of salvation nor can they dictate specific rules of conduct, because they can neither threaten penalties nor promise sure rewards.

The multiplicity of controls in modern society is perhaps most clearly illustrated in our economic life, where no consistent pattern or procedure is discernible. Most of our economic activities are still carried on by business organizations in accordance with the doctrine of economic individualism. Yet it need hardly be pointed out how far reaching are the modifications of free enterprise—through the network of legal relations and institutions on which the whole system rests, through state interference, through the transfer of important industries from the "automatic" control of the competitive system to the deliberate control by administrative commissions. There are too the controls exercised by trade unions, chambers of commerce, Rotary clubs and—increasingly important—by trade associations which gather and distribute data, conduct lobbies, engage in cooperative advertising and frame and promulgate codes of business ethics and standards of practise. Control through formulated codes, which played so large a part in guild activity and which has always been accepted in the professions, is coming to have more validity in business practise today, as business management becomes more of a science and is taught as such. Another type of control arises from the development of a better technique in the measuring art. As statistical information becomes more accurate, relevant and available, a new basis of control is established over a wide area of social life. Finally, business, like every activity, is carried on in a complicated social setting where habits, customs, conventions and tabus all blend together in intricate ways to determine daily procedure.

The role of the state as an agency of control in economic activity has long been a point at issue. In the nineteenth century reformers were inclined to rely largely upon the state for remedial action. The socialists of the period were state socialists. But in recent years there has been a marked tendency to rely upon more flexible and mobile instruments of economic control. This is due partly to the changing conception of the state as expressed in syndicalism and guild socialism but more to the fact that, while the war gave stimulus to the idea of cooperative action for a common goal, war experience also suggested that the state as administrator tended to be inelastic and clumsy. And while post-war problems emphasized the need of the guidance of rational policy as against the mechanics of free enterprise, state action was no longer seen as the only alternative to the absence of control.

The economic transformations initiated by the swift advance in technology call for cooperative action of a new kind and raise insistently the

vital query as to the appropriate form of control. It is becoming increasingly apparent that any number of individual judgments do not add up to a coherent policy in inaugurating a unified national power scheme or in dealing with a sick industry, such as coal, textiles or agriculture. The field for individuals acting in isolation has been rapidly shrinking. New instruments or agencies which shall express a point of view wider than that of the individual are needed to plan and to administer. This need for collective activity is well illustrated by the unemployment problem. We now see it as absurd, for example, to appeal to individual self-reliance and initiative to cure the industrial situation in Great Britain, where two million find themselves unemployed. In this as in other cases it is obviously the total situation which calls for control. But if planned guidance is to be the order of the day, what instrumentalities shall have it in charge? What interests shall be represented? Where shall be the locus of final authority? These are questions in which the problems of social control come to clearest focus. Certain trends of innovation in control are already discernible—an increasing participation of the workers in management, as witnessed by the whole gamut of schemes working toward "industrial democracy" and the setting up of administrative machinery apart from the state. It is significant, for instance, that in most countries the proposals for reorganizing the basic industries no longer read in terms of bureaucratic state administration but in terms of independent bodies, such as economic councils composed variously of representatives of consumers, technicians and workers, which function autonomously, giving to local units an important share in administrative responsibility.

Nothing is more characteristic of the modern period than the vast multiplication of voluntary extragovernmental agencies for the control of special aspects of the environment. One has only to think of the committees, societies, corporations, associations, clubs, conferences, leagues, organizations, institutes, foundations and bureaus—all advocating control of some particular aspect of the environment—to see what a vast area is thus covered. Proposals and counter-proposals, advocacy and protest abound. Modern life is largely reflected in this diversity of organization—from leagues to make us "air minded" to societies for the promotion of Mothers' Day or for the establishment of modern accounting methods. A good deal of this agitation is of only passing value; much is canceled by counter-propaganda; but some of it, such as the birth control movement, has profound social significance. The basic fact in the modern situation is that the idea of control has become familiar. "We have attained," says John Dewey in his *Quest for Certainty* (New York 1929, p. 9), "at least subconsciously, a certain feeling of confidence; a feeling that control of the main conditions of fortune is, to an appreciable degree, passing into our own hands."

But what of the aims of control? Where is conscious planning to lead? Is this welter of controls moving toward some commonly accepted value? It seems that at present social control is under the domination of a number of scattered and disconnected objectives. Certain of these objectives are concrete and can easily be defined, such as the abolition of war, the elimination of inefficiency in its various forms, a higher standard of living for the lower levels of population. Beyond these specific ends, however, there are other goals more vague and yet discernible as motivating influences, concepts such as freedom, equality, the creation of more desirable human types or the enrichment of human life. These more shadowy objectives vary with time and place; society advances first under one banner and then another. But among these activities it is at present hard to find any coherent interrelation or any dominating purpose. Rather men are torn and distracted by the conflict of controls. Whether they can ever be in command of the total process is a difficult question. To achieve greater coherence society must have prophets, poets and artists to give a vivid sense of new values and a host of economists, engineers and technicians who will translate these values into specific measures.

HELEN EVERETT

See: SOCIETY; SOCIAL PROCESS; INSTITUTION; CUSTOM; CONVENTIONS, SOCIAL; CHANGE, SOCIAL; EVOLUTION, SOCIAL; INDIVIDUALISM; LAISSEZ FAIRE; COLLECTIVISM; RATIONALISM; SCIENCE; NATIONAL ECONOMIC PLANNING; PUBLIC WELFARE.

Consult: ON THE GENERAL SOCIOLOGICAL ASPECTS OF CONTROL: Ross, E. A., *Social Control* (New York 1901); Ward, Lester F., *Applied Sociology* (Boston 1906); Cooley, C. H., *Social Process* (New York 1918), and *Social Organization* (New York 1909) pt. vi; Hobhouse, L. T., *Mind in Evolution* (2nd ed. London 1915); American Sociological Society, "Social Control" in *Papers and Proceedings*, vol. xii (Chicago 1918); Lumley, F. E., *Means of Social Control* (New York 1925). ON THE CONTROL OF ECONOMIC DEVELOPMENT: *Current Economic Problems; a Series of Readings in the Control of Industrial Development*, ed. by Walton H. Hamilton (3rd ed.

Chicago 1928); Clark, J. M., *The Social Control of Business* (Chicago 1926); *The Trend of Economics*, ed. by R. G. Tugwell (New York 1924); Veblen, T. B., *The Theory of Business Enterprise* (New York 1904); Soule, G. H., *The Useful Art of Economics* (New York 1929); Keezer, D. M., and May, Stacy, *The Public Control of Business* (New York 1930); Commons, J. R., *The Legal Foundations of Capitalism* (New York 1924); Keynes, J. M., *The End of Laissez-Faire* (London 1926); Rathenau, Walter, *Die neue Gesellschaft* (Berlin 1919), tr. by Arthur Windham (London 1921); Merriam, C. E., *New Aspects of Politics* (Chicago 1925); Wells, H. G., *The Open Conspiracy* (rev. ed. London 1930). FOR SPECIFIC STUDIES OF CONTROL: Salter, J. A., *Allied Shipping Control: an Experiment in International Administration*, Carnegie Endowment for International Peace, Division of Economics and History, Economic and Social History of the World War, British series, vol. ii (Oxford 1921); Tugwell, R. G., "Experimental Control in Russian Industry" in *Political Science Quarterly*, vol. xliii (1928) 161–87; Lubin, Isador, and Everett, Helen, *The British Coal Dilemma* (New York 1927); Hamilton, W. H., and Wright, H. R., *A Way of Order for Bituminous Coal* (New York 1928).

CONVENTION, POLITICAL. As used here the term designates the system of delegate conventions which was devised in the United States more than a century ago for the making of party nominations and the adoption of party platforms. That system still survives in the national field and in some of the states; elsewhere it has given place to the direct primary. The European parties in developing an extra-parliamentary organization have resorted to conferences or congresses which resemble the American convention without discharging quite the same functions.

During the last decade of the eighteenth century, as the cleavage between Federalists and Republicans took shape, each party saw the importance of designating candidates in advance of an election. In local areas a meeting of the more prominent politicians sufficed. But in view of the difficulty of travel state wide nominations were entrusted to a legislative caucus; that is, to members of the legislature whom the party voters had already invested with a representative character. Similarly the presidential and vice presidential candidates were chosen by a congressional caucus. This system was well suited to a period of aristocratic leadership in politics. It gradually gave way, however, as the Republicans sought to offset the superior resources of their opponents in patronage and newspaper support by regimenting the voters and advancing to the attack in mass formation. Authority passed from the rich and the well born to the rank and file of party membership. First the county convention of elected delegates appeared. Then, as the democratic ferment of the twenties stimulated organization, the new principle spread to larger areas. Everywhere the state convention superseded the legislative caucus. The congressional caucus met for the last time in 1824; for the election of 1832 Anti-Masons, National Republicans and Democrats all held national conventions at Baltimore.

By the middle of the nineteenth century the parties had perfected a remarkable organization that lay quite outside the constitutional fabric of government. Its form was hierarchical. Based on the mass of party members, who chose delegates at the primaries, it rose like a pyramid through successive electoral areas from aldermanic district to nation. Each area had its special delegate convention. In the lower ranges the delegates were chosen directly by the rank and file of the party; the state convention, on the other hand, consisted of delegates from the county or assembly district conventions, which might themselves be two degrees removed from the popular vote. Delegates to these conventions were usually apportioned among the units of representation according to the party vote polled at the last election. Each state sent to the national convention as many delegates as it had votes in the electoral college; that is, one for each senator and representative in Congress. Beginning in 1852 in the case of the Democrats and in 1860 in the case of the Republicans the number was raised to two for each electoral vote. All of these delegates might be chosen by the state convention, or else four by it and two by each congressional district convention. The Republican party in the eighties adopted the latter method, which still prevails except in the face of contradictory state legislation; the Democratic party has always left the method of choice to be determined by state rules. The various parts of this elaborate nominating system became closely articulated; for the national machinery, which touched the supreme interest of the party in electing a president, pressed down on the local machinery and forced it into a common mold.

Although hailed as an instrument of democratic control the convention system did not fulfil anticipations. From the beginning abuses manifested themselves. This voluntary and extralegal system was much easier to manipulate than the caucus of public representatives had

been, and in the era of loose political morality that followed the Civil War professional politicians gained control of it and bent it to their corrupt and sinister ends. Since the abuses were flagrant, reform took a correspondingly drastic shape. Toward the end of the century a movement began which in the end, although less completely in the South than elsewhere, subjected party practise to legal regulation. The primary, upon which the whole edifice of conventions rested, was assimilated to the general election, with public officers in charge and with a secret ballot; the law even went so far as to fix the conditions of party membership; and to a certain extent the procedure of the conventions themselves was regulated.

These statutory guaranties might well have restored the prestige of an institution whose persistence for three quarters of a century seemed to establish a claim to popular regard. No time was allowed, however, to test their efficacy. A resurgence of Democratic fundamentalism brought forward new doctrines of political control. Beginning with the state wide mandatory laws of Wisconsin (1905) and Oregon (1910) the direct primary supplanted the delegate convention. There are today only four states in which the convention system stands intact: Connecticut, New Mexico, Rhode Island and Utah. In five others—Idaho, Indiana, Maryland, Michigan, New York—the state convention still survives; and in Iowa the convention is employed whenever the highest candidate for any office, state or local, receives less than 35 percent of the total primary vote.

For a time it seemed that the national convention would also disappear. In his message of December, 1913, President Wilson urged Congress to abolish it and substitute a national direct primary. Nothing came of that proposal; indeed, Congress is probably without constitutional power to effect the change. Meanwhile some of the states had sought to control the action of their delegates by means of presidential primary laws and thus to limit the convention's freedom of choice. By 1916 twenty-five states had enacted such laws. Enthusiasts believed that the convention would be reduced to the role of registering the votes of pledged delegates. Since that time, however, enthusiasm has cooled. The laws of five states have been repealed, the laws of two others held unconstitutional. The presidential primary can no longer be regarded as a menace to the discretionary power of the convention.

Not only has the national convention survived the tidal wave of direct primary legislation which swept over most of the states; it still conducts its business substantially without external control. There are limits to the possibilities of regulation by state law. Even if all the states—instead of the present minority—established preferential primaries and required delegates to support the local popular choice, the delegates would in ordinary circumstances recover complete liberty of action after the first few ballotings in the convention. The explanation lies in the phenomenon of the "favorite sons." If there is no "general favorite" or no "logical candidate" (like Woodrow Wilson in 1916 or Calvin Coolidge in 1924), then the race is open, state pride asserts itself and a governor in this state or a United States senator in that is groomed for the nomination. In bringing him forward the politicians may have no belief in his ultimate success. They may be scheming to desert him and sell out to one of the leading candidates should the convention become deadlocked. The best way to deadlock the convention is to block the path of the favorite sons of other states in the local primaries; opposition to a favorite son in his own state, furthermore, involves serious hazards to "foreign" contenders both because of the ill feeling that may be engendered and because of the chances of a defeat that would puncture the illusion of general popularity. The presidential primary has thus tended to multiply the number of candidates for the nomination. Consequently, it has made and can make no serious inroads upon the freedom of the convention in selecting the presidential candidate.

The Democratic and Republican conventions differ somewhat in composition and procedure. In 1928 there were 1100 Democratic and 1089 Republican delegates. The difference lies partly in the fact that the Republicans abandoned in 1913 the practise of apportioning delegates strictly on the basis of the electoral vote of each state. The old practise had involved scandal and complaint; for the delegates from the solid South, which is overwhelmingly Democratic, represented little more than coteries of office-holders. The present rule of apportionment, adopted in 1923, gives each state four delegates at large and one delegate from each congressional district; three additional delegates at large if the state cast its electoral vote for the last presidential candidate of the party; and one additional delegate from each district which

cast 10,000 Republican votes. The territories and outlying possessions send thirty-eight delegates to the Democratic convention, ten to the Republican. As to procedure two peculiarities of the Democratic rules deserve notice: the rule that requires a two-thirds vote for the nomination of the candidates and the unit rule. The latter provided originally that all the delegates of a state, if so instructed by the state convention, must cast a solid vote as determined by the majority of the delegation. The rule was modified in 1912. It no longer applies to delegates who are directly elected in congressional districts under a mandatory state law.

The functions of the national convention are threefold: it adopts the party platform, names the presidential and vice presidential candidates and elects the national committee. First of all, however, disputed claims to membership must be settled. A committee on credentials considers each contest in turn, reviews the evidence on which the national committee based its decisions in making out the provisional list (temporary roll) of delegates and reports to the convention for final action. It has happened, although rarely, that the seating of certain delegates has determined the character of the platform and of the nominations. Another committee drafts the platform. Upon controversial issues that divide the party it usually manages to bring factions together in support of a compromise formula; but if it fails, a minority report will be made and the rift in the party emphasized by debate and vote upon the floor of the convention. The emotions of the delegates themselves and of the vast audience in the galleries are less likely to be stirred by questions of policy than by the flamboyant nominating speeches and by the dramatic shifts and turns in the subsequent balloting. When the name of a popular candidate is announced or when some state delegation swings its whole vote to him, a wild paroxysm ensues. The so-called convulsion or epileptic fit may continue for an hour or more, only to be succeeded by a new demonstration still more noisy and sustained in favor of a rival candidate. These scenes of almost incredible disorder have little effect, however, upon the outcome. Developments which may seem fortuitous are really the result of shrewd calculation. Crack politicians direct operations from the privacy of committee rooms; they are constantly manoeuvring for advantage, conferring with the managers of rival candidates, negotiating alliances. At last the break comes. By virtue of some secret understanding one of the chief contenders suddenly flashes ahead to the nomination; or else a "dark horse" emerges, a man who has scarcely been mentioned (except among the initiated) as a presidential possibility and who has been kept in hiding until the right hour has struck. Delegation after delegation, weary of the prolonged deadlock, shifts its vote to him. The convention is stampeded. Such situations do occur. Yet in a survey of the last half century deadlocks and dark horses will not often be encountered. In fact, two times out of every three there has been a "logical candidate" whose victory on the first or second ballot could confidently be predicted.

When judged in the light of its important functions the national convention must seem utterly inadequate. It is an assemblage of self-seeking politicians rather than statesmen. With 2000 delegates and alternates and a mob of more than 10,000 spectators thirsting for excitement it is incapable of deliberation and responds to the will of dexterous wirepullers behind the scenes. Meeting for a few days and then dissolving it escapes all responsibility. Nevertheless, its persistence for almost a century indicates its adaptability to the political environment; and, further, in a country of such vast area and such economic diversity, where politics tends to become sectional, it stands out as the great national gathering of the party and fixes attention upon the ideal of national unity.

EDWARD MCCHESNEY SAIT

See: PARTIES, POLITICAL; PLATFORM, POLITICAL; CAUCUS; PRIMARIES, POLITICAL; CAMPAIGN, POLITICAL; ELECTIONS; MACHINE, POLITICAL.

Consult: Ostrogorsky, M. I., *La démocratie et l'organisation des partis politiques*, 2 vols. (Paris 1903), tr. by F. Clarke (New York 1902); Bryce, James, *The American Commonwealth*, 2 vols. (new ed. New York 1910) vol. ii, chs. lx, lxix–lxx; Sait, E. M., *American Parties and Elections* (New York 1927) chs. ix–x, xvii–xviii; Brooks, R. C., *Political Parties and Electoral Problems* (New York 1923) ch. x; Merriam, C. E., and Overacker, Louise, *Primary Elections* (rev. ed. Chicago 1928) chs. i, v, ix–x; Overacker, Louise, *The Presidential Primary* (New York 1926).

CONVENTIONS, SOCIAL. Conventions are rules or standards of conduct or behavior prescribing what is to be done or not to be done by the members of a given group or community. Conventions are differentiated from legal rules, moral precepts and fashions by the degree of obligation felt toward their fulfilment, the kind of feeling evoked by their violation, the form

of the sanctions whereby they are enforced, the generality or range of the persons or interests they affect and their degree of permanence. They are generally held to be less binding and authoritative than moral precepts and legal rules and are often criticized in the light of moral ideals. When a convention is disregarded or a *faux pas* committed, one feels uncomfortable and the chagrin may be momentarily very acute, but upon reflection it is recognized as a temporary disturbance not comparable with the feeling of remorse experienced when a moral rule is broken. With regard to enforcement conventions lack the coercive authority vested in the machinery of government which law possesses in modern society, but depend upon the sanctions and compulsions of public opinion. They are generally confined to groups or classes of people, and members of other classes are not as a rule expected to live up to them, although if possessed of prestige value they may inspire emulation. Legal and moral rules, on the other hand, apply more generally within given communities. Conventions, although variable when considered over long periods of time, are relatively more permanent than fashions.

Conventions are best understood as habits of thought or behavior which have become generalized and almost automatic in their operation. The more automatic an act the greater the difficulty experienced by one acting in opposition to it, and a distinct sense of discomfort is felt when one observes others acting in a manner contrary to one's fixed modes of behavior. In addition to these factors, which are operative in all routine behavior and may prove susceptible of explanation in physiological terms, there are other psychological factors involved arising out of what may be called the normative aspects of conventions. In the sentiments, or groups of emotional dispositions, associated with conventions and condemning their breach there is present a rational element, the recognition, however vague, of the importance of order and the necessity of knowing what to expect and what is expected in given situations. Around these cluster the social feelings and impulses which give conventions their compelling force. In addition, all rules of action express attempts at adaptation to the needs of social life, efforts at mutual adjustment; and each convention is charged with the feelings which have inspired the adjustments which it crystallizes. When a particular convention is violated, the shock experienced expresses partly respect for what is customary and partly a sense of maladjustment connected with the particular situation.

The mode of origination of conventions may best be analyzed by considering how they change. They appear to change by a process of crumbling and partial attrition; minute changes are made until at last complete transformation has been effected. So it may be with origins. The efforts at adaptation made by individuals are gradually generalized or in cases of clash and conflict are mutually modified until a common line of behavior is established.

The explanation of the diffusion of conventions in terms of a postulated inborn tendency to imitate must be received with caution. Distinction must be made between cases in which the acts imitated are themselves spontaneous and cases in which acts new to the individual imitating are provoked by his observation of their performance by others.

The value of conventions is most easily observed in types of conventionalization which have no moral reference. Thus, for example, language is a system of conventional signs and all sciences employ symbols which facilitate thought and communication. In these cases convention secures a correspondence or concordance of representation and interpretation which is of the highest utility in the development of cooperative effort. In a similar manner the existence of well understood rules of behavior facilitates social intercourse and serves to make social life run more smoothly. The abuses and dangers of conventions arise from the tendency of habits to become automatic and to thwart new or spontaneous tendencies. Conventions arise out of an indefinite number of interactions between individuals and contain elements of spontaneity and even of inspiration, but once formed they tend to become fixed grooves confining and controlling future action and thought. Societies ruled by conventions are apt to resist new ideals or, when forced to make terms with them, to transform them beyond recognition. The originality and spontaneity of individuals is thus smothered in tradition, and their ideals are decked out with conventions which take all the life out of them. If all men and all classes of men had the same interests and were equal in discernment and if circumstances never changed, conventions would afford an automatic solution to the problems of social life. In fact, however, the process

of adjustment involves conflict between classes with divergent interests and men of unequal critical powers, and the resulting convention is not always that form of behavior which would be best from the point of view of society as a whole. In this way conventions are made to serve as instruments of snobbery and class prestige and become serious obstacles to new adjustments.

MORRIS GINSBERG

See: MORALS; FASHION; CUSTOM; TRADITION; PUBLIC OPINION; CONFORMITY; COERCION; STANDARDS OF LIVING; CLASS; CHANGE, SOCIAL.

Consult: Westermarck, E. A., *The Origin and Development of Moral Ideas*, 2 vols. (2nd ed. London 1912–17); Hobhouse, L. T., *Social Development* (London 1924); Dunlap, Knight, *Social Psychology* (Baltimore 1925) p. 240–45; Tarde, Gabriel, *Les lois de l'imitation* (2nd ed. Paris 1895), tr. by E. C. Parsons (New York 1903); Ginsberg, Morris, *The Psychology of Society* (London 1921); Parsons, E. C., *Fear and Conventionality* (New York 1914); Ross, E. A., *Principles of Sociology* (rev. ed. New York 1930) ch. li; Sumner, W. G., *Folkways* (Boston 1907) ch. xi.

CONVERSION, RELIGIOUS. Conversion applies to a marked "change of heart," an emotional regeneration, typically sudden in its advent or consummation, affecting radically the outlook, the inner adjustment and the habits of life of an individual. The standard reference of the term is to a religious experience. It may take the form of a conviction of a revelation, of communion with the divine, of assurance of salvation; its psychological effect is a sense of spiritual ease and security, a resolution of conflict, a singleness of devotion to an accepted principle, a surrender of self to a higher cause, a delightful sense of reconciliation. The need of conversion arises from, or is strengthened by, a troubled feeling of sin or guilt, of unworthiness and incompleteness. A deep measure of actual sinfulness is not necessary to the experience; indeed, the exaggerated feeling of guilt for slight deviations from the moral code is often characteristic of those who have been converted. On the other hand, recoil from a life of indulgence is no less common as a phase of conversion. The conversion of the drunkard, typically by a religious appeal but at times through emphasis on a moral issue only, is of the same order. Such cases warrant the extension of the term to any reformation that reclaims the convert from a life of crime, from antisocial attitudes—a right about face in the central personal life.

Conversion is most important as a chapter in the history and psychology of religion. Among primitive peoples few phenomena of the type associated with conversion have been observed. This is undoubtedly due largely to the fact that religious acts and beliefs are so intimately merged with all the major life interests that group membership implies undeviating participation in the cult with no occasion for any sort of assumption of new religious loyalties. In fact, it can be said that until the development of great historical religions the individual's faith was so deeply imbedded in the mores that he had little choice in the matter of belief. Conversion as a theological doctrine is thus comparatively recent and has only developed gradually to meet the problem of the skeptical doubts and even backslidings in faith consequent upon increased contacts with other peoples and other religions. Thus in the Old Testament conversion meant a return to the fold, or "realizing one's own nature again," and was to be attested significantly by a return of material prosperity to the faithful. In Christian thought generally conversion was conceived to be the chief object of the church. This meant to the Catholic complete submission to the church and to Protestant sects redemption of each soul out of his original sin by divine grace. Evangelicalism has resulted in an even greater emphasis on conversion. Among typical proselyting religions conversion has been made extremely easy, so that it is possible, for example, for entire tribes to be converted to Hinduism by the use of flimsy historical fictions. All that is required of a man in order to become affiliated with Mohammedan sects is the repetition of the *schahadah* formula, "There is no God but Allah and Mohammed is his prophet." In most of the Buddhist sects, however, conversion takes on more of an imperceptible and passive character, due largely to the philosophical and rational nature of the religion.

This experience of a rapid and striking change in the orientation of belief has been most often associated with religion, but a very similar process is to be found in social reform movements of certain types. Radicals, reformers, prophets, new sects, humanitarian cults, idealistic communities, withdrawals from the accepted modes of life and an array of esoteric movements proceed with some emphasis on conversion and with use of the propaganda that makes recruits to a special faith. A specifically religious factor is usually present even in such movements, which are characteristically pervaded by a messianic, revivalist, revelatory pioneering spirit and marked by dramatic and

fantastic episodes of conversion among leaders and followers alike.

Intrinsically conversion is an individual experience; certainly it has been such in the case of the great converts, especially those who upon such commanding compulsion have founded a religion or entered upon a sanctified life. Yet many conversions result from the influence of tradition and example, from knowledge of the experience of others and from direct social pressure on the part of organized faiths. Thus conversion is most common among faiths which emphasize the value of the experience and are organized to incite it through revivals or other evangelical techniques. Under such conditions the phenomenon passes into the orbit of the crowd appeal, the contagion of numbers and the accompanying mass excitement. Yet, by whatever means conversion takes place, the individual susceptibility to the experience remains decisive.

Conversion is predominantly a phenomenon of adolescence. A recent survey by E. T. Clark, *The Psychology of Religious Awakening* (New York 1929), bears out the conclusions derived from general observation. It indicates that the average age of those who experience the change as a crisis is about seventeen, but it is lower by three or four years if milder types of emotional stimulation are included in the definition. About 57.7 percent of the men and 71 percent of the women studied experienced only a gradual growth in the religious life; only about 6.7 percent passed through a critical or acute stage of conversion. There were marked group and sex differences, however; thus among Negroes acute conversion was experienced by 25 percent of all those studied and in the total group it occurred in the case of 2.5 percent of the women and 14.6 percent of the men. A marked decline in the frequency of conversion in recent years is indicated by the fact that 35.8 percent of those over forty years of age recorded a critical conversion; interestingly enough the same proportion held for those of younger age groups who had been subject to a stern theological training. Rural communities where the older religious attitudes survive show three times as many who have experienced a crisis as compared with cities. Conversions have been to a large extent "typed by a theology which insisted upon them."

The immediate incentives to conversion vary; probably at the most youthful age social pressure dominates, at the pivotal age the sense of sin and fear play an increasing part, while later the motive shifts to the moral ideal of a righteous life. Conversion is most frequently a specific accompaniment of the adolescent storm and stress, of the distracted search for a goal or a haven of belief in a period characterized by a pervasive emotional unrest deeply colored by erotic yearning. Conversion precipitates and hastens the organization of the personality. Many individuals are immune to the experience, some through lack of sensibility to the invisible and the spiritual, others through temporary inhibitions which disappear later in life. James regarded as the psychological component of susceptibility to conversion the temperament with a large and potent subconscious life as opposed to those whose direction is dominantly conscious and reflective with meager margins for subconscious activity. The temperament favorable to conversion also favors automatisms in other directions. In marked instances the phenomenon is definitely hypnotic, allied to trance states, and may induce hallucinations and motor disturbance, convulsive or passively ecstatic. Moreover, the technique for producing automatic and hypnotic phenomena is similar to that employed in stimulated conversion. The existence of emotional waves during revivals indicates the contagious factor which must have been present in hysterical outbreaks and psychic manias of past ages as well as in those of modern times. Starbuck classified the converted into those proceeding more by self-direction, the "volitional" type, and those who yield wholly to emotional abandon, the type of "self-surrender." Both attitudes result in states of ecstacy or "unselfing." The analogy to faith cures, to mediumistic control, even to purging by way of psychoanalysis, is clear. A more recent writer, Schou, points out the pathological nature of some of the manifestations, such as that of the depression period preceding exaltation, particularly in the case of youthful subjects. The closeness of the analogy to the automatic states, mediumship and automatic revelation is increased by the often overlooked existence of a period of incubation, which makes the conversion less abrupt and sudden than it appears.

The value of conversion is variously appraised by adherents of different persuasions. The modern educational temper distinctly favors the more gradual growth as the more normal, with the avoidance of the intense experiences of conversion with their menace of hysterical and psychopathic development. There has been considerable difference of opinion as to the

permanence of conversion. Some hold that despite the frequency of backsliding changes in those who undergo the more critical experience are as enduring as in those who come to their convictions more gradually; others question whether there is a more marked change in the way of life of those who have been converted abruptly through stimulated excitement than in the case of those who attain their ease of mind and settled guidance by quieter, more gradual unfoldment. The general impression that the cruder forms of conversion are characteristic of those of lower mental levels is probably correct; on the other hand, it is well to recognize with James that "there are higher and lower limits set to each personal life," and that "a small man's salvation" will still be a great fact for him. One can thus endorse Emerson's view that even "poor Crump" no less than the most regal of characters is the better man for a sense of compunction.

JOSEPH JASTROW

See: RELIGION; BELIEF; RELIGIOUS INSTITUTIONS; PROSELYTISM; MISSIONS; REVIVALS, RELIGIOUS; COLLECTIVE BEHAVIOR; PERSONALITY; ABNORMAL PSYCHOLOGY.

Consult: James, William, *The Varieties of Religious Experience* (New York 1902); Starbuck, E. D., *The Psychology of Religion* (3rd ed. London 1911); Stratton, G. M., *Psychology of the Religious Life* (London 1911); Coe, G. A., *The Psychology of Religion*, University of Chicago, Publications in Religious Education (Chicago 1916); Leuba, J. H., *A Psychological Study of Religion* (New York 1912); Davenport, F. M., *Primitive Traits in Religious Revivals* (New York 1905); Dimond, S. G., *The Psychology of the Methodist Revival* (London 1926) chs. viii–x; Sanctis, Sante de, *La conversione religiosa* (Bologna 1924), tr. by Helen Augur (London 1927); Schou, H. J., *Religiösitet og sygelige sindstilstande* (2nd ed. Copenhagen 1924), tr. by W. W. Worster as *Religion and Morbid Mental States* (New York 1926); Clark, E. T., *The Psychology of Religious Awakening* (New York 1929).

CONVERSION OF DEBT. *See* PUBLIC DEBT.

CONVEYANCES. *See* LAND TRANSFER.

CONVICT LABOR. *See* PRISON LABOR.

CONVOY. *See* SEARCHES AND SEIZURES.

COOKE, JAY (1821–1905), American financier. Cooke accumulated his initial wealth as a partner of Philadelphia bankers whose employment he had entered as a clerk. In 1861 he established a banking house of his own. Soon after he worked out successfully popular methods of bond selling in support of the Union and was made sole private fiscal agent for a large part of the war and post-war issues. To raise the relatively heroic sums required he made extensive use of advertising, systematically cultivated the press and aimed directly at the classes which commonly did not invest, mingling the arguments of patriotism with those of thrifty security. Cooke's compensation, probably moderate as bankers' charges go, amounted in the aggregate to a comfortable fortune. By argument and example he aided in setting up the national banking system, which became a timely market for government securities, a feature not without appeal to a fiscal agent. Intimate past experience with the currency and solvency of state banks added to his enthusiasm. Involving himself later in land speculation and a connecting railroad to the lake head, Cooke became interested in the Northern Pacific. The popular technique and prestige of the war years were capitalized in raising funds for the transcontinental route. Unrealizable assets in the shape of construction advances contributed to the suspension of his chain of banking houses and precipitated the panic of 1873. Cooke retrieved his losses by a happy mining investment.

Cooke's personality was insistent and imperial. He was a shrewd economic analyst of political events, of which he kept himself intimately informed when they concerned him. He used such methods as the times demanded to secure authority for what he wished to do. His mind was clear as to the more personal benefits likely to result from campaign contributions. A genial hospitality served him as a useful instrument.

THOR HULTGREN

Consult: Oberholtzer, Ellis Paxson, *Jay Cooke, Financier of the Civil War*, 2 vols. (Philadelphia 1907); Smalley, Eugene V., *History of the Northern Pacific Railroad* (New York 1883).

COOLEY, CHARLES HORTON (1864–1929), American social philosopher. He was the son of Thomas M. Cooley, distinguished jurist and professor of law at the University of Michigan, where, as undergraduate, graduate student, instructor in economics and professor of sociology the younger Cooley spent his entire life.

Cooley was a shy, unobtrusive person handicapped by an impediment in speech and partial deafness. His lectures were filled with such quiet

phrases as "it seems to me" and "often I wonder"; his writing is of an almost classic simplicity quite free from academic pretentiousness. He did not dramatize issues or combat conventional creeds. He was more concerned with questions than with answers, with the starting point than the march of the argument. His attack was never direct; he was content to raise problems, present points of view and suggest leads; he trusted the mind of his reader or hearer to carry on to the practical result.

What he had to say too appeared very simple. Life is a single whole; if it is to be understood it is to be seen complete; if it is cut up it dies. Its meaning is to be found by attention to process. Men are born into communities; communities are made by men. The ideas and usages which make up the social order are interrelated and changing; they cannot be set down in mechanical formulae. Society is not an aggregation of individuals; the individual is not a part of a social organism. Society and the individual are inseparable, complements rather than antitheses, constantly remaking each other in an endless process of institutional change. This theme, with the varied detail of man's many conventions as accompaniment, runs through his trilogy on social theory. It was all very obvious—once Cooley had set it down.

Its elementary character makes Cooley's work of outstanding importance. It scraps as irrelevant or limits as narrowly useful a mass of professional erudition; the theory of value as an explanation of the economic order is an attempt "to tell time by the second hand of a watch." It reveals the industrial system as a more or less orderly complex of arrangements not different in kind from the conventions which make up the state. It invites realistic studies of man's institutions—the market, marriage, education, property, freedom, the press. It discards an outworn individualism and presents an adequate intellectual basis for a program of social control. It enables contemporary society to be studied and directed in terms of contemporary thought. Cooley concerned himself little, however, with passing causes or current reform. As an intellectual radical he was intent upon getting to the root of the matter. His work was to free the study of man in society from bondage to the intellectual system of time and place.

WALTON H. HAMILTON

Important works: *Human Nature and the Social Order* (New York 1902, rev. ed. 1922); *Social Organization* (New York 1909); *Social Process* (New York 1918); *Life and the Student* (New York 1927); *Sociological Theory and Social Research*, ed. by R. C. Angell (New York 1930).

Consult: Mead, G. H., "Cooley's Contribution to American Social Thought" in *American Journal of Sociology*, vol. xxxv (1930) 693–706; Angell, R. C., "Cooley's Heritage to Social Research" in *Social Forces*, vol. viii (1930) 340–47; Hamilton, Walton H., "Charles Horton Cooley" in *Social Forces*, vol. viii (1929–30) 183–87; Wood, A. E., "Charles Horton Cooley: an Appreciation" in *American Journal of Sociology*, vol. xxxv (1930) 707–17.

COOLEY, THOMAS McINTYRE (1824–98), American jurist. The appearance of Cooley's *Constitutional Limitations* in 1868 with its leading doctrine of implied constitutional limitations upon the legislative powers of the states, apart from the provisions of their written constitutions, marked the turning point in the history of American constitutionalism. The present wide scope of the doctrine of judicial review makes it easy to forget that originally it was only of narrow application. The federal constitution contained limitations upon the states only in such clauses as the contract clause, and the due process clauses of both the state and federal constitutions were regarded only as procedural safeguards. The conservative perceived that the doctrine of judicial review would be an inadequate defense against popular encroachment without a broadening of existing constitutional limitations; and some of the early judges like Paterson, Marshall, Chase, Kent and Story sought to find extraconstitutional limitations for the protection of vested rights by appealing to the "higher law" philosophy of the social compact and to natural and inalienable rights. These attempts were arrested, however, by the triumph of Jacksonian democracy, and until about the middle of the nineteenth century the state legislatures were virtually supreme. Their powers did not begin to be discredited until the panics of 1837 and 1857 brought into question their enormous expenditures for public improvements and their authorization of subsidies to the railroads.

It is significant that Cooley's *Constitutional Limitations* appeared shortly after the Civil War and in the very year of the adoption of the Fourteenth Amendment. The war, undermining the powers of the states, had strengthened the conservative reaction. Cooley's was the first work to deal in a systematic manner with all the limitations resting upon the states; previous works on constitutional law had been concerned only with the federal constitution. Cooley, be-

lieving that written constitutions did not so much create new frames of government as embody the past political experience of a people, deduced his implied constitutional limitations from this background rather than from any notions of higher law, which indeed he expressly repudiated. But it is clear that he had merely discovered a more persuasive formula, simply taking the results of the early higher law cases to support it. His implied constitutional limitations, derived from such ideas as the separation of powers, checks and balances and constitutional government in general, have an extremely wide range: legislatures could not interfere with judicial functions; taxation could be lawful only for a public purpose and the power of eminent domain could be exercised only to take property for a public use; legislation could not be of a special or discriminatory character; and, above all, vested rights could not be divested even apart from the due process clauses of the state constitutions. Yet Cooley was in fact the first American text writer to engage upon an extended analysis of the concept of due process and to conceive it broadly as a bulwark against every arbitrary interference of government, thus preparing the way for the interpretation of the Fourteenth Amendment as it came to be accepted by the Supreme Court in the eighties. Cooley believed his conclusions to be justified by precedent, but his creative role is evident from his insistence, among other doctrines, that taxation must be for a public purpose, a rule clearly against the weight of existing authority but useful in checking the action of the state legislatures in favor of such private corporations as the railroads. The very variety of the state constitutions often led Cooley to disregard individual differences in favor of broad general principles. Moreover, his conservative emphasis upon property as opposed to personal rights came naturally to him as a product of the frontier. Born in a remote rural section of New York and emigrating to Michigan, he had despite the handicap of poverty and the lack of formal education succeeded in becoming judge of the Supreme Court of Michigan, a position he held for over twenty years.

In his later years Cooley played an important part in railroad regulation, especially as chairman of the Interstate Commerce Commission for the first four years of its history. During this period he dominated the commission and was largely responsible for turning it into a quasi-judicial body. He constantly sought for ruling principles of rate regulation and in some of his decisions and reports contributed to the theory of rate making.

But neither his judicial nor administrative services nor any of his later books can be compared in the importance of their effects with his *Constitutional Limitations*. In the decades after its publication it was the most frequently cited work in American constitutional law. Bryce submitted his *American Commonwealth* to Cooley for examination. It has been said, and probably without too much extravagance, that Cooley is as important in American as Coke is in English constitutional law. Cooley's doctrine of implied constitutional limitations must now seem startling if, indeed, it really remains comprehensible. But far from becoming obsolete it has become assimilated under the "rule of reason" in the extremely broad interpretation of the due process clause of the Fourteenth Amendment that now prevails.

WILLIAM SEAGLE

Important works: *A Treatise on the Constitutional Limitations Which Rest upon the Legislative Powers of the States of the American Union* (Boston 1868; 8th ed., 2 vols., 1927); *The Law of Taxation* (Chicago 1876; 4th ed. 1924); *A Treatise on the Law of Torts* (Chicago 1879; rev. and enlarged ed. by A. H. Throckmorton, Chicago 1930).

Consult: Haines, Charles Grove, *The Revival of Natural Law Concepts* (Cambridge, Mass. 1930) ch. v; Mott, R. L., *Due Process of Law* (Indianapolis 1926) ch. xi; Weeks, O. Douglas, "Some Political Ideas of Thomas McIntyre Cooley" in *Southwestern Political and Social Science Quarterly*, vol. vi (1925–26) 30–39; Knowlton, Jerome C., in *Michigan Law Review*, vol. v (1906–07) 309–25; Hutchins, H. B., in *Great American Lawyers*, ed. by W. D. Lewis, 8 vols. (Philadelphia 1907–09) vol. vii, p. 429–91; Rogers, H. W., in *Distinguished American Lawyers*, ed. by H. W. Scott (New York 1891) p. 205–34.

COOLIE LABOR. *See* CONTRACT LABOR.

COOPER, PETER (1791–1883), American manufacturer and philanthropist. Cooper amassed a large fortune in the manufacture of glue, isinglass and iron and by trading in railway stock. In 1830 he built from his own designs the first steam locomotive constructed in America. He invested large funds in the Atlantic cable project and was president of the North American Telegraph Company. He is best known for the establishment in New York in 1854 of the Cooper Union, still in operation, which was founded to provide young men and women with free practical and technical instruction. While a member of the New York Board of Aldermen he

advocated the introduction of paid police and fire forces. Believing that the economic hardships of the decade following the Civil War were primarily due to an unstable currency Cooper entered current politico-economic controversies and became the Greenback party's candidate for the presidency in 1876, advocating the stabilization of greenbacks by making them interchangeable with government bonds bearing an annual interest not exceeding 3.65 percent. He also hoped that by making bonds convertible at will into currency the government would be saved from the necessity of selling them abroad. He opposed the issue of banknotes, asserting that the right to issue currency should rest only in the hands of the national government. Despite the extensive disaffection throughout the country Cooper received only 81,700 votes, less than one percent of the total.

EDWARD BERMAN

Works: *Ideas for a Science of Good Government* (New York 1883).

Consult: Raymond, R. W., *Peter Cooper* (Boston 1901); Arcadian Club, *The Reception of Peter Cooper by the Arcadian Club* (New York 1874); *The Political and Financial Opinions of Peter Cooper; with an Autobiography of His Early Life*, ed. by J. C. Zachos (New York 1877).

COOPER, THOMAS (1759–1839), English-American publicist and educator. During the greater part of his life Cooper was a rather typical eighteenth century libertarian with a general intellectual outlook not unlike that of his friend Thomas Jefferson. After leaving Oxford he identified himself with the liberal school of English reformers and during the first years of the French Revolution his optimism was unbounded. Disheartened by the excesses of 1793 but still clinging to his democratic illusions he emigrated to Pennsylvania, where he exerted his unusual polemical skill in the service of the Jeffersonian Republicans. But the opportunity of observing at first hand the inner workings of the American party system served to convince him that democratic government was "not quite so perfect in practise as beautiful in theory." In reality, he was forced to conclude, capricious tyranny was as potential a danger under a pure democracy as under a monarchy or a privileged aristocracy. He abandoned active political life in 1811 and entered upon the rather stormy academic career which was to carry him nine years later to South Carolina College at Columbia. The extent of Cooper's reaction from his earlier rationalistic liberalism may be gauged by the role that he played in South Carolina, both as educator and polemist, during the period of transition (1820–30) from the broad abstract Jeffersonianism which hitherto had colored practically all southern ideology to the precise and highly refined realism of Calhoun, which was to serve as the doctrinal justification of the aggressive southern movement during the three decades preceding the Civil War. Jefferson with his physiocratic leanings had consistently defended the agrarian interests against the program of the Federalists. This tradition Cooper continued by his able and forceful attacks on the successors of the Federalists and what he considered their unconstitutional and economically unsound "American system." The Jeffersonian tradition of decentralization was carried to somewhat extreme lengths by Cooper when in 1827 as a protest against the activities of the industrialists and protectionists he sounded a novel and startling note by publicly calling into question the value of the Union. But on the other hand, he cut the ground from under the older Virginia system and prepared the way for the "South Carolina movement" by repudiating the philosophy of natural rights—the foundation not only of Jeffersonianism but of the entire liberal tradition, which Cooper himself had previously done so much to publicize. To Jefferson slavery was an obsolescent phenomenon, a contradiction destined soon to disappear. Cooper at the sacrifice of his earlier humanitarianism found for it an honorable place in the eternal scheme, and his realistic arguments are particularly significant as pioneer steps in the reorientation of the southern attitude toward the rapidly expanding institution. He was not, however, a systematic or original thinker and was overshadowed by Calhoun as the outstanding spokesman of southern interests. Cooper's remarkable fund and diversity of acquired knowledge as well as his enlightened views of education rank him high among early American educators. He did much to popularize the doctrines of the classical economists and at South Carolina College inaugurated a department of political economy—the second of its kind in the country. His vehement anticlericalism, which had involved him in endless controversy throughout his academic career, finally resulted in his resignation from the college in 1834.

EDWIN MIMS, JR.

Consult: Malone, D., *The Public Life of Thomas Cooper* (New Haven 1926), containing critical bibliography of Cooper's writings; Turner, J. R., *The Ricardian Rent*

Theory in Early American Economics (New York 1921) p. 53–59; Seligman, E. R. A., "The Early Teaching of Economics in the United States" in *Economic Essays Contributed in Honor of John Bates Clark* (New York 1927) p. 302–20.

COOPER, THOMAS (1805–92), English poet and agitator. Cooper, a self-educated man, the son of a dyer, became one of the principal literary figures of Chartism. Entering its ranks at Leicester in 1841, he became a leader of the "physical force" wing in the second great wave of Chartist agitation. He was arrested and sentenced to two years in Stafford jail for alleged inciting to riot and while in prison composed his best known work, *The Purgatory of Suicides* (London 1845; 3rd ed. 1853). His argument is developed by long colloquies among famous suicides from Lycurgus to Castlereagh, the dénouement representing a final conclave of all the characters as democratic equals. It was during his imprisonment that Cooper wrote much of the two volumes of sketches entitled *Wise Saws and Modern Instances* (London 1845), which contain some of the earliest descriptions of the terrible misery and starvation prevalent during the hungry forties, particularly in the great industrial centers. Cooper was also an influence in the field of popular education, to which cause his principal written contribution was *Eight Letters to the Young Men of the Working Classes* (London 1851), an advocacy of the only course then open to the lower orders, self-education. All these writings express the new spirit of working class consciousness and solidarity of which Chartism was an early manifestation. Converted from "secularism," he spent the latter part of his life writing and speaking on Christian evidences. His autobiography, *The Life of Thomas Cooper, Written by Himself* (London 1872; 4th ed. 1873), was the source of much of Kingsley's *Alton Locke*.

ROBERT J. CONKLIN

COOPERATION

GENERAL SURVEY ..... ELSIE GLÜCK
BRITISH EMPIRE
Consumers' Cooperation in Great Britain and Ireland ..... FRED HALL
Agricultural Cooperation ..... MARGARET DIGBY
Cooperation in India ..... VERA ANSTEY
Cooperation in Palestine ..... HARRY VITELES
GERMANY AND AUSTRIA
Consumers' Cooperation ..... THEODOR CASSAU
Credit Cooperation ..... ERNST GRÜNFELD
FRANCE
Consumers' Cooperation ..... CHARLES GIDE
Credit Cooperation ..... MICHEL AUGÉ-LARIBÉ
Agricultural Cooperation ..... MICHEL AUGÉ-LARIBÉ
BELGIUM ..... CHARLES GIDE
SWITZERLAND ..... MARGARET DIGBY
ITALY
Consumers' Cooperation ..... CHARLES GIDE
Credit Cooperation ..... ERNST GRÜNFELD
SCANDINAVIAN COUNTRIES ..... MARGARET DIGBY
RUSSIA
Consumers' Cooperation ..... EUGENE M. KAYDEN
Credit Cooperation ..... A. N. ANTSIFEROV
Agricultural Cooperation ..... MARGARET DIGBY
SUCCESSION STATES AND BALKAN COUNTRIES ..... MARGARET DIGBY
UNITED STATES AND CANADA
Consumers' Cooperation ..... ALBERT SONNICHSEN
Credit Cooperation ..... ROY F. BERGENGREN
JAPAN ..... K. OGATA

GENERAL SURVEY. When around 1820 Robert Owen advanced the concept of cooperation as the basis of a new social and economic order he contemplated something far more purposive and conscious than the involuntary and formless cooperation which is coextensive with society it-

self, and which in Owen's day was being further enforced by the ramifications of the industrial revolution. He opposed cooperation to the principles of laissez faire and competition as a regulating device through which individual profit seeking could be made to serve a common good. Owen did not hesitate to suggest the setting up of a community which would be isolated and self-sufficient in its economic and social activities. In similar fashion Fourier, in his use of the term association, stressed a purposive rather than a haphazard or involuntary association.

The proposals of these two precursors of the cooperative movement bear a far greater resemblance to the communistic colonies which preceded and followed them than to the working class cooperative movements which sprang up partly out of the impulse given by their ideologies. Two important contributions were, however, made by them. The first was the complete ignoring of the political state as the instrument of change, and the second was the principle of voluntary grouping for the purpose of self-employment as well as self-government.

Within a generation, however, as the power of private enterprise and the capitalistic system grew to such an extent that individual efforts to stem its current seemed futile, another type of cooperation, which had an integral association with the political state, was brought forth as a revolutionary program for the large masses of the urbanized industrial population. Thus in France the plan of Louis Blanc for cooperative workshops to be financed at the outset by the state had a considerable appeal. In Germany, still later, the socialism of Lassalle looked to the state as the instrument for the setting up of cooperative workshops.

The failure of revolutionary uprisings and the disastrous experiment with the *ateliers nationaux* in France during the Revolution of 1848 caused a return to the program of economic action through self-help, in which trade unionism and the establishment of voluntary cooperatives played at various times complementary and rival roles. In France Buchez advocated the cooperative workshops, but this time on a voluntary basis without the authority of the state, and gave the impulse to a movement for producers' cooperation which was taken up by the working classes, by philanthropic employers such as Godin and Leclaire and in England by the Christian Socialists. Even further removed from a revolutionary concept of cooperation were the plans of the Germans, Victor Aime Huber, Eduard Pfeiffer, Hermann Schulze-Delitzsch and F. W. Raiffeisen, who visualized the cooperative organization operating within the existing system as a protective device through self-help for those in the lower middle and working classes.

Meanwhile, beginning in the late forties in England and somewhat later on the continent, cooperative organizations of various types arose among the urban and rural masses. Some of these developed spontaneously partly as a result of the impulses given by ideologies and leaders or else were closely affiliated with socialist and other working class movements; still others were sponsored by governments and by the Catholic church. The industrial workers of England, particularly in the textile centers, began with the Owenite concept of self-employment in workshops for which the cooperative store was to furnish capital and built up a vast distributive store movement copied by the workers of France, Switzerland and the Scandinavian countries. Germany became the birthplace of the credit movement, primarily for agricultural communities, although it also served tradesmen, small manufacturers and skilled artisans with credit for production and consumption needs. Agricultural cooperative organizations of other than the credit type for marketing the produce of farmers, for purchasing equipment and fertilizers and for the manufacture of dairy products appeared in Europe, the United States and the British overseas dominions. France was outstanding in its development of the cooperative workshop movement, which spread to England and the United States, where, however, it did not survive the inroads of large scale industrialization.

In the minds of the leaders of most of these movements there was no necessary conflict between the various forms of cooperatives. So far as the internal organization of the associations themselves was concerned, the term cooperative had some basis in common practises: voting was on the principle of individual membership rather than of stock held; membership was open; dividends on capital were fixed or limited; occasionally share holdings were limited; provisions were made for the return of surplus to the members on the basis of patronage, a fraction of this surplus being retained usually in a common fund for the furtherance of the ends of the cooperative organization. In some of the agricultural marketing associations there are

additional clauses usually providing that as regards the product concerned the member is to do business only through his association. Thus competition between members is modified or eliminated, and the profit making motive is subordinated to advance the general good. These common attributes form the basis for the special cooperative legislation which distinguishes the cooperative association from the ordinary commercial enterprise. Most of the organizations also contemplate the elimination of the profit of the middleman—storekeeper, money lender, employer—especially when the superior bargaining position of the latter groups menaces the living standards of the groups so associated.

When the local and national cooperative federations were first formed they included all the types of associations mentioned above, and comprehensive federation took on international form in the International Cooperative Alliance founded in 1895 as a propaganda and advisory body. But economic and social developments, including the rise of socialistic movements, brought to the foreground in each country differences in point of view and of function which led to conflicts between the various types of cooperatives in their local spheres of operation and to splits within the national federation and the international body. Thus in England, as the cooperative workshops failed to take hold in industries requiring considerable capital and serving a general market, succeeding mainly in those industries which depended more on labor output than on capital, and as the quietly expanding consumers' movement through its wholesale society entered upon productive undertakings supplementing or competing with the cooperative workshops, the prestige which the producers' cooperative movement had held within the British Cooperative Union was shaken. Eventually the consumers' productive enterprises either replaced the cooperative workshops or absorbed them in all but certain industries; since both movements had a radical working class membership which agreed on the conscious use of cooperation as an instrument of social change, no split occurred within the union. About 1900, however, when the consumers' movement entered the field of agricultural production it encountered a well established conservative rural movement. Although the question of interrelationships between the two groups has led to no permanent split within the Cooperative Union, it has by no means been resolved and many of the rural bodies have kept aloof from the union. Where intertrading has developed, however, the agricultural societies become members of the consumers' wholesale societies, and a system of mutual benefit is thus developed, including the extension of credit facilities by the wholesale society's bank to the agricultural cooperatives.

In Germany the movement had originated in rural and urban communities and was marked by a mixture of agricultural, trading and manufacturing enterprises. It was a liberal, middle class and peasant movement. With the development of an urban proletariat in the nineties a consumers' movement, politically neutral but led by trade unionists with social democratic sympathies, came into being, and a split in the comprehensive national federation became inevitable. A similar evolution took place in Austria.

Conflicts occurred especially in some of the border line processes between consumption and production, as for instance when both consumers' and agricultural societies sought to operate plants for the manufacture of butter and cheese, when agricultural associations opened their own markets in town and so on. There ensued the usual clash between seller and purchaser, aggravated by the differences in approach of the peasant class and the urban proletariat. The former saw in the consumers' societies merely the urban buyer who sought to reduce prices without regard for the producers' costs and risks; the consumers' societies, on the other hand, saw in the emphasis on price merely a profit seeking motive of a group which had the potentialities of developing into a monopoly. In countries where the division between town and rural district was not so marked, as in the Scandinavian countries, these conflicts either did not arise or else were resolved by arrangements satisfactory to both groups: a joint wholesale society which acted as the agent for purchase of the producers' output and its sale to the consumers' societies or else membership of the individual within both types of society. This is especially possible in such countries as Hungary, where the consumers' movement is largely rural. The differences of occupation and of regional grouping were reinforced by differences of religion, of political and social outlook and, in the case of the movement in the pre-war Austro-Hungarian empire, of nationalistic minorities. When these differences assumed sufficient importance to be brought before the

national federations, however, the conflicts of interest became conflicts of fundamental approach in social attitude and resulted in the splitting off of the separate movements. This tendency reached even the International Cooperative Alliance in 1904 and resolved itself into a difference of point of view over the matter of state aid to the agricultural and credit cooperatives. Thereafter, the latter formed their own international body.

The essential differences in function have led such students of cooperation as Eduard Jacob and M. I. Tugan-Baranovsky to attempt more fundamental classifications than those in common usage. It is obvious that the classification into consumers' distributive, agricultural, credit and producers' cooperation adopted by the International Cooperative Alliance is at times an artificial one, since many of the credit societies, notably those in the United States, are mainly for immediate consumption needs, since consumers' societies engage in production and so on. The classification of the Horace Plunkett Foundation into cooperation for consumption and cooperation for production has the advantage of stressing the fundamental approach, but it does not exclude classificatory inconsistencies.

When, however, cooperative trade like ordinary commercial trade became more international in scope, a new evaluation of cooperative interrelations, which again stressed common characteristics rather than distinctions, was made necessary. As early as 1913 Heinrich Kaufmann of the German consumers' movement suggested to the International Cooperative Alliance that international relations between the producers' and consumers' societies be established not only for propaganda but for actual trading and financing processes. An international wholesale society and a committee on international banking were created by the alliance in 1921 but have functioned mainly only for advisory purposes. Subsequently at its initiative the League of Nations and the International Labour Office made studies of the extent and nature of international cooperative organizations and of their trading relations. In the meanwhile, however, the British consumers' movement, which is necessarily a large importer of food and clothing stuffs, established trading relations with the agricultural cooperatives of the overseas dominions and with other countries, particularly Russia. It set up international cooperative export bodies, financing them and assuming a control in them as copartners. Thus in 1921 it participated in the formation of, advanced credit to, and achieved representation on, the New Zealand Producers' Association and the Overseas Farmers' Cooperative Federations. The English wholesale society and its bank are important copartners as well with the Russian export cooperative, Exportkhleb, in the Russo-British Grain Export Company, established in 1923. The Austrian consumers' movement has a similar permanent organization, the Ratao, for dealing with the Russian export cooperative. In addition to these specially created agencies the English cooperative wholesale without setting up any new machinery deals with the wholesales and the cooperatives of other agricultural countries, purchasing all the exportable produce of the Finnish cooperatives, half of its butter supply through the Danish cooperatives and so on. The cooperative wholesales of the four Scandinavian cooperatives have set up a joint wholesale society which purchases for them from industrialized countries and has extensive intertrading relations with the British cooperative wholesale.

The creation of a genuinely international cooperative wholesale, interrelated with an international cooperative bank, is now being much discussed in cooperative circles. Such an agency would carry on in organized fashion the now haphazard intertrading of cooperatives; it would by acting as agent remove the difficulties which arise when the purchaser and agent are one, as they are at the present time in international cooperative trade. It would dispose of the surpluses of the producers' organizations and provide a new membership for the manufacturing enterprises of the consumers' societies; it might set up productive enterprises in those commodities which require more capital than is available for a national enterprise or the demand for which in a single country is not large enough to warrant cooperative production; or it might set up productive enterprises in countries where no cooperatives as yet exist, as the English wholesale society set up its own tea plantations in Ceylon and elsewhere. Such a type of enterprise carries with it of course the risks of penetration of foreign capital and its concomitant exploitation of native labor. As a result of this tendency there may evolve a new union of cooperative forces based on common economic interests rather more than on a common ideology.

A critical survey of the cooperative movement raises certain questions, however, concerning its

effectiveness first as an economic enterprise existing side by side with ordinary commercial enterprises and secondly as a rival form of social and economic organization. The industries and services in which capitalistic enterprise is of the greatest significance and power—the fuel, light, power and transport industries and banking services, for example—have hardly been touched by the movement. It is true that in Germany agricultural cooperatives and in Belgium and Austria "cooperative public boards" have entered these fields, that elsewhere on the continent housing has become a public utility of a semicooperative nature and that the cooperative organizations have entered the banking and insurance business. But their expansion in these fields is thus far infinitesimal compared with capitalistic expansion; they remain powerful bargaining factors mainly in the provision of foodstuffs and, to a far smaller extent, clothing. Even in England the productive enterprises have not expanded sufficiently to supply a large proportion of the needs of the members. Even less satisfactory is their solution of the labor problem. The old ideal of self-employment is obviously impossible in an enterprise which has a membership of six million and a working force of a quarter of a million, and although working conditions for this group are equal to or above those of the ordinary competitive enterprises, the cooperative enterprise is not in a position to depart widely from prevailing standards.

Critics of the movement stress the fact that the only instances in which the movement has kept its ideological fervor and has represented a new economic and social order have been in those countries in which it is linked up with other movements—the trade union movement and the Labour party of Great Britain, the folk school movement of Denmark, the socialism of Belgium and, even more decisively, the communism of Russia. Thus its claim to a sphere of operation outside the political grouping and to independence or superiority over other forms or methods of social transformation is challenged. Where no such connection has existed the movement has no permanent hold, as in the United States, or else its sphere of operation is restricted to merely ameliorative or limited reforms.

Nevertheless, in spite of these criticisms and in spite of the differences existing within the movement itself the cooperative organizations, including seventy to eighty million members in thirty-six countries, constitute a challenge to capitalistic enterprise run solely for profit and to the claims for replacement of the latter by a political state. In spite of its compromises, its lack of revolutionary fervor, it remains a significant movement from within the rank and file of the producing class itself for self-help and self-development in various economic activities. What it has lost in comparison with the intensity of cooperative effort planned for Owen's "home colony of united interests" it has perhaps gained in an expansion of national and international scope.

ELSIE GLÜCK

BRITISH EMPIRE. *Consumers' Cooperation in Great Britain and Ireland.* Consumers' cooperation as a completely voluntary grouping unaided by philanthropy or the state had its origins in Great Britain and has attained a higher degree of development there than in any other country. The present movement dates back to the founding of the Rochdale Equitable Pioneers' Society in 1844, although in Great Britain as in other countries consumers' cooperative experiments, which have not been without influence upon later developments, preceded the Rochdale society. As early as 1767 through philanthropic efforts advances of money were made to the poor to build mills for grinding wheat or to finance bulk purchases of consumption needs. In 1769 a genuine friendly society in Scotland, the Fenwick Weavers' Society, agreed that funds of the society should be employed for the purchase of victuals to be sold for the benefit of its members, and other friendly societies were engaged in the purchase of wheat for their members. A vital impetus to the cooperative movement was undoubtedly given in the twenties by Robert Owen, despite the difficulty of disentangling consumers' cooperation from the other and wider objects of the collectivist societies which he and his followers advocated and the fact that he never formulated a step by step scheme for attaining consumers' control over industry. Another noteworthy influence was that of Dr. William King of Brighton, who saw the possibilities of expansion in the existing cooperative societies. His magazine, the *Cooperator*, founded in 1828, was widely read by working men and others seeking a way out of the social chaos of the time and influenced the establishment of many cooperative societies. Although during the thirties there were probably about 350 societies in existence, by 1844 most of them had failed. In some societies the provision that profits were to be used for the acquisition of land for the

setting up of communistic experiments made benefits too remote; in others the practise of distributing profits according to capital destroyed the cooperative principle; others were too small to be economical, were badly managed or were served by dishonest officials at a time when the law was not well adapted for collective trading organizations and property was vested in trustees.

The ideals of self-employment and the establishment of a "home colony of united interests," far from being absent from the minds of the Rochdale Pioneers, were probably the goals for which trading stores were to serve as the immediate mechanism and provider of capital. It is doubtful whether the Pioneers possessed the concept of a society based on the organization of consumption needs. The sound trading principles upon which their stores were founded, however, led to an unforeseen expansion and dominance of the distributive unit of cooperation, even though for many years the outstanding leaders of the cooperative movement—Holyoake, Neale and others—looked forward to the cooperative workshops for the attainment of the broader aims of social reconstruction.

The sound trading principles of the Rochdale Pioneers proceeded perhaps unintentionally from the broader aim of abolishing profit and establishing equality of status, although the distributive society was not recognized as the direct instrument of its operation. Thus the device of allowing but one vote to a member, irrespective of capital holding or trade, fulfils the latter aim. The practise of charging current local prices and then returning profits to consumers on the basis of their purchases—the introduction of which is attributed to Charles Howarth but which appeared earlier in the thought of the Owenite Alexander Campbell—might be cited as an example of the way in which the ordinary profit making mechanism can be used for the abolition of profit. Just weights and pure goods in trade and the realistic endowment of education and propaganda through a fixed percentage, usually 2.5 percent of surplus, reinforced the fundamental goals of cooperation.

The successful outcome of the initial application of these principles and practises led to the establishment in the fifties of many societies along similar lines, not necessarily possessed, however, of the fundamental ideology of the Rochdale Pioneers. The recognition of the necessity for special legislation to govern this new type of enterprise was embodied in the Industrial and Provident Societies Act of 1852. This legislation as subsequently amended not only set forth provisions as to membership and limitation on share holdings but provided for public auditing by the registrar of friendly societies, permitted limited liability and exempted the societies from certain types of taxation applicable to ordinary commercial projects. By 1863 the English societies and by 1868 the Scottish societies had felt the need for establishing a wholesale organization for joint purchasing of commodities. In 1869 there was established the British Cooperative Union, a non-trading federation, which includes not only distributive but also producers', insurance and "special" cooperative societies as well as their respective federations and wholesales.

In this creation of national federations and of wholesale societies, as well as in the gradual undertaking by the wholesale organizations of production both in manufacturing and agriculture, the British movement set the precedent for consumers' cooperation in other countries. It is outstanding, however, in the rapidity and extensiveness of its development as manifested by its large membership and its unusually extensive trading and producing enterprises, in the establishment of international agencies for joint trading relations with the cooperatives of other countries, and is unique in the creation of a political body, the Cooperative party, founded in 1917 as a result of alleged discriminations against the consumers' societies, to send representatives to Parliament in order to protect its interests. This development was gradual and was based not so much on a theory of the role of the consumers' societies as on the creation of agencies to meet specific needs and emergencies as they arose. Only when in the course of this expansion the consumers' movement came into conflict with cooperative workshops on the one hand and with the trade unions representing its employees on the other, did a conscious social philosophy evolve, especially under the leadership of J. T. W. Mitchell, in which the economic organization of society through consumer control was visualized as a means of social transformation.

In 1001 the consumers' movement in Great Britain and Ireland had a membership of 1,783,489, or 4.3 percent of the total population; in 1929 the membership had risen to 6,168,994, or over 10 percent of the population, and represented the heads of between one half and one third of all of the families in Great Britain and

Ireland. In 1929 this membership was organized in 1234 local societies with a share capital amounting to £106,565,000 and a retail trade for the year of £216,967,000. The societies are grouped into two wholesales, the English Co-operative Wholesale Society, which at the end of 1929 included 1113 of the primary societies, and the Scottish Cooperative Wholesale Society, which included 253. The share capital of the former amounted to over £8,000,000, its loan capital (including its banking department) to £52,173,000 and its annual trade to over £90,000,000; the corresponding figures for the Scottish society were share capital £1,649,000, loan capital £6,465,000 and trade £18,352,766. The two wholesales united in 1923 into what is now known as the English and Scottish Joint Cooperative Wholesale Society, Ltd., for the purposes of jointly importing tea and operating tea plantations in Ceylon and India, for importing and manufacturing cocoa and chocolate and for directing the Cooperative Insurance Society, which had been established as an independent society in 1867. In 1929 the joint wholesale had a trade of £8,810,000 and the insurance cooperative had assets amounting to over £10,000,000.

Production in manufacturing and agriculture by consumers' organizations is carried on by the retail societies and their local federations and by the two wholesales and their joint body. Thus in 1929 the retail societies produced goods to the value of £36,806,000 and the two wholesales to the value of £37,139,000. The production of the joint wholesale was mainly carried on outside of Great Britain. These productive enterprises were mainly for the manufacture of textiles and clothing and the processing of food products. The wholesales, for example, represent the largest flour milling concern in Great Britain and account for perhaps one fifth of all wheat ground there. They also manufacture soap, furniture and machinery, and the English wholesale operates a coal mine, fruit and dairy farms in Great Britain and a wheat farm in Canada.

Although the British consumers' movement has established some agricultural productive enterprises it depends to a large measure of course on imports of foodstuffs from other countries. The British wholesales have played a significant part in the building up of cooperative relations with the Canadian, Scandinavian, Russian and Australian agricultural cooperatives. Its extensive banking transactions have led the English wholesale society to the establishment of its own banking department with headquarters in Manchester and branches elsewhere. This has served other cooperative organizations, trade unions and friendly societies as well.

These enterprises of the consumers' movement have made it a large employer of labor. In 1929 the retail societies employed 175,666 workers, the English wholesale 40,485 workers and the Scottish wholesale 10,459, a total of 226,610, almost double the number employed in 1913. The largest portion of these workers are in the distributive section of the societies and prior to the World War were but poorly organized into trade unions. Since the war, especially with the increasingly close relationship between the trade unions and the cooperatives, whose memberships are drawn from the same groups, trade unionism among cooperative employees has increased, until now about 70 percent of the workers in the consumers' cooperatives are organized. A trade union of cooperative administrative officials has also been formed. Because of the fact that the shop assistants of commercial enterprises are generally but poorly organized it has been difficult at times for the cooperatives to meet trade union demands and yet maintain themselves on a footing of competitive equality with their commercial rivals. Strikes of cooperative workers are infrequent, but in the coal strike of 1926 the cooperative mine was included. There is a tendency to ask the workers to look for their gains as consumers and members of the constituent societies rather than as producers, but generally speaking wage and hours standards are higher than in commercial undertakings, and the distributive societies were among the first to introduce minimum wage regulations. The cooperatives have also been of service to the general trade union movement in furnishing provisions to strikers during the great industrial conflicts in Dublin in 1913, in the railway strike of 1919 and the miners' lockout of 1920.

The central federation of all cooperative societies in Great Britain is the British Cooperative Union, founded in 1869, which exists for advisory, propaganda and educational purposes and which bears much the same relation to its constituent societies as the British Trade Union Congress does to its member unions; it is controlled by an annual congress. Although it includes productive, supply and special cooperative societies, the distributive societies probably account for almost 98 percent of the membership. Under the direction of the union and in cooperation with the local societies educational activities were endowed to the extent of

£236,685 in 1929, enrolled 50,000 students and were of three types: technical for employees and officials, academic for active workers and general for the rank and file. In 1919 a Cooperative College was established in Manchester. The union also carries on extensive printing and publishing enterprises. It is with the union also that the women's and men's cooperative guilds and other semi-autonomous bodies are affiliated. The Women's Cooperative Guild, founded in 1883, numbered in 1929 almost 65,000 members. It is represented on the central board of the wholesale and on other bodies. It has been one of the most stimulating sources within the movement for the emphasis on the broader aspects of the movement, such as the labor problem, child welfare, peace propaganda, housing problems and the like, and is represented on the governing board of the Cooperative Union. Similarly affiliated also is the Cooperative party, which although organized on a voluntary basis only in 1917 includes almost half of the total membership of the societies and has nine representatives in Parliament, one of whom is a member of the Labour government. In Parliament these representatives have fought legislation leading to restraint of trade, have advocated amendments to the industrial and provident acts, have attempted to strengthen government regulation in auditing of business accounts, in pure food legislation and the like. The Cooperative party has on the whole harmonious relations with the Labour party, with which it has a non-competitive working arrangement. The consumers' societies and their wholesales and the union are all affiliated internationally with the International Cooperative Alliance.

Rapid as has been the growth of the consumers' cooperative movement it has before it the considerable task of arousing a greater degree of participation from its membership. The unusually large membership of single societies in Great Britain makes participation in self-government especially difficult. On the whole a comparatively small percentage of the member's income is spent in his cooperative store. On the other hand, the movement is more and more developing a literature and philosophy of its own, in which the underlying principles and practises of consumers' cooperation are conceived as being applicable to the production and distribution of all types of consumption needs. Affiliated bodies such as the Cooperative party, the Cooperative College and the Women's Cooperative Guild have done much to bring out these broader implications of consumers' cooperation.

FRED HALL

Agricultural Cooperation. Agricultural cooperation is as typical of the British overseas dominions and colonies as consumers' cooperation is of highly industrialized England. Generally it takes the form of cooperative marketing, most often for export purposes. In 1920 the principal marketing cooperatives of Australia, New Zealand and South Africa formed the Overseas Farmers' Co-operative Federations, Ltd., with offices in London. In 1929 its annual turnover was more than £9,000,000. It maintains friendly trading relations with the consumers' Cooperative Wholesale Society in England. Dairying cooperatives sprang up spontaneously in several dominions and in Ireland during the eighties and nineties of the last century. The sale of agricultural requirements is subsidiary except in England. In all of the countries concerned rapid development did not begin until 1900 and is still continuing. In tropical areas like Ceylon (with a cooperative membership of about 27,000) and Malaya, credit cooperation was the first form and is still predominant, although there is some tendency to introduce marketing organization. In the West Indies, however, notably in Jamaica, where banana exporting is important, marketing cooperatives have taken precedence over the credit unit.

The movement in England today, although not numerically imposing, includes about one fifth of all farmers. As early as 1867 Edward O. Greening, a leader in the general cooperative movement, founded a requirements society which appears to have been the pioneer of British agricultural cooperation. The Agricultural Organisation Society promoted the formation of societies from 1900 until its dissolution because of financial weakness in 1924. At present there is no central body. In 1930 there existed 230 societies with a membership of 67,526 and an annual turnover of nearly £10,000,000. Slightly less than half the societies, including many of the larger ones, are engaged in the sale of agricultural requirements, and to some extent they purchase members' grain. Nearly all the remainder are marketing societies, handling mainly dairy produce and to a lesser extent meats, livestock, wool, eggs or fruit. Hop marketing was attempted but failed. Despite difficulties in the post-war period these societies are now firmly established. The move-

ment in Wales closely resembles that in England, but the societies chiefly for geographical reasons are smaller and are more exclusively occupied with the supply of requirements. There are 92 societies affiliated with the Welsh Agricultural Organisation Society, which gives advice and undertakes propaganda. Both the English and the Welsh agricultural cooperatives through the encouragement of the agricultural department of the British Cooperative Union have established cooperative relations with the wholesale society of the consumers' movement, which in turn extends them credit facilities.

The movement in Scotland is distinct from that in England and in Wales. At the present time there are somewhat over 200 societies with a membership of about 15,000, all affiliated with the Scottish Agricultural Organisation Society, which has supervised the development of the movement since 1905. Nearly two thirds of these societies are situated in the highlands and islands and are on a very small scale. They include societies for the supply of agricultural and domestic requirements, for stock breeding and for the sale of eggs. The remaining societies are in the lowlands and on a larger scale, similar to that of the English societies. Supply of requirements is less prominent than in England, however, and amounts to only about £500,000. The most important business is the sale of dairy produce, in which over 60 societies are engaged; next in importance is the sale of wool, which is centralized in a single society, followed by the sale of meat and eggs. In 1927 the Scottish Milk Agency was formed to make a collective contract on behalf of its members for the sale of milk to retailers and to arrange for the disposal of surplus to cooperative creameries. It includes a large majority of the milk producers of the west of Scotland and Aberdeen and has an annual turnover in the neighborhood of £1,000,000. It maintains trading relations with the Scottish consumers' wholesale society. The turnover of other marketing operations is comparatively small.

The Irish movement dates from the formation of the Irish Agricultural Organisation Society in 1894 under the leadership of Sir Horace Plunkett, R. A. Anderson, Lord Monteagle and Father Finlay. In its first years many types of society—requirements, general purposes, credit and marketing—were set up, but although other varieties survive, dairy cooperation predominates today. Of about 500 societies with a membership of about 100,000 there are 274 dairy societies. In recent years they have been assisted by the action of the Free State government in buying out proprietary creameries and so creating a cooperative monopoly. During the last few years the majority of creameries have sold through a single cooperative exporting agency, which it is now proposed to reorganize as a national body. Dairies make loans to their members and tend to supplant specialized credit societies in their work. A centralized wholesale for the supply of requirements, the Irish Agricultural Wholesale Society, includes about 475 societies. The political division of the country into the Free State and Northern Ireland made necessary the formation of a separate center, the Ulster Organisation Society, in 1922.

Among the overseas dominions and colonies (excluding India, Canada and Palestine) South Africa shows the fullest development of state aid for agricultural cooperation in legislation and finance. A few marketing societies were started as early as 1905 after the first agricultural cooperative legislation, but rapid progress dates from the passage of the Cooperative Act of 1922. There are now 442 societies with a membership of 62,577. Most of them deal in requirements, but the larger societies are engaged in marketing, the principal commodities being, in order of importance, wool, wine, tobacco, maize, wheat, dairy produce, cotton, sugar cane, poultry, fruit. The local societies are in most cases organized in central commodity organizations (pools), which in turn are linked in the Federated Farmers' Cooperative Association of South Africa, formed in 1923 with 66 societies and a membership of 75,000, which supplies requirements and arranges the transference of produce for export to the Overseas Farmers' Cooperative Federations. The pools obtain loans from the Land Bank to make advance payments for produce to their members. The act makes it possible for marketing through a pool to be made compulsory when 75 percent of the producers, controlling 75 percent of the total product, are already members of cooperative societies; this has been done in the cases of tobacco and wine. The total turnover of marketing societies is about £10,000,000 and of requirements societies about £1,000,000.

Australian cooperation varies considerably from state to state. In Western Australia self-governing affiliated societies are served by the Westralian Farmers, founded in 1914, with 70 societies and 8000 members, which supplies requirements, markets wheat and performs other

wholesale services. The societies are also affiliated in a Cooperative Federation of Western Australia, which in addition to other services broadcasts through its own radio service current market prices. In South Australia the movement is centralized and is also concerned mainly with requirements and marketing on a smaller scale. Victoria was the pioneer of cooperative dairying societies now grouped in three federations, besides being the headquarters of the Australian Producers' Federation, which constitutes the link between its eleven affiliated cooperatives and the Overseas Farmers' Cooperative Federations. Queensland has initiated a system of compulsory marketing pools on cooperative lines, which covers a variety of produce; this system is being tried in New South Wales, where the cooperative handling of produce on voluntary lines has been in progress for some years. Cooperative activity in Tasmania is in its early stages but is making rapid progress. The total number of Australian agricultural societies is about 249, with 120,000 members.

In New Zealand agricultural cooperation is almost exclusively concerned with dairying and controls 80 percent of the total production but a considerably smaller percentage of the total exports of butter and cheese. The movement dates from 1890 and there are now about 250 dairies with a total membership of about 62,000. For export purposes they use either the New Zealand Producers' Association, which works in partnership with the English Cooperative Wholesale Society, or the Amalgamated Dairies, a joint stock company. The Producers' Association also imports requirements and dairy machinery. There are also exporting societies dealing in frozen meat and other commodities.

MARGARET DIGBY

Cooperation in India. Cooperation in India is chiefly confined to credit functions and with the exception of a few urban societies is rural. "Rural" India, however, comprises about 90 percent of the population, to be found in the 500,000 villages, still to a great extent self-sufficing, where it ekes out a bare subsistence. More than 73 percent of India's population is directly dependent upon agriculture. The significance of the cooperative movement is to be judged in terms of the magnitude of the problem of rural reconstruction in India. Although the Indian land systems are varied and complicated, by far the greater part of the land is cultivated by peasant tenants or owners in small and often scattered holdings. Pressure on the soil from the unusually high density of population (six to seven times that of the United States) has not yet been relieved either by any decline in the fertility of the population or by any marked tendency toward industrialization. Moreover, rural by-industries such as stock and dairy farming are either woefully neglected or are conducted by the non-agricultural handicraft castes. The improvements introduced in some areas by official efforts are partly counterbalanced elsewhere by a tendency toward exhaustion of the soil owing to customs such as that of the burning of dung cakes as domestic fuel, which starves the land of its natural manure, or toward a deterioration in cultivation resulting from the crushing burden of indebtedness. The cooperative movement strikes most effectively at the problem of indebtedness.

Indebtedness has been a feature of Indian life throughout the centuries. Peasant cultivators (ryots) have been forced to borrow from the village grain dealer (*banias*) and money lenders (*sahukars*), who also make advances to both rural and urban artisans in order to enable them to continue to produce. Borrowing for ceremonial purposes or to pay for litigation has also been a widespread practise. Increased political and economic security and increased total productivity during the period of British rule have tended to aggravate the problem partly because of increased population and partly because of the increase in both the demand and facilities for borrowing. The improvement of methods of cultivation requires capital; the increased value of land and more certain legal recovery increase the security that the ryot can offer. Increased indebtedness is thus not necessarily a sign of increased poverty; the poorest cannot and do not borrow. Indebtedness, however, is neither more prevalent nor heavier in India than in the West, but it has exceptionally disastrous consequences because of the unproductive nature and permanence of most debts. The high rates charged by money lenders, ranging from 30 to 60 percent in rural areas to as high as 100 or 200 percent in urban areas, render repayment almost impossible. Many ryots and artisans fall permanently into the clutches of the money lenders. In the case of the ryots the creditors do not usually take actual possession of their land but prefer to keep them in permanent subjection. Since factory operatives do not usually receive wages until they have been at work for several weeks they too are almost invariably in debt.

Attempts even before the British era to remedy these evils by furnishing *takavi* (state) loans and through laws against usury met with small success. Such legislation was not widely understood, and those most in need of credit had no security to offer. The failure of these efforts, the increasing urgency of the problem and the adoption by the government of a new attitude of responsibility for the welfare of the masses led at the end of the nineteenth century to a series of official inquiries and to a study of European methods.

The recommendations of a committee appointed in 1903 formed the basis of the Co-operative Credit Societies Act of 1904. This act provided for the founding of cooperative credit societies classed as rural or urban. The former were modeled on the German Raiffeisen banks, with unlimited liability and unpaid secretaries. The latter usually had limited liability and paid secretaries. Apart from a minority of societies with profit earning shares any idea of exclusiveness or profit was prevented by the allocation of any surplus earned to a reserve fund on an indivisible basis. A peculiar feature of the system was the appointment in each province of a registrar of cooperative societies, whose duty it is to organize and supervise the societies with the assistance of various subordinate officials. But except for a few minor financial concessions and loans subsequently repayable no actual financial aid was given by the government, a procedure recommended by students of credit cooperation.

The act laid down general principles only, leaving each province to issue its own rules and regulations. For instance, although regular audit is a statutory obligation, the method of audit varies. A primary credit society can be formed by not less than ten members, who select their own managing committee (*panchayat*) and secretary, draw up by-laws and then register the society. Capital is obtained from members and non-members' deposits, loans, accumulated reserves and occasionally from shares.

By 1911, 8177 societies with 403,318 members existed. The Act of 1912 authorized the formation of societies for purposes other than extension of credit and provided for the formation of unions of primary societies, of central banks and of coordinating associations, improvements which had been much needed. The former classification into rural and urban societies was dropped, and the new basis was according to the nature of the liability, but most rural societies retain unlimited liability. At about the same time loans, which had been originally granted only for productive purposes, were extended to include the expenses of cultivation or production, capital expenditure, the payment of land revenue, holding out for a better market, ceremonial expenses, repayment of old debts, redemption of mortgage and expenses of litigation.

Many new types of societies sprang up after 1912. In rural areas societies have been formed to purchase seeds, manures, implements and the like, to sell produce, to undertake the preparation of dairy, rice and cotton products, and for other purposes, such as the consolidation of holdings (a form very successful in the Punjab), irrigation, supply of bulls for breeding purposes and cattle insurance. In urban areas weavers, carpenters and other artisans have formed societies, usually for purchase or sale, and attempts, unsuccessful on the whole, have been made to establish consumers' societies. In both rural and urban areas societies have been founded for many miscellaneous purposes, such as thrift, housing, education, arbitration and public health. Some societies undertake more than one type of function. Although in general the idea has been to prevent caste exclusiveness, a considerable number of special societies have been organized among the depressed classes and hill tribes.

A number of federated unions and central institutions have also been established since 1912. Central banks, of which in 1927–28 there were 598 in India as a whole and 503 in British India, have been formed, usually by groups of public spirited men, who contribute share capital and business ability. These have won public confidence and attract deposits from non-members—partly, it is said, because of the erroneous idea that they are guaranteed by the government. In most provinces there is also a coordinating "apex" bank. Both the provincial and central banks have commercial dealings with the Imperial Bank of India, founded in 1921. Finally, there are a number of provincial central cooperative institutions, such as the Bombay Cooperative Institute and the Punjab Cooperative Union, which undertake propaganda and other work. In 1929 there was formed an All-Indian Provincial Cooperative Institutes' Association.

As a result of the report of a special committee in 1915, which pointed out the danger of permitting unauthorized overdues to increase, and the tendency on the part of many societies to depart from cooperative principles considerable re-

organization took place. The movement has on the whole progressed steadily. In 1927–28 there were in India as a whole 96,091 societies, with 3,780,173 members of primary societies and a working capital of 76.7 crores of rupees, equivalent to £57,525,000. British India accounted for 85 percent of the societies and membership and for over 90 percent of the working capital. No less than 83,250 of the societies were primary credit institutions. A recent estimate places the number of societies in 1930 at 110,000, with 4,500,000 members and a working capital of 100 crores of rupees, or £75,000,000.

Under the constitutional reforms of 1919 cooperation became a provincial "transferred subject," and two provinces, Bombay in 1925 and Burma in 1927, have already exercised their power of passing special provincial legislation. Unfortunately the transference of cooperation to ministers responsible to the provincial legislature has not yet given any great impetus to the cooperative movement because of financial stringency, which has acted as a severe brake on the promotion of so-called nation building projects.

The Royal Commission on Agriculture in India of 1928, in emphasizing the need for the education of both members and officials in cooperative principles, concluded that it was essential to retain official supervision and control. It pointed out the dangers arising from the grant of long term loans by ordinary credit societies depending mainly on short term funds and recommended the organization of special land mortgage banks, a number of which have subsequently been established under the existing cooperative law.

Despite its undoubted success in certain spheres and areas the cooperative movement is not yet on a thoroughly secure footing. Numbers and membership may continue to increase, although certain societies do little work and others are operating on an unsound financial basis or on a non-cooperative basis. Particularly dangerous are the accumulation of overdues, the creation of fictitious repayments and new loans, the fairly frequent embezzlement of funds by officials and the control of primary societies by money lenders in some areas. This necessitates the continuance despite theoretical objections as to its paternalistic nature of government control and initiative.

Recognition of these facts has led to inquiries in one province after another. Reorganization undertaken in the Punjab after 1915 and more recently in most of the major British provinces and in some Indian states involved the liquidation of many societies and the placing on probation of others. The situation is still very unsatisfactory in the Central and United Provinces and in Burma. The movement is strongest in the Punjab, Bombay and Madras, among the British Indian provinces and in the Indian states of Travancore, Bhopal, Gwalior and Mysore. Elsewhere only a very small proportion of the population has yet been brought into contact with the movement. Even when reorganization has been completed and extended to all areas, strict official supervision will have to be maintained for many years, and a real effort is necessary to maintain the standard and to improve the training of members, officials and the general public. Such effort has thus far been systematically put forward only in the Punjab and in Bombay.

Much depends on the personal and technical qualifications of the registrar and his staff. At the present time the staff is not sufficiently large and depends on assistance given by honorary voluntary workers, whose training is insufficient or who cannot devote the necessary time and energy to their duties.

Nevertheless, the movement already has immense achievements to its credit. Members' debts have been consolidated and sometimes completely repaid; the prevailing rate of interest has been reduced not only for members, who benefit from the average cooperative charge of about 12 percent, but also for whole districts where cooperation is strong; permanent improvements in the land and improved methods of cultivation have been introduced; a new spirit of independence has been instilled into the minds of the peasantry; a training has been given in thrift and financial principles and the movement has proved of immense educational value. Beginning with the limited objects of relieving the masses from a crushing burden of debt and providing capital on reasonable terms, the movement has proved the best means of preparing the way for the expert, whether educational, agricultural, veterinary or medical, and of bringing him into direct contact with the daily life of the masses. This latter object has already been promoted by close cooperation between the cooperative and other nation building departments, and the work could be greatly accelerated if a system of rural broadcasting were adopted by the newly constituted Indian Broadcasting Board.

VERA ANSTEY

Cooperation in Palestine. The cooperative movement in Palestine is with the exception of a few German societies almost entirely Jewish. Although the movement includes only about 40,000 members altogether it is unique in the extent to which it has pervaded the population of a recently colonized country. At the present time one out of every five of the Jewish population of Palestine is a member of a cooperative.

Cooperative endeavor antedates the British mandate. The Anglo-Palestine Company, Ltd., and the Palestine Jewish Colonization Association were responsible for the existence of about twenty cooperative societies prior to 1920. During this period two of the most powerful marketing cooperatives were established: in 1896 the association which is now responsible for 90 percent of the wine grape production and in 1900 an orange marketing association which disposes of 40 percent of the crop produced by Jewish farmers. These organizations had no legal status, however, under Ottoman law, and the Cooperative Societies Ordinance of 1920 was one of the first enacted by the British civil government.

During the entire period of Jewish colonization there has been a fusing of the aims of colonization and of cooperation. This has accounted in part for the failure of two of the largest cooperatives. Out of this identification have arisen certain departures from cooperative practise. Since Palestine is considered a potential home for all Jewry, the cooperatives admit absentee members. Prospective settlers organize abroad for cooperative purchase and development of the land. Everywhere cooperative forms have been adapted to suit the needs of "a country in the making." Certain groups stressed the cooperative basis of community life as an application of the underlying social principles of Biblical times; the labor groups emphasized cooperative endeavor. The form which some of these colonies have taken can be more accurately described as collective farming.

At the present time the 284 organizations serve ninety centers. In November, 1930, the 208 most active organizations had a total share and reserve capital of about $2,000,000, deposits and savings of about $3,120,000, mutual liability of the members of about $4,500,000; the indebtedness of the members to the societies is about $1,500,000 and the total indebtedness of the societies to banks and other institutions (other than depositors) is about $1,750,000. Of the total of 284 societies the largest single group are the land purchasing and building cooperatives, which number eighty-five. There are sixty-two credit societies; and it is interesting to note that the credit society, most typical of Jewish cooperative effort in the Diaspora, does not assume the same significance in Palestine. Agricultural cooperatives for marketing, dairying, cattle insurance, irrigation and the like account for 53 societies and market 90 percent of the almonds, wine grapes and dairy products produced by Jewish farmers. During 1929–30 their sales amounted to $2,500,000, of which $1,500,000 is represented by exports. Industrial producers' cooperatives, including not only combinations of workers for production but groups undertaking collective labor contracts, number 41 societies, which in the last year manufactured and sold goods for about $450,000. There are 30 *kvutzoth*, or collective farm cooperatives, and 13 societies of miscellaneous types. It is premature to state whether life in Palestine, where it is hoped to diminish the role of the Jewish trader, will be more favorable for the propagation of consumers' cooperation than it has been in the Diaspora.

The cooperative societies have not received any financial aid from the government; but the two central institutions and a few of the cooperatives have been assisted in their initial stages with interest free or low interest loans or subscription to share capital from social economic institutions and individuals abroad interested in the development of Jewish Palestine. Central institutions have been organized for the purpose of financing and organizing cooperatives and have thus preceded local groups rather than been built up by them.

There is as yet no comprehensive organization of all the cooperatives in Palestine. This is due, perhaps, to existing differences of opinion as to ends; for instance, cooperatives of labor origin or sympathies accept only members of the General Federation of Labor, and in certain instances this organization exercises veto rights. There is, however, a movement toward union and a realization that cooperative effort is necessary in order to overcome existing physical and economic hardships in the development of the country.

HARRY VITELES

GERMANY AND AUSTRIA. *Consumers' Cooperation.* The first consumers' cooperatives in Germany, developed as part of the Schulze-Delitzsch general cooperative movement in the

sixties, achieved no great significance. The membership of this movement was chiefly middle class, interested in the credit aspect; the working class, still unorganized but under the domination of socialist leaders who were antagonistic to the middle class character of the movement, held aloof. Lassalle, whose influence among the masses was great during this period, found consumers' cooperation futile, basing his opposition on the iron law of wages. Consumers' cooperation among the working masses received its first impetus in the eighties in Saxony, then the most industrialized of German states, partly because the antisocialist law of 1879 made trade union or socialist organization impossible. As a result of highly accelerated industrialization in the nineties and the cooperative law of 1889 permitting limited liability the consumers' movement grew rapidly. The consumers' societies remained united with the Schulze-Delitzsch Allgemeiner Verband der Deutschen Erwerbs- und Wirtschaftsgenossenschaften until they were expelled by that body in 1902.

The growth of the movement in the nineties was interrelated with the rapid urbanization and increased unionization of the working classes and with a change in the socialist attitude toward cooperation. Although at all times two thirds or more of the membership were working class and the greater proportion of these were affiliated with social democratic labor unions, the value of consumers' cooperatives to the workers was not officially recognized by the Social Democratic party until about 1910. The consumers' movement itself emphasized its political neutrality, but its essential difference from the middle class credit movement led inevitably to the separation in 1902 from the Allgemeiner Verband.

Consumers' cooperation as an independent movement thus can be traced to the founding in 1903 of the Zentralverband Deutscher Konsumvereine, which because of the location of its central purchasing body was known as the Hamburg movement. Within two years this union had absorbed a majority of the consumers' unions of the Allgemeiner Verband and included over half a million members in some five hundred societies. In spirit and structure the Hamburg movement is more closely allied to the British Rochdale societies than to its Schulze-Delitzsch progenitor.

The rapid progress of the movement in enlarging its membership, in its concentration of the number of societies, in the degree of affiliation with the national federation, in the setting up of a powerful wholesale and in the extension of its scope by the assumption of productive functions closely parallels the British consumers' movement. In Germany it is one of the largest commercial and industrial enterprises. In the international cooperative movement and as a member of the International Cooperative Alliance the German societies form the third largest group of consumers' organizations, outranked only by Russia and by Great Britain. The movement has been rich in practical leadership both nationally and in the international organization. Its actual economic transactions with the cooperatives of other countries, however, have always been limited.

The war and post-war growth has been steady. Although the consumers' cooperatives in Germany were not utilized during the war by the government to the same extent that they were in Austria and France, the public authorities ceased to prohibit membership to public employees. The societies have successfully weathered the depressed economic condition of Germany since that time, and in 1929 the Zentralverband included almost 3,000,000 members in about 1000 societies. It controlled over 350 central regional warehouses and over 10,000 stores, with an annual turnover of 1,200,000,000 marks, of which over 280,000,000 marks are represented by the products of its own bakeries and meat packing houses. The wholesale purchasing society of the Zentralverband has an annual turnover of 500,000,000 marks, of which one quarter is represented by its own products. Almost 65,000 persons are employed by the societies and the central warehouse, and the problem of industrial relations which has naturally arisen and which has caused some difficulties has resulted in the establishment of collective bargaining relations with the trade unions and the representation of the workers on management boards. The German societies have introduced a program of general education in cooperative ideals for its membership through the press and have provided special training for its executives and staff through a central school at Hamburg and classes in the societies. No progress has been made in the development of women's guilds such as those found in the cooperative movements of Great Britain.

In addition to the Zentralverband a separate organization of the consumers' societies closely connected with the Christian Labor movement in the Catholic Rhine region and known as the Verband Westdeutscher Konsumvereine was

founded in 1908. In 1913 this organization absorbed the consumers' societies of government employees and became known as the Reichsverband Deutscher Konsumvereine. The Reichsverband includes about 275 societies with a membership of almost 750,000, controlling over 2000 stores and with a turnover of almost 200,000,000 marks, Its wholesale purchasing society, Grosseinkaufsgesellschaft des Reichsverbandes ("Gepag"), has a turnover of over 72,500,000 marks, of which 10,000,000 marks are represented by its own products.

The consumers' cooperative movement in Austria prior to the World War followed the German movement in its external features but developed far less rapidly because of the lower degree of industrialization and the conflict of nationalities, which led to the formation of nationalistic societies, as well as because of the close alliance between the German speaking societies and the Social Democratic party. The movement was thus split into minority nationalistic groups, neutral, Catholic and social democratic organizations. During the World War and the period of reconstruction the four competing cooperative organizations of Vienna were merged and played an important part in the feeding of the population. After the war the establishment of new cooperatives was resumed with great zeal, and for a time it appeared that these were to form the kernel of a general socialistic reconstruction of the commonwealth. The Union of German Austrian Consumers' Societies, which in 1913 claimed about 150,000 members, had a membership of about twice that number in 1926; the stores tripled from 299 in 1913 to almost 900 in 1926. Its wholesale society undertakes some production. The consumers' societies, aided by the labor unions, formed a cooperative bank in Vienna in 1923, which despite the economic depression has made steady gains. The organization, whose membership is largely working class and the center of whose activities is in Vienna, is affiliated with the International Cooperative Alliance.

THEODOR CASSAU

Credit Cooperation. Both historically and functionally it is difficult to separate the credit cooperatives from other types of cooperative endeavor in Germany. There as in other European countries cooperation developed as one result of the general social and economic disturbances which reached a critical stage in 1848. The pioneers of cooperation in all these countries included in their plans every type of cooperative activity, and only later were the separate forms developed. In England and France cooperation evolved as part of the program of pre-Marxian and Christian Socialism. In Germany, then in a period of rapid commercial and industrial expansion, the impulse came, however, from the liberal bourgeoisie, and the socialists under the influence of Lassalle opposed the movement. Through the philanthropic endeavor of the liberal bourgeoisie welfare associations were founded through which funds were advanced for the purchase of the necessities of life and of commodities for trade and production in the hope that the members of the lower middle and working classes might thus be encouraged to thrift and self-sufficiency. Out of these associations there developed, on the one hand, savings and loan institutions and, on the other hand, the credit cooperative movement, which for forty years was the predominant cooperative form and which in Germany was also the cradle of the consumers' movement.

The transition from philanthropy to the self-supporting credit cooperative was effected through the efforts of a liberal statesman, Hermann Schulze-Delitzsch (1808–83), who was interested in all forms of cooperation and was sympathetic with all group efforts for self-help, such as trade unions and friendly societies. For many years until 1902 the Allgemeiner Verband der Deutschen Erwerbs- und Wirtschaftsgenossenschaften, founded by him in 1859, included consumers' as well as producers' and credit cooperatives. In 1920 it combined with another cooperative union, the Hauptverband Gewerblicher Genossenschaften, which was founded in 1900 and assumed the name of Deutscher Genossenschaftsverband. Schulze-Delitzsch and his followers have at all times strongly opposed state aid of any sort, thus bringing upon the Schulze-Delitzsch societies the strong enmity of the government. Nevertheless, it was through him that favorable cooperative legislation was enacted, first in Prussia in 1867 and later throughout the nation in the imperial law of 1889.

The rural credit movement was begun in 1862 by F. W. Raiffeisen (1818–88), a *Landbürgermeister* in a Rhineland village, who like Schulze-Delitzsch had experimented with semiphilanthropic loan and provision societies from 1848 to 1850. It can really be considered an offshoot of the Schulze-Delitzsch plan. The differences in the plans, which found expression in provisions

as to liability, size of shares, territorial scope and the like, arose primarily out of the attempt to make the credit cooperative adaptable to the small landholders of southwest Germany; the strongly religious nature of the movement reflected the moral purpose of its founder and had a practical basis as well. In the Raiffeisen societies and in the rural credit cooperative movement initiated in the eighties under the leadership of Wilhelm Haas (1839–1914) the credit functions were combined either directly or in an allied body with marketing, purchasing, storing and processing functions, which in countries other than Germany have led to the formation of special types of agricultural and marketing cooperatives. The rural cooperatives have done much to introduce the use of electric power and light into rural communities; about 6100 such special cooperative societies existed in 1927. In the small Raiffeisen societies, each limited to a parish, all these functions except dairying were usually performed by a single society; in the larger and more prosperous units of the Haas organization separate societies were formed. Rural credit cooperation in Germany therefore includes an unusually large number of activities.

The distinctions between the Schulze-Delitzsch, Raiffeisen and Haas societies, although the cause of much controversy in their pioneer period and of historical interest in the development of doctrines and practises, have proved to be of less significance for theory because they obviously arose out of special needs.

The Schulze-Delitzsch societies have on the whole been of service to the town population and are known as urban credit cooperatives. Nevertheless, in 1906 the Allgemeiner Verband recruited a quarter of its membership from farmers and gardeners. Although this percentage has been a decreasing one it still represents the largest single occupational grouping in the Verband. The other occupational groupings include skilled handicraftsmen, who composed in 1906 about 24 percent of the membership, shopkeepers and tradesmen, who represent about 10 percent, wage earners, who represent about 13.5 percent, professional persons and rentiers, who represent about 15.5 percent. Since 1890 the percentage of membership belonging to the last three groups has increased at the expense of the first two groups.

Each Schulze-Delitzsch society is usually administered by a board of three persons who also act as its chief officers, subject to control by somewhat larger bodies. Membership is based on the purchase of one share and, where liability is unlimited, one share only; the value of the share is made sufficiently high to provide capital and to encourage thrift and is payable in small instalments. Additional capital is furnished by deposits of non-members as well as members, drawing accounts, loans from commercial banks or loan associations and rediscounts of bills of exchange. About 20 percent of the profits are placed in a reserve fund, to which are also usually added entrance fees and the entire profits of the first year or so of operation; the remainder of the profits are distributed to shareholders. Not all shareholders are borrowers, and in the urban credit cooperative only about 60 percent of the members avail themselves of the credit facilities. Loans are restricted to members on interest rates which, although somewhat lower than current rates, have never fallen dangerously below market rates. Although at one time the Schulze-Delitzsch societies had their own central banking institution, it was soon abandoned for clearing transactions with the Bank of Dresden, which created a special cooperative department. This reliance upon ordinary commercial banks was warranted by the frequent use of the trade bill of exchange, a commercially marketable paper. Moreover, the hostility of these societies to state aid has militated against their use of the Preussische Zentralgenossenschaftskasse, popularly known as the Preussen-Kasse, which was established by Prussia in 1895 to serve as a state credit institution for middle class cooperatives.

The growth of the Schulze-Delitzsch societies is described by the following statistical data: in 1859 there were 80 societies with about 19,000 members; by 1905 their number had grown to 1020 with 587,000 members; and on July 1, 1930, the Deutscher Genossenschaftsverband included 1351 urban credit cooperatives. The 1257 reporting societies had a membership of 1,008,540; their capital amounted to 1,792,570,000 marks, of which 304,570,000 marks were owned by them. Over four fifths of the assets are invested in short term credits to members, mostly in the form of current accounts. Most of the loans are in amounts of from 200 to 500 marks.

The typical Raiffeisen society, modeled on the founder's experiment in Anhausen, differs from the urban cooperative in several ways: it is confined to a single village or parish; membership is based on good character as well as on need.

Originally there was no subscribed capital but universal unlimited liability of the members; nevertheless, since the law of 1889 requires division of capital into shares, the Raiffeisen society has complied by issuing nominal shares of ten marks, although no dividend is declared. All profits remain the collective property of the society and are placed in two reserve funds, one of which is a reserve fund proper and the other an indivisible *Stiftungsfond* used for positive improvements. The only direct profit gained by the members is in the occasional lowering of loan charges and increase in interest allowed on deposits, both of which are lower than in the urban cooperatives. Capital is derived entirely from savings and deposits, usually of members although occasionally of non-members as well. The limitation of membership to a village makes the banking institution itself quite simple, and it is generally administered by one person, the only paid officer of the society. The policy of the society is usually determined by an honorary board of directors.

In 1929 the Raiffeisen societies numbered 8252 with a membership of 800,000. The organization, later known as the Generalverband der Deutschen Raiffeisen Genossenschaften, which was founded in 1877 for educational and advisory purposes and functioned mainly in the southwest, had in 1929 an affiliation of 5799 of these societies with a membership of 520,000. A centralized institution for supply and marketing subsidiary to the general association, known as the Wirtschaftsverband der Raiffeisenschen Warenanstalten, was founded in 1915; in 1922 it had a membership of 4460 societies. Until its failure after the war the Landwirtschaftliche Zentraldarlehenskasse für Deutschland, later known as the Deutsche Raiffeisenbank, served as a central bank for these societies. It was a highly centralized organization, to which the provincial banks were subordinated far more than has been true in the Schulze-Delitzsch and Haas institutions. The Zentraldarlehenskasse, which for many years was centrally located in Neuwied, Prussia, finally accepted the aid of the Preussen-Kasse. It has therefore been charged with accepting state aid, although the Preussen-Kasse operated on a non-philanthropic basis, merely furnishing credit at a low rate of interest. It is true, however, that the Raiffeisen societies have received encouragement from the state and because of their religious character have enjoyed the support of the clergy of all denominations.

A far more powerful rural federation than that of the Raiffeisen societies was the Reichsverband der Deutschen Landwirtschaftlichen Genossenschaften, founded by Wilhelm Haas. The Haas societies represent an attempt to return to Schulze-Delitzsch principles as to size of shares, capital, provincial decentralization and the like; they have appealed on the whole to a more prosperous group among the farmers. In 1929 the Reichsverband included 26,170 societies with a membership of about 2,500,000, a number three times as large as that of the Raiffeisen societies; the business turnover was probably six or seven times as large. The working capital per local bank of the Haas societies amounted in 1927 to 101,242 marks, or 934 per member. These figures are far below the prewar standards because of property losses, not yet restored, which were incurred by the inflation. Thus the savings deposits of the same grouping amounted in 1913 to 147,077 marks per society, while in 1927 they were only 45,050 marks. The Haas societies are federated into provincial units, all of which were until recently clearing through the Reichsgenossenschaftsbank, an organization created by the Reichsverband on the basis of share capital without government aid. In addition the Reichsverband utilized also the Preussen-Kasse for its cooperatives. The agricultural societies' need of a centralized bank to act as an equalizer between the various districts has obviously been greater than that of the urban credit cooperatives.

For many years the two rural cooperative federations of Raiffeisen and Haas societies were rivals, but in 1930, not without some pressure from the state and state aid, they were merged. At the same time some smaller farm federations joined them, the whole being named the Reichsverband Deutscher Landwirtschaftlicher Genossenschaften-Raiffeisen and including 90 percent of all the farm cooperatives of Germany. Of the total of 36,400 societies with a membership of 4,000,000, 19,749 are credit cooperatives or savings and loan associations. The 17,870 credit cooperatives reporting in 1928 had a membership of 1,984,538 with membership shares amounting in the aggregate to 61,290,112 marks; at the end of the year they had 1,531,011,707 marks in outstanding credits. The societies are small, averaging usually about 100 members; the liability is in most cases unlimited.

The separate banks of the two rural federations have now disappeared after considerable

losses due to bad management. The Preussen-Kasse has become the central banking institution for the German cooperatives, a position which it has retained undisputed since the liquidation of the Raiffeisen bank. Meanwhile the German government itself has become a partner in its affairs; the significance of this participation lies in the fact that the post-war shortage of capital in Germany, felt by the credit societies as well as other cooperatives, can be relieved only by state aid. The Preussen-Kasse today is after manifold transformations a joint stock company whose shares are in the hands of Prussia, of the German commonwealth and of the German cooperative federations with the influence of Prussia still predominating. Its capital is 210,000,000 marks. The credit cooperatives still maintain their provincial banks, which function as intermediaries between the Preussen-Kasse and the individual societies.

The service of the German credit and farm cooperatives to the members of the urban and rural middle classes has been at all times undisputed, but more and more they are coming to serve working men and salaried employees, especially in the small rural and urban communities.

The credit cooperatives of Austria have been based almost entirely on the German form. In 1914 out of about 19,100 cooperative societies in Austria (not including Hungary) 11,900 were credit cooperatives, 8400 being Raiffeisen societies and 3500 Schulze-Delitzsch societies, largely dependent, however, on state aid. The Austrian legislation of 1873 followed the Prussian act of 1867 and preceded the German imperial law of 1889 in permitting both limited and unlimited liability. About 35 percent of the Austrian cooperatives before the war were German societies. In 1929 there existed 2303 credit societies, 1758 of which were rural credit cooperatives of the Raiffeisen type.

ERNST GRÜNFELD

FRANCE. *Consumers' Cooperation.* One of the first examples of genuine consumers' cooperation in nineteenth century France is the society Commerce Véridique et Social founded in Lyons in 1855 by an association of weavers under the leadership of Michel Derrion and Joseph Reynier. About the same time some philanthropic attempts to found consumers' cooperatives had been made under the influence of the disciples of Fourier and Saint-Simon.

It was not, however, until some time after the disillusionment following the Revolution of 1848 that new attempts were made to found consumers' cooperatives. This was during the period of 1866–67, when consumers' cooperatives were being experimented with in practically every country of Europe. The center of this newer movement, under the leadership of Eugène Flotard, was again the industrial city of Lyons. The movement was scattered and local and was almost entirely destroyed by the war of 1870 and the subsequent depression. Nevertheless, in 1880 there were about 300 such societies without any unified organization or program. Léon Say, Jules Simon, Léon Walras and other liberal economists regarded such societies as savings organizations and therefore instruments of social conservatism, an attitude which was responsible in part for the favorable cooperative legislation of 1867. Most socialists under the influence of Marxism regarded the cooperatives as insignificant powerless groups whose only influence could be deterrent and definitely condemned the movement at the Socialist Congress of 1879 at Marseille.

The revival of cooperation, its creation as an independent movement distinct from socialism on the one hand or from capitalist economics on the other, and the beginnings of national federation took place in Nîmes, which was neither an industrial nor a labor center. The leader of this revival, Édouard de Boyve, received his inspiration from the English cooperative movement and especially from the moral tone of the Christian Socialist leaders, who at the time, however, were stressing producers' cooperation. Associated with him were August Fabre, a Fourierist, and Charles Gide, then professor at the University of Montpellier. About a hundred associations answered de Boyve's summons for the first congress of the French cooperative movement, held in Paris in 1885. This congress created a cooperative union modeled on the English unions and began a small monthly journal, *Émancipation*, which is still in existence.

Two forces disturbed this union and interfered with its progress. The first was the formation in 1895 of a separate federation of the socialist cooperatives known as the Bourse Coopérative des Sociétés de Consommation. The second was the dispute over the inclusion of the producers' cooperatives and the copartnerships. As a result, however, there came that clarification in doctrine which finally led to the program of the group known as L'École de Nîmes.

Progress manifested itself in the successful establishment of a wholesale society, the Magasin de Gros, in 1906. The break with the socialists was healed when, thanks to the attitude of some socialists, notably Jean Jaurès, and the influence of the Belgian and English cooperative movement, the two federations were united in 1912 in the Fédération Nationale des Coopératives de Consommation, whose charter was based on the Rochdale program as supplemented by L'École de Nîmes. The movement despite the protest of a minority has remained politically neutral.

The World War in France as in most countries strengthened the cooperative movement. Its services to consumers during the period of profiteering and to the civil and military authorities won for it a new attitude of respect from the government. In fact, cooperatives were established among the troops, in the manufacture of war materials and after the war in the reconstruction of the devastated areas. This new attitude was embodied in the creation of the official Conseil Supérieur de la Coopération to function in an advisory capacity to the cooperatives and in the creation of an endowment fund to aid in the organization of cooperatives. Until 1918 43,000,000 francs had been so appropriated in contrast with 1,000,000,000 francs for credit cooperation. Moreover, the Fédération Nationale is represented on all official extraparliamentary bodies, such as the Conseil National Économique, the Comité de la Vie Chère, the Conseil des Chemins de Fer, the Conseil Supérieur du Travail and the like.

The progress of the movement since the war is shown in several ways. Before the war not a fifth of the cooperative societies were affiliated with the national federation; at present, although France still lags behind other countries, the federation includes half the French societies and more than two thirds of the country's total membership. Although the membership of all consumers' societies tripled from 865,000 in 1914 to 2,285,000 in 1928 it still represents the comparatively small proportion of 5.5 percent of the population of France, or about 20 percent of the households, as contrasted with percentages as high as 50 for other countries. The number of societies was 3513 in 1928 as compared with 3261 in 1914. The increase has been very slight because of the tendency of societies to amalgamate, a desirable procedure which may account in part for the reduction of purchases per member to less than 300 pre-war francs in 1928 as compared with 356 francs in 1914. The total sales amounted in 1914 to 315,000,000 francs and in 1928 to 3,353,000,000 francs; the latter figure when reduced to the terms of the pre-war franc indicates an increase in total sales only slightly more than twofold. The wholesale society's business rose from 11,000,000 francs in 1914 to 700,000,000 francs in 1928 or, translated into pre-war francs, to about 140,000,000. A central cooperative bank, La Banque des Coopératives de France, was established in 1922; since then its volume of business has been increasing rapidly. Comparatively little progress has been made in the field of production, which is limited to a few shoe and canning factories. Partially because of the small labor force employed the French consumers' movement has been free of the problem of industrial relations as it has arisen in the English and German organizations.

The significance of the French movement is also manifested in its influence on the life of the community as a whole. Mention has already been made of its recognition by the French government. In accordance with the provision that a part of its surplus is to be devoted to educational endeavor the French consumers' movement has set up its own school for the training of executives and has in addition been responsible for the introduction of a course on cooperative principles and practise in the Collège de France (1920–30). The Association pour l'Enseignement de la Coopération is endeavoring to extend this teaching to other universities and to secondary and elementary schools.

CHARLES GIDE

Credit Cooperation. The first projects for the organization of credit on a basis of cooperation and mutuality date in France from the period of social upheaval between 1830 and 1848. As early as 1831 Buchez in his outlines for social workshops approached the question of credit by his provision of a reserve fund to furnish the means of work for members of the association. Somewhat later Proudhon saw the solution of every social and economic problem in the reform of the system of exchange and credit. His short lived Banque du Peuple, founded in January, 1849, was an attempt to carry out in practise the principles he had previously expressed in his plan for an exchange bank which in return for bills of exchange representing goods sold on time credit would furnish "circulatory credits" making possible the purchase of other goods by

the bank's clients. In this scheme mutuality and reciprocity of services would make interest unnecessary: exchange would in effect be based on cash rather than on credit. The plans of François Vidal (1814–72), enunciated about the same time, included the creation of land and farm mortgage loan banks (*crédit foncier et agricole*) as part of a producers' cooperative scheme.

The Crédit Foncier (mortgage loan bank), established in 1852, and the Société de Crédit Agricole, established in 1860 and allied with it, were both highly centralized banking institutions rather than cooperative organizations. Although it was provided with ample funds, the quest for high profits drove the Société to disastrous speculative and financial operations which resulted finally in its failure in 1876.

The appearance of genuine successful credit cooperation was connected with several developments: the rise of organizations among farmers, an acceptance of the principles of voluntary initiative and decentralization as well as the passage of legislation affecting the form of rural credit associations and giving aid to them. The rise of *syndicats agricoles* beginning in 1884 made possible the organization of agricultural credit on a voluntary basis by a local group with common economic interests. Thus the first agricultural credit cooperative, the Crédit Mutuel de Poligny, was founded in 1885 by a rural *syndicat*.

In the meantime the success of an urban experiment in cooperative credit, the Centre Fédératif de Crédit Populaire founded by E. Rostand at Marseille in 1890, led to a realization of the value of certain principles: political and religious neutrality, variation in methods to meet local conditions, decentralization, the local utilization of savings, scope for private initiative with state aid, and sympathetic cooperation between credit societies and other associations of the same social group. Urban credit cooperation has not, however, developed later on so large a scale as has rural cooperation. Some people's banks, as these urban credit institutions are known, are in fact semiphilanthropic organizations rather than genuine cooperatives.

Rural credit societies remaining few and isolated until the law of November 5, 1894, allowed credit groups a considerable amount of discretion in the framing of their by-laws and in limiting the liability of members. The act of November 17, 1897, afforded them the necessary capital by ratifying a prior agreement with the Bank of France which stipulated that the bank should advance to the state without interest a lump sum of 40,000,000 francs and an annual contribution to be used for agricultural credit purposes. The law of March 31, 1899, created *caisses régionales* (regional banks), one for each group of local societies, which were the agencies to receive this state aid. The law of August 5, 1920, not only codified all previous legislative acts but also created the Caisse Nationale, a national bank for agricultural credit.

At the present time the organization of the system is as follows: the constituency of the local credit societies is made up of members of specialized *syndicats agricoles*, agricultural mutual insurance associations, cooperatives and other societies with specialized collective interests whose membership is entirely agricultural. Capital is formed by allotted "nominative" (quasi-registered) shares limited to 6 percent interest. The local societies serve their membership only and have the function of passing upon the securities that borrowers offer. The regional banks back the local societies by discounting their paper; they derive their funds from savings deposits and the advances of the national bank. The Caisse Nationale is a public institution charged with the administration of the government subventions for agricultural credit and the supervision of the regional banks.

Progress has been steady since 1894 and especially rapid since the World War. At the end of 1929 there were in France 5897 local credit societies comprising 433,400 members. They disposed of a paid up capital of 82,838,000 francs and their reserves approached 28,000,000 francs. They were grouped into one hundred regional banks, whose joint capital stock amounted to 117,716,000 francs and reserves to 100,832,000. In 1929 the regional banks had on deposit 2,341,000,000 francs, an amount sufficiently large to support without outside aid the short term financing done by these banks.

Although the national bank was thus able to reserve its funds for exclusive use in intermediate and long term credits, such funds have proved inadequate to meet the demands made upon it. Additional government aid was therefore extended by the law of July 15, 1928, which opened a credit of 500,000,000 francs for intermediate loans, and by the law of August 4, 1929, which opened a credit of 250,000,000 francs for loans to farm cooperatives. By the end of 1929 the national bank disposed of government grants aggregating almost one billion francs. The relative importance of intermediate agricultural credit is illustrated by the fact that during 1928

there were granted 9130 new intermediate loans amounting in the aggregate to about 138,000,000 francs, while 55,226 farm families enjoyed the benefit of individual long term loans at the end of 1929. The latter figure includes the beneficiaries of special individual long term loans, which are given to military pensioners and civil victims of the war. At the end of 1929 there were also 229,958,000 francs outstanding in collective long term loans. Provision for such credits was made by the law of August 5, 1920. They are granted to cooperatives engaged in raising, processing, storing or marketing the agricultural produce of their members, to syndical associations with a purely agricultural purpose and to rural special purpose societies such as cooperative electric plants.

MICHEL AUGÉ-LARIBÉ

Agricultural Cooperation. Agricultural cooperative institutions in France are not known solely by the name cooperatives. The oldest were founded under the name of *syndicats*; moreover there are banks of mutual credit and mutual insurance societies which are essentially cooperative institutions although they do not use this designation. The legal distinction between *syndicats* and cooperatives is that the *syndicats* may not distribute their profits among their members, while this is permissible for cooperatives.

Agricultural cooperation in France developed during the great agricultural depression of the last quarter of the nineteenth century. The fact that it was not designed in accordance with any general plan but represented a spontaneous uncoordinated growth accounts for the diversity in forms of organization. At times a single organization has several functions: purchasing, processing, marketing and credit. In other cases there is a cooperative or a *syndicat* for each special function.

The oldest cooperatives were established under the law of March 21, 1884, for the common purchase of fertilizers and the control of their quality. Later these purchasing societies extended their operations to a very great number of other agricultural requirements such as seed, equipment and even household articles. While there have been but few attempts at cooperative cultivation of the soil, hundreds of *syndicats* or cooperatives have been organized for the purchase or rental of costly equipment, for the collective use of tractors and grain sorters and among the larger cultivators for the use of powerful agricultural machines driven by electricity. Within the past few years processing cooperatives have become quite numerous; they do yeoman service in regions of small farms where the peasants have not a sufficient working capital. More recently farm cooperation has been turning toward collective storage (with grading) and marketing of products. Bills pending before the Chamber of Deputies envisage the creation by agricultural and consumers' cooperatives of joint processing and marketing organizations designed to facilitate intertrading between these two branches of cooperation.

While there are no exact statistics on agricultural cooperation in France, it is estimated that from 1,500,000 to 2,000,000 farmers are enrolled in 10,000 *syndicats* and in 4000 to 5000 farm cooperatives exclusive of the banks of mutual credit and mutual insurance societies. Farmers' organizations include 2000 creameries and cheese factories, 700 to 800 cooperatives for threshing and the use of equipment, 500 underground storehouses, 200 distilleries, some 50 oil presses and a few flour mills and bakeries. There also exist cooperative stock breeding and dairy inspection associations.

Although the farm cooperatives of France often operate in a very limited territory those of the same *département* or region readily federate. The regional unions combine again into national associations: the Union Centrale des Syndicats Agricoles, the Fédération Nationale de la Coopération et de la Mutualité Agricole and at the top the Confédération Nationale des Associations Agricoles.

MICHEL AUGÉ-LARIBÉ

BELGIUM. The Belgian cooperative movement, unique in many of its phases, arose as did the Rochdale movement from the working masses. It has at all times, however, been possessed of a militant spirit unknown to the peaceful Rochdale group, for the conscious purpose of making the cooperative societies an edifice on which a trade union and socialist movement, impossible to create during a period of oppression, would be built. The present movement, begun in 1880, was preceded as in France and Switzerland by a few unsuccessful paternalistic attempts in the sixties on the part of the government or of philanthropic Fourierists. The socialist Édouard Anseele, who founded the Vooruit in Ghent in 1880, was inspired by the English societies which he had seen at first hand as a laborer on the London docks. The Ghent

society, begun by weavers, followed its example in the establishment of bakeries which sold bread at current market prices. Unlike other consumers' cooperatives, however, profits were not redistributed to the membership but allowed to accumulate in a reserve fund which was then used as a mutual benefit fund. From the beginning every effort was made to keep in touch with every phase of the workers' daily lives. The founding of a *maison du peuple* by the Ghent society in 1884 to serve as an educational and recreational center for the people has led to the existence in 1928 of 342 such buildings, housing restaurants, theaters, libraries, lecture and concert halls, in the comparatively small territory of Belgium. No other cooperative group so completely pervades the lives of its members as does this one.

By 1900 a national federation, the Office Coopérative Belge, was formed and in 1902 a wholesale society, the Fédération des Sociétés Coopératives Belges. Two labor banks, serving trade unionists as well as cooperatives, and a mutual insurance society, the Prévoyance Sociale, are other Belgian cooperative institutions. In contrast to the movement in France the Belgian cooperatives have stressed production both through consumers' societies and by autonomous workers' cooperatives. There is no conflict between these two groups, however, and a central society for procuring capital and fostering sales serves both types. Anseele's encouragement to enter the field of production has, however, brought some criticism from more radical socialists.

Despite the fact that the Belgian cooperatives do not exclude non-socialists their decided political character has kept out a large potential membership from the middle class and the non-socialist working groups. Their membership of 300,000 is less than that of cooperatives in Switzerland, a country with half of Belgium's population. This membership is concentrated in sixty societies, which control almost 1000 stores with total sales amounting in 1928 to 760,000,000 Belgian francs.

In addition to the socialist movement the Boerenbond, founded in 1890 with the aid of the Catholic clergy, has a membership of 128,000 members in more than 1200 societies. Not all of these, however, are consumers' societies; since the organization is largely rural, many of them are credit societies or associations for the purchasing of production requirements. There also exists a civil service cooperative organization composed of fifty-five societies with a membership of 122,000.

The fact that the Belgian societies are more flourishing in the industrial textile centers and in the coal mining districts, which are populated by the Latin Walloons, than in the regions occupied by the Flemings, who belong to the Teutonic group presumably superior in cooperative endeavor, suggests that the economic factor is of greater influence than the ethnographic.

CHARLES GIDE

SWITZERLAND. Both consumers' and agricultural cooperatives have reached a high point of development in Switzerland. Although certain trading relations exist between the two types of societies, they have little in common and their policies on many public questions are in direct opposition to each other. Neither organization is in any way connected with the state; legislation on cooperative societies has from the outset been most favorable.

The consumers' movement is mainly urban. Its first successful experiment dates back to 1850 and was initiated by Fourierists under the leadership of Karl Bürkli (1823–1901) and J. J. Treichler (1822–1906). Later experiments in the sixties were more definitely influenced by the Rochdale system, which is now the predominant form. At present (1930) the consumers' organizations, most of which are affiliated with the Union of Swiss Consumers' Societies, number almost 400,000 and represent more than 40 per cent of the population. In certain cities, such as Basel, the cooperative density is even greater and the purchases per member are higher than in other cities in western Europe. The leadership of the union is to a large extent liberal and its membership in part at least is working class and socialistic. The union acts as a wholesale and has developed many auxiliary functions and societies dealing with banking, insurance and industrial production. It has an active cooperative press. The Basel cooperatives, for instance, used part of their surplus funds to found a cooperative garden city.

There exists also an agricultural consumers' union in eastern Switzerland and allied to it a relatively small Roman Catholic organization with an auxiliary bank. Both neutral and Catholic unions are members of the International Cooperative Alliance.

A small industrial productive movement exists. Credit cooperation has never developed to any great extent in Switzerland and its need

has apparently not been felt. Schulze-Delitzsch banks exist but are not now markedly cooperative in character. There is also a rural movement on Raiffeisen lines promoted by the Catholic church, but it has not attained any great importance.

The agricultural cooperative movement probably includes the entire peasant population and while confining itself to a limited number of the business activities of the peasant has organized these with remarkable success. Its most complete achievement is the organization of milk disposal. Practically all Swiss dairymen are members of local cooperative societies which either retail the milk to the towns or have it manufactured into cheese by cheese makers, who receive a fixed payment for their services.Cheese is sold in the home market by federations of local societies, but all export is in the hands of an export union in which producers, exporters and cheese makers are equitably represented. Complete control of the product is assured and an ingenious system regulates the distribution of profits and losses. The producers' organizations are based on unlimited liability. This system is applied to all Swiss agricultural societies, including those dealing in agricultural requirements and marketing the farmers' grain. These warehouse societies are organized regionally and, for certain purposes, in a national wholesale society and operate with marked success. They worked in connection with the state wheat administration during the period of its existence. Spirit distilling and the marketing of meat, eggs, fruit and vegetables have all been undertaken cooperatively but not on a large scale. No exclusively cooperative central organization exists for the agricultural societies, but such functions as are not fulfilled by the commodity unions are performed by the Swiss Peasants' Union, which represents the movement in the International Commission of Agriculture.

MARGARET DIGBY

ITALY. *Consumers' Cooperation.* The first national cooperative federation in Italy, the Lega Nazionale delle Cooperative, founded in Milan in 1886 (by sixty-eight societies), included not only consumers' cooperatives but every other form, even the mutual aid societies. Prior to this time several local societies among specialized occupational groups had been formed. In the periods from 1850 to 1865 several stores were opened in Turin under the Fourierist influence of the Zurich societies and operated on a cost-price basis. Rochdale principles were introduced as early as 1861 by Francesco Vigano (1806–91) and later by Luigi Buffoli (1850–1914), who was responsible for the setting up of such societies among railway employees and headed the Unione Cooperativa of Milan. In 1914 consumers' societies included half a million members, the greater portion of whom were in the provinces of the north.

During the World War the cooperative movement took over many public functions with government financial aid and subsidy but not without some corruption of cooperative principles and practises. In 1921 the Lega was at the height of its development and comprised some 3700 societies. Its markedly socialistic tendencies despite an avowed adherence to Rochdale principles, as exemplified in an alliance in 1920 with the Socialist party, resulted in the withdrawal of clerical groups and then of the liberals under the leadership of Luigi Luzzatti, who had founded the Italian credit movement.

One of the first acts of Fascism was the destruction of the socialistic Lega, whose offices were closed and whose stores were plundered. The Fascist government then created an official government body, Ente Nazionale della Cooperazione, which in the task of reassembling the cooperatives selected those acceptable to it and instituted a rigid system of inspection and audits, established a training school for executives, published several journals and held a cooperative exposition in Rome in 1928. The Ente, which is a corporative body of all types of cooperatives, claimed an affiliation of 3334 consumers' societies with 826,000 members and with sales of 1664 million lire; its total affiliation includes about 8500 societies with a membership of two million. The International Cooperative Alliance considers the principles of the Ente contrary to its own, despite its alleged political neutrality, because of the latter's insistence that membership and constitutent societies be conducted on Fascist lines and because of the suppression of non-Fascist societies.

CHARLES GIDE

Credit Cooperation. The ideological source of all cooperative activity in Italy can be traced to Mazzini, who under the influence of Saint-Simonism and humanism included cooperative endeavor in his social program for a united Italy. Among those of his disciples who endeavored to carry out this aim in the sixties the liberal statesman Luigi Luzzatti (1841–1927) was respon-

sible for the initiation of credit cooperation, for many years the most important form of cooperation in Italy, and he served as its leader until his death in spite of his preoccupation with public office. In 1863 he published *La diffusione del credito e le banche popolari* (Padua); in 1864 he founded a credit cooperative in Lodi and in 1865 in Milan, the latter serving as a model for subsequent urban credit cooperatives. Luzzatti owed much to the German Schulze-Delitzsch, whom he had known in earlier years, but his societies were definitely adapted to Italian conditions—shares were somewhat smaller, liability was limited, small loans were encouraged, more representative managing boards of unpaid officials were established and a careful selection of members made it possible to extend loans "on honor." The membership of the societies consisted largely of owners of medium and small size enterprises in trade, manufacturing and agriculture without trade or class demarcations, for Luzzatti like Schulze-Delitzsch believed in combining these groups. In 1876 a national federation, Associazione fra le Banche Popolari Cooperative Italiane, and in 1913 a central banking institution, Istituto Nazionale di Credito per la Cooperazione, were formed in Rome. In 1923 the Luzzatti federation had 829 member banks with 1219 branches and 494,844 individual members, paid up capital of 180,000,000 lire, reserves of 139,000,000 lire and total deposits of 4,168,300,000 lire.

Rural credit cooperation was introduced into Italy in 1883 by Leone Wollemborg, subsequently Liberal minister of finance, by the formation of a society in Lorregia, where Wollemborg was a large property owner. Although based on Raiffeisen principles these societies, in contrast to the German, maintained friendly relations with the urban societies, and both Wollemborg and Luzzatti found support for their projects through reciprocity with the many savings and loan associations and friendly societies. Wollemborg, who like Luzzatti was of Jewish origin, did not stress the religious element as did Raiffeisen, and because of this religious neutrality Catholic credit cooperatives, initiated under the leadership of Luigi Cerutti, who established a Catholic loan association in Venice in 1890, soon outnumbered the neutral societies in the proportion of seven to one. The neutral societies are nationally federated in the Federazione Nazionale delle Casse Rurali Italiane with a central bank, the Banca Nazionale delle Casse Rurali in Rome; the Catholic societies into the Federazione Italiana delle Casse Rurali with a bank, Credito Federale Agricolo, also located in Rome. Many of these rural societies resemble the Raiffeisen cooperatives in that they are joint banking, purchasing and selling cooperatives.

In addition to these there exist agrarian banks (*casse agrarie*), which although similar in many ways to the credit cooperatives and sometimes transformed into such have no independent existence but are branches of ordinary banks.

The Fascist government through its official agency, Ente Nazionale della Cooperazione, ostensibly permitted the three federations above named to continue but added a new body, Federazione Nazionale Fascista Cooperativa di Credito Agrario, to which the others were made subordinate. This created no separate bank of its own but utilized the Luzzatti national bank now known as the Banca Nazionale del Lavoro. The bank established in Milan in 1904 by the Società Umanitaria still continues to serve cooperative groups.

Although at present some statistics claim 3500 credit societies with a capital of 7,500,000,000 lire, credit cooperatives in the strict sense of the word probably number about 2500 societies with a capital of some 1,500,000,000 lire. These societies together with all other cooperatives are united in the government cooperative superstructure, Ente Nazionale delle Cooperative.

ERNST GRÜNFELD

SCANDINAVIAN COUNTRIES. In Denmark the organizations which have brought cooperative fame and prosperity to the country, and which include a total membership of a million and a half, have been built up entirely on the voluntary principle and without state aid in either legislation or finance. It is true that credit societies were created by special legislation as early as 1850, but both because of the nature of these societies and the comparative freedom of the Danish farmer from the need for such assistance the movement for credit cooperation has never gained headway. The movement proper is of rural origin but of separate initiative in its two main branches, the consumers' societies dating from 1866 and the producers' societies from 1882. The first cooperative store, founded under the leadership of Christian Sonne, was inspired by the Rochdale movement. It was not until 1900, however, that town workers entered the field and even today only 80 out of a total of 1784 stores are urban. Practically all these societies, with a membership of 331,500, are

founded on unlimited liability and are federated for trade and other purposes with their own wholesale society, which had a turnover in 1929 of 142 million kroner, about one third of that of the stores. The wholesale society also functions as a cooperative clearing house for many of the producers' societies, such as the Seed Production Cooperative. The producers' movement began under the leadership of Stiller Anderson with the organization of dairies, of which there are 1370 today. Cooperative bacon factories, established in 1887, were the first to enter the field of cooperative sale as well as production. This involved them in a severe struggle with commercial interests. They now handle 85 percent of Danish production. In 1925 cooperative butter export associations also entered the marketing field and they now market 40 percent of the total butter export of the country. Subsequently the export of eggs and the import of seed, feed and manures were undertaken by special cooperative organizations. Membership in these and other production and sale societies is over half a million with a turnover of about 1700 million kroner. In addition there are societies with a total membership of about 700,000 for so many special purposes that all the needs of the Danish agriculturist are provided for by cooperative organizations. The intricate regional and commodity federations of the agricultural movement are comprised in seventeen national federations or societies of national scope. These national organizations are themselves members of the Federation of Danish Cooperative Societies, which is concerned not with commercial dealings but with methods of organization and with information service. No affiliation fees are paid to the federation, as the income from its weekly paper, *Andelsbladet*, is sufficient to cover the expenses of the secretariat. The functions of the secretariat are of an informational rather than propagandist character. In fact, little propaganda or theorization is necessary, for the whole movement is securely founded upon the high educational level of the countryside, which has been brought about through the agency of the folk high schools. Various national organizations are affiliated with the International Cooperative Alliance.

Finnish cooperation provides an example of a successful and important movement which is neither entirely spontaneous nor to any great extent fostered by the state. A few consumers' societies and dairies were founded toward the end of the nineteenth century. The organized movement under the leadership of Dr. Hannes Gebhard dates from the foundation in 1899 of the Pellervo, a body modeled after the Irish Agricultural Organisation Society and having for its objects the fostering of the Finnish national spirit and the promotion of a back-to-the-land policy. As a propagandist body it turned its attention largely to the organization of cooperative societies. Credit and dairy societies came first, followed by consumers' societies. These three types predominate, but societies purchasing agricultural requirements together with mills, bakeries, fisheries, sawmills, organizations for the provision of electricity, telephones, bus services and the like have all come into existence and play parts of varying importance. The total membership of the Finnish movement is placed at about 600,000, or one in six of the population. Its stronghold is among the small peasant proprietors of the south and west. Even the consumers' societies—the most important group—are predominantly rural, although a fairly strong section composed of industrial workers exists. Originally both sections were united in the same cooperative union and wholesale society, but in 1916 a split occurred, partly on political grounds, and the two have since set up their own central institutions. The separation does not appear to have entailed any unfortunate results except the uneconomic duplication of productive works. The dairy societies, although they have not developed as far as those of Denmark, do valuable work in the disposal of liquid milk, butter and cheese, of which the last two are sold through a central organization, largely to consumers' societies at home and abroad. The credit societies are after the Raiffeisen model and it is estimated that one peasant in three is a member. Deposits do not cover credits and the central bank receives considerable state support. Pellervo is a member of both the International Cooperative Alliance and the International Commission of Agriculture.

The Swedish cooperative movement apart from a few early experiments dates from the beginning of the present century. It is probably most highly developed on the consumers' side, although agricultural cooperatives of various forms also exist. A consumers' union of a propagandist character was founded in 1899 and assumed wholesale functions soon afterward, gradually developing productive works and insurance services. The movement has now about 400,000 members, of whom more than one half are non-agricultural workers, a fifth farmers and

farm workers and the balance a middle class element. It is to a very large extent rural in character. Political neutrality is observed. It is remarkable for its sound financial position and ample capital resources, for its success in combating match, margarine and other monopolistic trusts and for the educational work it undertakes. The movement among agricultural producers has resulted in a large number of societies purchasing agricultural requirements, which handle farmers' grain and are organized in regional unions and a central union undertaking wholesale business. Dairies are the oldest form of cooperative organization and play a considerable part in the export of butter and in supplying milk to the large towns, a service in which they cooperate with the consumers' societies. The system of cooperation between consumers' and producers' societies is especially well developed in Stockholm. Slaughterhouse and egg marketing societies also exist in considerable numbers and sell both in the home and foreign markets through central trading organizations. Stock breeding and machine using societies are fairly numerous. There are 1500 societies for the distribution of electrical current. There are cooperative building societies of producers for actual construction and of consumers for the provision of housing facilities. The consumers' organizations are affiliated with the International Cooperative Alliance and the agricultural societies with the International Commission of Agriculture.

Of recent origin too is the movement in Norway. The first successful cooperative societies were founded by consumers on the Rochdale system and date from 1894, when the first society was founded under the leadership of O. Dehli (1870–1924). The union and the wholesale society, which form one body known as the Consumers' Cooperative Federation, were not founded until 1906 and gradually extended their activities to include productive, banking and insurance departments. The movement is largely rural in character but is by no means confined to farmers and now includes about 100,000 members. It maintains political neutrality and is affiliated with the International Cooperative Alliance. The agricultural movement includes an extensive system of requirements societies purchasing flour, fodder, fertilizers and machinery for its members and there are also manufacturing and marketing societies, principally dairies, slaughterhouses and mills. There is a special cooperative farmers' bank. The agricultural movement has no international affiliations.

The wholesales of Norway, Sweden and Denmark are united in the Scandinavian Cooperative Wholesale Society, a trading international body founded in 1918 with headquarters in Copenhagen.

MARGARET DIGBY

RUSSIA. *Consumers' Cooperation.* Consumers' cooperation appeared in Russia in 1865 contemporaneously with the abolition of serfdom and the beginnings of modern industrialism. In the first thirty years the membership was urban under the leadership of social idealists from the privileged classes; of the 307 societies in 1897 only 56 were in rural districts. The first wholesale, the Moscow Union of Consumers' Societies, was founded in 1898. At the end of the century the membership of all societies did not exceed 250,000. The poverty and ignorance of the working classes and in no small degree the political disabilities of labor accounted for the slow growth of the movement. In the absence of a cooperative law the societies were subject to arbitrary administrative acts; no societies could be organized without the special permission of local authorities, who in various ways hindered their work, prohibiting conferences, publicity, educational work and the right to federate for wholesale operations.

The first revolution of 1905 was a turning point in the history of consumers' cooperation. Thwarted in political and other economic aspirations the masses of labor eagerly accepted cooperation as a means of social betterment. The revolution had awakened new powers of economic initiative and independence among workers and peasants alike. Between 1905 and 1914 the number of societies increased from 950 to 10,080, of which nearly three fourths were now rural in character, and the membership grew from 350,000 to 1,400,000, while the annual turnover rose from 110,000,000 to 290,000,000 rubles, representing 7 percent of the retail trade of the country in articles of general consumption. It was a mass movement of organized consumers for material welfare, in self-defense against exploitation, exorbitant prices and the inefficiency of private trade. The Rochdale principles were generally accepted, although in practise the Russian societies were too often compelled by reason of their limited capital and the poverty of their members to depart from the established principles of true co-

operation by selling goods below market prices, extending credit on sales and trading with non-members. There was still no cooperative law, and the government opposed every form of united action for wholesale trade and common policy. Only ten small consumers' unions operated in 1914.

The rate of cooperative expansion was even greater during the World War. In January, 1918, the primary societies numbered 35,000 with a membership of 11,550,000; the turnover was 1,300,000,000 gold rubles, or about 46 percent of the retail trade. As an institution for orderly distribution consumers' cooperation was a movement unequaled in the history of Russian trade. One year later the membership jumped to 17,000,000. The expansion was in part abnormal, stimulated by the food crisis and demoralized markets; it represented, however, the only organized, planned system for supply and distribution seeking to arrest economic chaos. In many regions the local societies formed multiple or chain store associations, while the number of wholesale federations grew apace, particularly with the removal of czarist restrictions. In March, 1918, the unions numbered 514, of which 60 were mainly provincial and 10 were territorial in the extent of their operations, covering whole areas such as south Russia, Siberia and the Ural mountain region. The Moscow Union was reorganized as a national federation, known as the Centrosoyus, affiliating three fourths of the unions.

The leaders of cooperation in Russia have from the beginning conceived the movement as a unified activity for material and cultural betterment. They recognized that the success of cooperation was largely conditioned by the general level of education and intelligence, which were to be promoted through schools, lectures, publications, playgrounds, concerts, conferences, reading rooms and various community activities for the dissemination of knowledge and the enrichment of social life. This cultural work, classless and politically neutral in origin, came to be known as the "non-trading function," intended to stimulate new social forms and a social consciousness. Cooperation at first carried no revolutionary principle; it was conceived mainly as a socializing economic force within the framework of capitalist society. A cooperative school of university grade was established in 1913 in the Moscow Peoples' University. In October, 1918, there were 70 periodicals published by consumers' unions, and over 400 new titles of books and pamphlets were issued in that year. In the field the consumers' organizations employed over 1500 instructors for various educational and cultural tasks.

The system of consumers' cooperation became necessary to the state. From the outset of the war the government was constrained in dealing with the supply problem to enlist the *zemstvos* and other municipal bodies, which in most instances utilized the existing trading apparatus of the consumers' stores and unions. With the exigencies of the war, scarcity of goods and state control the movement gradually enlarged its operations as an agent of the state at the expense of independent action in the markets of the country. In recognition of its national importance the Duma had under consideration in 1916 an act granting it full legal status and freedom of economic and social action; but in higher political circles the power of organized consumers was regarded with deep apprehension and mistrust as a state within a state. It was left to the Provisional Government to enact into law the cooperative code as it was planned by the Duma, giving full economic autonomy for trade, production, organization and education. The Central Cooperative Committee, which the old government suppressed in 1915, at once issued a call for a national congress, the third in the history of Russian cooperation, and before this congress the new government pleaded with the consumers' societies to take upon their "broad and powerful shoulders" the work of organizing the food supply of the country.

The movement was not strong enough to hold in check the forces of disintegration under the conditions of economic exhaustion, political strife, inflation and the breakdown of transport and credit. Politics was in the saddle, and every new national or regional authority with its regulatory agencies and policies only aimed to bend the consumers' organization to its own will, progressively depriving the movement of its fundamental principles and methods of economic work. The Soviet regime only completed the process of depersonalizing the consumers' movement, defending its course on the grounds of the food crisis, military necessity, the blockade and the cause of the revolution. The movement was thus bound to carry out the policies of the Communist party. The Centrosoyus made large purchases from the state syndicates and distributed the goods among local unions according to the purchasing power of the regions and the plans of the Commissariat of Supply. In monopolized

articles the cooperatives were little more than agents of the government. Then the Communist party made an open drive to convert the movement into a state organization in form as well as in fact, first by separating workers' from peasants' societies and then by detaching the class conscious labor element from the general urban membership. For a time the old leadership resisted this political encroachment, but after a period of "boring from within" and denunciations of the old leadership as protagonists of bourgeois economic prejudices and as enemies of the proletariat it was possible to replace the old boards with new men, and the way was opened for greater centralization and control. By the decree of March 20, 1919, compulsory membership became a fact, and the consumers' movement became the contracting agency of the government. The decree nationalized the distributive apparatus and introduced government appointees on the boards of management. But every step in the direction of bureaucracy and government tutelage only lowered the efficiency of the system; as a state organ it was powerless to achieve by force and requisitioning what the cooperatives succeeded in gaining through their methods of free exchange and mutual advantage.

The reestablishment of free markets under the New Economic Policy in 1921 was soon followed by the restoration of the financial and commercial autonomy of consumers' cooperation and its principles of voluntary membership and self-government. Slowly the movement regained its former place in trade, while in the five years since 1924, which marked the beginning of "socialist construction" in Soviet economy, its expansion in membership almost tripled the record figures of 1917. Between October, 1924, and October, 1929, the number of stores increased from 35,700 to 110,462; the membership from 7,093,000 to about 33,465,000; the share capital from 15,900,000 rubles to 374,000,000 rubles; and the annual turnover from 1,384,000,000 to 19,192,000,000 rubles. In the retail trade the movement embraced 66 percent, in the wholesale markets 56 percent, of the nation's business. Besides the consumers' primary societies affiliated in 158 district unions for common purchase and sale there are 14 territorial federations in the R.S.F.S.R. and 6 central federations representing the allied union republics. The Centrosoyus of U.S.S.R. acts as a central body uniting and coordinating the consumers' movement as a whole, while the Central Cooperative Council aims to articulate the policies of all types of cooperation in the country. The consumers' unions and federations own and operate grain elevators, refrigeration plants, flour mills, bakeries, canning works, soap factories, fisheries, etc. In 1929 their 9600 plants employed 139,110 workers and produced goods to the value of 1,552,900,000 rubles. The cultural activities of the societies include kindergartens, playgrounds, mother and child corners, bookstalls, training courses, clubs, reading rooms, etc., while the unions and federations maintain training schools of various grades, newspapers, research and publication and the higher cooperative institutes at Leningrad, Moscow, Kiev and Kharkov.

The phenomenal growth of consumers' cooperation since 1924 may be traced to the policy of reaching out to enlist the poorest classes by a low entrance fee of one half ruble and a membership share varying with income grades; but it was also due to merchandising efficiency, low prices and in part to the preferential treatment received at the hands of state industry in goods, storage, transportation and credit. It is the declared policy of the Soviet government to socialize the field of production and distribution as well under a planned national economy of industry and trade and thus establish a "closed economic system." The Centrosoyus is the planning agency of the organized consumers. It represents their interests before the state in all matters of trade and legislation; it plans the supply and movement of goods through a system of estimates and preliminary orders placed by the affiliated unions and through general contracts and agreements with state industries and with agricultural and handicraft cooperatives. In conformity with the Five-Year Plan of industrialization the Centrosoyus has drawn up a five-year plan of consumers' cooperation in order to achieve the maximum coordination of the interests of state industry and consumption. By this plan the cooperative system will federate by October, 1933, 47,000,000 members and control 70 percent of the trade; it will reduce working expenses and prices through greater efficiency and fresh capital investment in productive enterprises—from warehouses and mills to bakeries and dining halls.

EUGENE M. KAYDEN

Credit Cooperation. Credit cooperation in Russia has been almost entirely confined to agricultural credit. The institutions providing such credit date back to the period immediately

following the emancipation of the peasants in 1861. The breaking up of the semifeudal ties between the landlord and his serf not only introduced far reaching changes in the traditional structure of social and legal relationships but completely transformed the economic foundation of Russian agriculture from a semi-autonomous to an exchange and money economy. This general trend was intensified by the development of transport and the subsequent appearance of Russian agricultural products on the world market. The resulting need for an increase in the capitalization of agriculture created a demand for credit which was at first met by the primitive method of usury. Of the few who understood the character and consequences of this process the brothers Lughinin, enlightened wealthy landowners, deserve special mention. The Rozhdestvensky Savings and Loan Association founded by them in 1866, which became the cornei stone of the Russian system of cooperative credit, represented an adaptation of the western European forms to the conditions of Russian peasant farming.

Thereafter until the establishment of Soviet rule credit cooperation was the outstanding form of cooperation in the agricultural communities of Russia. With a few notable exceptions the formation of special marketing, purchasing or producing cooperatives lagged far behind. The rapid and widespread growth of these cooperatives was the more remarkable because of the difficulties encountered in creating such institutions among a peasantry accustomed to a semi-autonomous economy and scattered over a vast area.

This growth was characterized by three distinct periods of development. The first period up to 1895 was one of local, voluntary growth unaided or even hampered by the indifference or suspicion of the government. The energetic activities of unofficial organizations, especially of a committee set up by the Moscow Agricultural Society on the initiative of Prince A. J. Vassilchikov and of A. V. Yakovlev, resulted in the formation of more than 600 savings and loan associations with about 220,000 members and 29,000,000 rubles of operating funds.

The second period was initiated by a definitely sympathetic governmental attitude embodied in the law of 1895 granting credit associations a special legal status. This law provided for savings and loan associations resembling the Schulze-Delitzsch type and credit societies of the Raiffeisen type. The legal provisions as to membership and liability for both types, however, were unique and justify the designation of Russian system. Within the next ten years 658 credit societies and 433 savings and loan associations were organized, the aggregate assets of which reached the sum of 61,000,000 rubles by 1904. In that year a second law allowing the societies and associations to form local unions and authorizing zemstvos (local government bodies) to organize banks of small credit, which were to assume the functions of regional cooperative banks, made possible considerable improvements by providing the bases for a broader regional scope. The first zemstvo bank was established in 1907 in the province of Bessarabia. The change in government attitude was expressed also by the provision for substantial financial aid through the national treasury and the State Bank. It also initiated a supervisory system in 1895 of government appointed inspectors of small credit whose work was eventually coordinated in a board of small credit, a government agency which stimulated the expansion of the network of cooperative institutions on a sound basis of organization.

The third period, out of which grew the national institutions for credit cooperation which in turn strengthened and accelerated local development, was initiated by the calling of the first All Russian Cooperative Congress, which met in Moscow in 1908. As a result of the decision of the congress to complete the structure of cooperative credit by the establishment of a central cooperative bank, the Moskovsky Narodny (People's) Bank was formed in 1912. The growth of credit societies and associations is reflected in the following figures: in 1910, 1305 new cooperative credit societies and associations were organized; in 1911, 1856; in 1912, 2436; in 1913, 2022; and in 1914, 1487. In 1914 the total number of cooperative associations reached the impressive figure of 13,000, of which no less than 73 percent were credit societies. Of the total membership, which had grown from 1,400,000 in 1908 to 8,250,000 by 1914, four fifths belonged to credit societies, whose operating funds exceeded 600,000,000 rubles.

Although the war did not stop the growth of Russian credit cooperation it reduced somewhat the rate of expansion of local institutions. New difficulties during the war period, of which the most important was the influx of deposits accompanied by a decline in the demand for loans, were adequately met.

At the outbreak of the revolutionary dis-

turbances of 1917 Russia thus possessed the three essential elements of a well developed system of cooperative credit: at the base an extensive network of local credit societies and savings and loan associations (16,500 units with a membership of 10,500,000 and operating funds of 983,000,000); at the intermediate stage local unions, of which there were 136, and provincial zemstvo banks, of which there were 247; and at the top a central cooperative bank, the Moskovsky Narodny Bank. The only defect of this structure lay in the difficulty, experienced by the provincial institutions and the central bank, which had appeared at a late stage of the development, of keeping pace with the expansion at the base.

The importance of these associations was shown by the fact that in 1917 the households affiliated with cooperative credit organizations represented a total population considerably over 60,000,000, forming about one half of the total number of peasant households. This membership was almost entirely peasant; the non-peasant element never exceeded 5.5 percent and was often as low as 1.5 percent. Although it is true that at the outset the more prosperous peasant group predominated, the tendency of the movement was more and more to include the lower groups as well. The broad territorial range of these associations, which covered whole volosts (counties), and the character of Russian peasant farming tended to limit their functions; very few cooperative credit organizations assumed the marketing and purchasing functions common to the German unions. Nevertheless, they represented a most influential force for cooperative action in the prerevolutionary agricultural community. The scope of all cooperative organizations was broadened by the comprehensive Statute on Cooperative Associations and Their Unions drafted by cooperative leaders and enacted in the spring of 1917 by the Provisional Government. Its practical effects were nullified, however, when the Bolsheviks came into power.

In the period of "war communism," on the theory that cooperative institutions were incompatible with a fully realized socialist society the Soviet government destroyed the Russian cooperative credit system and dispersed its funds and functions among various governmental or semigovernmental consumers' organizations. At the end of this period, however, in its New Economic Policy the government advanced a compromise formula according to which in a period of the dictatorship of the proletariat the growth of cooperation was recognized as "identical with the growth of socialism." Soviet cooperation was recognized as a socialist form of economy useful and necessary as a preliminary stage in the development of the socialist organization of society, and certain opportunities for ostensibly independent existence were thrown open to it. In the years 1921 to 1927 there were enacted no less than thirty-five laws bearing directly on cooperative credit, and thirty-four more enactments were concerned with agricultural cooperation, which is closely linked with cooperative credit, no clear line between the two being drawn in Soviet legislation. The principal legislative enactments in force at present are the Resolution of the Central Executive Committee and of the Council of People's Commissars of August 22, 1924, the Law on Cooperative Credit of January 1, 1927, and the Law on Agricultural Cooperation of October 3, 1927. Legally, cooperative associations are subject merely to formal registration, but in fact the organization of cooperative institutions is dependent upon official approval.

At the present time the organization of governmental cooperative credit comprises four divisions: local credit and agricultural credit associations, agricultural credit unions, incorporated societies for agricultural credit covering at least a province and at the top the Central Agricultural Bank, the All Russian Cooperative Bank established in 1922 and practically abolished in 1929 and the State Bank.

This complex organization, comprising in 1926 a membership of about 4,300,000 with assets amounting to some 460,000,000 rubles (increased to 540,000,000 rubles by October, 1927), is maintained by government loans and subventions, individual deposits accounting for merely 14 percent. Its divergence from the accepted basis of credit cooperation is illustrated by the fact that deposit operations which ordinarily are the mainstay of such institutions average less than two rubles per member. The announcement of the policy of reorganizing agriculture on a collective basis is obviously contrary to the strengthening of cooperative agricultural associations, and in such a reorganization the function of credit cooperation will probably disappear.

A. N. ANTSIFEROV

Agricultural Cooperation. Prior to the World War the chief form of agricultural cooperation in Russia was the credit society, which often also

performed marketing, purchasing and processing functions. Separate agricultural supply and processing associations date back to the late seventies, but they developed rapidly only after the revolution of 1905. At the outbreak of the war three fourths of these associations had a membership of dairy farms and only one tenth were for the purchase of supply and implements. There also existed special agricultural producers' associations among the flax growers. In 1914 there were about 476 dairy, creamery and cheese artels in European Russia, and by 1916 this number had doubled. Even more important was the development of a genuine cooperative movement in the dairy and creamery industry of Siberia, introduced in 1902 by A. N. Balakshin. It was initiated with government encouragement and subsidy but later became self-sufficient and led to the formation of the Union of Siberian Creamery Associations. By 1918 there were over 2000 affiliated societies, which carried on an important export business with export agencies in the United States and England. These cooperatives undertook consumers' as well as producers' cooperation.

The whole movement was stimulated by the war and the revolution of March, 1917. It suffered less than did the consumers' cooperatives from the policy of nationalization during the period of "war communism" except that its credit branch was entirely swept away. Yet the movement as a whole naturally suffered in the general economic breakdown; recovery dates from the introduction of the New Economic Policy in 1921, which accepted the cooperative movement as a necessary instrument in certain stages of the development of a socialistic society. Especially since the stabilization of the currency has the growth of agricultural cooperation been very rapid.

There were in 1928 an estimated total of 93,400 societies as against 27,000 in the larger territory of the pre-war Russian Empire. The membership is placed at about 11,000,000 together with perhaps another 1,000,000 for the so-called "wild" societies which are not organized in any union. This brings membership up to 50 percent of the peasant population, but some allowance should be made for the cases of individuals who belong to several societies. Owing to the size of the country and the diversity of its peoples it has been necessary to devise a complicated hierarchic system of organization by which local societies are grouped first in district unions, second in unions covering a republic, then in central unions for the whole of the Soviet territory. The central unions number fifteen and each includes the societies handling some particular commodity or performing some one service. Their functions are as follows: supply of agricultural requirements, seed growing, butter and dairy produce marketing, livestock (sale of fat stock and meal, also breeding), eggs and poultry marketing, flax and hemp production and marketing, grain sales (working jointly with the state export company and with the English Cooperative Wholesale Society), potato processing and marketing, tobacco preparation and marketing, fruit and vegetable growing and wine making, sugar beet growing and manufacture, cotton production, beekeeping, publishing (books, periodicals and stationery required by the agricultural movement), insurance. In performing these specific functions the cooperative is charged with the task of educating its members concerning improved methods of technology. Measured by turnover the dairy union is the most important, but those dealing in requirements, livestock and grain are not far behind. All the commodity unions undertake marketing except those concerned with sugar beet and cotton, which are purely advisory. All commodity unions are affiliated with the Central Cooperative Bank and with the Union of Unions (Soyuz Soyuzov), with which are also affiliated some of the more important local and regional organizations. This body is not a trading but a policy making organization. A separate central organization exists in the Ukraine.

The total turnover of the agricultural movement in 1926–27 (the last year for which complete figures are available) was 3,130,000,000 rubles, of which rather more than two thirds were for agricultural produce marketed and the remainder for agricultural requirements supplied to members. The cooperative movement has developed an important foreign trade, principally in Germany, the United States, England, Austria, Czechoslovakia and Sweden, which is carried on through its own agencies established at London, Berlin, New York, Paris, Riga and Shanghai. These agencies are occupied with the sale of Russian agricultural produce, including dairy and poultry produce, grain, flax, bacon, furs, raw hides, tobacco, honey and fruit. They import agricultural requirements, especially machinery and appliances; also chemical manures, seeds and pedigreed stock. According to the last available figures, however, these imports amounted to only one tenth of the

exports. Grain sales are carried on through a special joint company, of which the English Cooperative Wholesale Society is a member.

The voluntary agricultural cooperative movement had thus much more than regained its prewar position and had developed a complex and highly specialized system of catering to all the economic needs of the peasant. In the light of recent developments, however, it is seen that government encouragement of voluntary cooperation was not a permanent policy. The cooperative organizations for the joint use of machinery and other forms of agricultural improvement, which had existed for some time, are now being supplanted by a much further reaching form of association in which individual ownership of land ceases altogether and cultivation is carried on by the group on a communal basis. "Collectivization" of agriculture, undertaken as an integral part of the Five-Year Plan, is now absorbing much of the cooperative system. Cooperative marketing and credit organizations are still maintained, but it is obvious that their basis will differ considerably from that of most countries.

MARGARET DIGBY

SUCCESSION STATES AND BALKAN COUNTRIES. Cooperation in Czechoslovakia falls into two principal functional divisions: consumers' cooperation, which is in the main urban, working class and socialistic, and producers' cooperation, which apart from a small industrial productive movement is agricultural and adapted to the needs of peasant proprietors with a mainly conservative although not unprogressive outlook. A second cleavage, that of race, cuts across the economic division and results in separate Czech and German movements in every economic category together with less important Slovak, Polish and Ruthenian organizations.

As early as 1867 F. L. Chleborád attempted to set up a comprehensive national organization of producers' and consumers' cooperatives. The present consumers' movement was placed on a firm foundation in the period between 1890 and 1900; it is strongest in the industrial areas of Bohemia and Moravia and probably includes upward of two thirds of the industrial population. It is organized in local societies working on Rochdale principles, with wholesale societies owning productive works. The bulk of its trade is in foodstuffs, but clothing, furniture and the like are also handled. Both Czech and German movements are affiliated with the International Cooperative Alliance. The central unions of the former include 375,000 members and of the latter about 225,000 members.

The agricultural movement, which in Czech districts was developed under the leadership of F. C. Kampelik (1805–72), is based on credit societies after the Raiffeisen model, the first of which dates from 1868. In its early stages considerable nationalist enthusiasm went into the building up of the Czech side of the movement. Local credit banks exist today in every village. They are on a basis of unlimited liability and are managed by the members. Their business is the making of short term loans to members, receipt of savings deposits and keeping of current accounts. They have further built up their own central banks, which undertake a clearing house business and invest surplus deposits. They hold a leading place among Czech banking institutions. Besides its important service to the individual peasant the credit movement has been the means of promoting other forms of cooperative undertaking: notably the warehouse societies with their central wholesale, engaged in the sale of fertilizers, feeding stuffs and the like to the farmer and the purchase of his grain; the dairy societies; and those engaged in manufacturing processes such as distilling, beet sugar refining, chicory drying, canning and jam making. Cooperative sales of eggs and meat are in their initial stages. An important and characteristic development is the cooperative supply of electricity, in which local distribution is in the hands of a society of current consumers, while production is largely carried on by public utility companies. About 60 percent of the agricultural population of the country is included in the cooperative movement, which plays a leading role in agricultural economy and is steadily growing, especially in the more backward areas of Slovakia. The central organization, Kooperativa, which represents all national groups, is a member of the International Commission of Agriculture.

A national joint committee of consumers' and producers' organizations exists and certain mutual trading operations are arranged, especially in grain. Some similar developments have taken place locally. Neither the consumers' nor the producers' movements are dependent on the state, although the agricultural credit societies took some part in facilitating the post-war distribution of land and are looked to by the government as agents for the dissemination of technical instruction.

The Hungarian cooperative movement presents two salient characteristics: a close dependence on the state and a remarkable blending of the producing and consuming functions. The exceptions to this generalization are a civil service consumers' society (the consumers' Productive and Utilization Society of Hungarian Civil Servants, founded in 1892) and an independent working class consumers' movement (the Union of Hungarian Distributive and Productive Societies), which operates mainly in Budapest. Pre-war Hungary included territory in which various minority cooperative movements existed, but these have all been transferred to other political sovereignties together with large sections of the Hungarian movement. This loss has been met by an intensification of effort within the remaining Hungarian territories.

Two national organizations were established in 1898 in an attempt to meet the agricultural crisis which was then affecting Hungary. The first was the Central Credit Society. The members of this society are local credit societies after the Raiffeisen model, among which subsidiary regional groupings have recently been introduced. The society itself was founded with considerable state capital and admitted as shareholders various local and national institutions as well as private persons. It is controlled by the state with participation by the other elements, including the local banks. It fulfils the ordinary functions of a bank besides undertaking propaganda and auditing for its affiliated societies. The second was the national organization known as Hangya (Ant). The Hangya, an unofficial body created under the leadership of Count Alexander Karolyi, receiving certain state support, is the center for consumers' societies, mainly rural, selling both domestic and agricultural requirements and for societies engaged in marketing the farmers' produce—two functions which are frequently combined. It undertakes educational, propagandist and auditing work and also acts as a wholesale society.

In 1919 the two central organizations combined to set up a central marketing and exporting organization, the Futura, handling mainly cereals but also wool and a few other commodities. Originally an organ of state control, it now works on a cooperative basis, purchasing through local cooperative societies and frequently making advances on crops to be purchased. In addition to these bodies there is an insurance society for agriculturists and a national central organization of dairies, both working in close collaboration with the Hangya and the Central Credit Society. The Hangya and several other groups are members of the International Cooperative Alliance and of the International Commission of Agriculture.

In Poland the former political disruption of the country and the variety of races which it now includes have led to considerable confusion in the modern cooperative movement. Agricultural cooperation and credit of differing types developed more especially in Austrian and German Poland and consumers' cooperation in Russian Poland. The outstanding leaders in the Polish cooperative movement were Romuald Mielczarski (1871–1926), Edouard Abramowski (1868–1916) and François Stefczyk (1861–1924). The total present membership of cooperative organizations is three and a half millions, or 11 percent of the population of the country; even allowing for some duplication in membership, the cooperative organizations include a considerable proportion of the population. Of this number the largest group is affiliated with credit societies.

The consumers' movement on Rochdale principles was a late growth and made little progress until 1906; it has passed through various vicissitudes and was at one time divided into official, socialist and Christian unions. These have all now amalgamated to form a comprehensive Union of the Polish Republic, which also includes a certain number of Jewish and German societies. The union undertakes education, propaganda and auditing. Closely linked with it is the wholesale society, which imports, exports (largely the agricultural produce of members) and manufactures. A few groups of societies remain outside the Polish union, the most important being the Ukrainian societies, which are estranged for nationalist reasons, and certain agricultural groups.

Credit societies after the Schulze-Delitzsch model were founded about 1850 in German Poland; they spread rapidly, partly under the impetus of national enthusiasm, and were later organized in a union. In Russian Poland credit banks to a large extent lost their cooperative character during the war, but a remnant survived to be amalgamated with the Schulze-Delitzsch union and with certain kindred organizations in Austrian Poland and elsewhere. These include agricultural requirement and dairy produce exporting societies. This group of organizations centers around the central co-

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operative bank, in which the credit societies hold a controlling interest. A similar group of organizations, overlapping geographically with the first and equipped with its own central bank, is known as the Federation of Agricultural Unions of the Polish Republic, which had its origin in Austrian Poland and includes a considerable number of creameries and other productive and marketing organizations. There are, moreover, independent groups of Jewish, German and Ukrainian and Russian credit societies. Several of the Polish unions are members of either the International Cooperative Alliance or the International Commission of Agriculture or both.

Rumanian cooperation is almost entirely agricultural in character; the urban consumers' societies are few and except in Transylvania generally weak. As far as the pre-war Rumanian territories are concerned cooperation has been characterized by excessive reliance on the state, which first called it into being among a peasantry unused either to business undertakings or self-government, then financed it liberally from state funds and finally attempted to use it for purposes—such as the carrying through of the post-war land reform—which were admirable and urgent but not in any ordinary sense cooperative. Such action although pardonable in times of great difficulty was demoralizing, and a complete reorganization of the cooperative movement became necessary and was carried through in 1929. The movement is largely one of credit societies, which are now organized in district unions under a national office with an element of official control which it is proposed to reduce in time. The national office is affiliated with the International Commission of Agriculture and the International Cooperative Alliance. There is further a central cooperative bank, mainly based on state funds, and a central cooperative society for import and export, which undertakes the marketing of agricultural produce, mainly grain, in which it acts for the state. State aid is not extended to voluntary consumers' societies, although it was given for a time to a compulsory society of civil servants which was created by the state. Two independent types of cooperation are the fisheries societies on the Danube and lumbering societies, a type of cooperation which appears to be almost entirely confined to Rumania and has there met with considerable success.

In the territories transferred to Rumania after the war a number of cooperative groups exist representing German, Polish, Hungarian and Jewish minorities. They are nearly all credit or consumers' societies, and those in Transylvania especially are well established and successful.

Cooperation has for many years held a place in the agrarian and social policy of the Bulgarian government and the movement is therefore to a considerable extent officially inspired. An agrarian bank of a semi-official character was founded in 1904 and functioned until 1911, when apparently for political reasons it was replaced by the Cooperative Central Bank, which continued to operate alone until 1921, when the agrarian bank was revived; since then the two have coexisted, the Cooperative Central Bank being more especially concerned with urban development and loans to cooperative undertakings and the agrarian bank with branch business among the peasants. There exists also a third organization, the unofficial Union of People's Banks. The General Union of Bulgarian Agricultural Societies affiliated with the International Commission of Agriculture includes about 1500 organizations, most of them credit banks but the majority with consumers' stores attached. Many also undertake dairies, tobacco factories (which are specially well developed in Bulgaria) and works producing oil of roses and other commodities. The less numerous urban consumers' societies, of which there are about 150, are organized in a wholesale society which is affiliated with the International Cooperative Alliance, as are the people's bank and the Officials' Insurance Society. A few other types of organization exist, including fishery societies. There is a cooperative training school in Sofia. The movement was hampered by the political troubles of the post-war period and suffered severe losses in the earthquake of 1928. These events have also retarded the publication of reliable statistics.

The Jugoslav cooperative movement, like that of Poland and from the same political causes, is excessively broken up for racial, geographical and functional reasons. There are Serbian, Croatian, Slovenian, Dalmatian and a limited number of German societies. The majority are united in the General Federation of Cooperative Unions, but certain organizations, notably those of the Slovene consumers and the German credit societies, remain outside. Societies number between 4000 and 5000, the vast majority being rural in character. More than half are credit societies and most of the remainder are occupied with agricultural supply and market-

ing. A certain number of dairies exist, and many other branches of economic activity, such as housing, fisheries and electrical supply, are represented by a few societies. A development which appears to be unique and is of peculiar interest is the establishment of health cooperatives, which provide their members with medical services. Most of the societies are on a basis of unlimited liability. Their membership is estimated at about half a million. In 1925 a new act was passed removing credit societies from the control of the general federation, setting up fresh societies and establishing a state central bank. This act appears to have met with strong opposition and never to have been carried out in full. A new act is now in preparation which may modify the situation considerably. The Jugoslav central cooperative organizations are affiliated with both the International Cooperative Alliance and the International Commission of Agriculture.

Although preceded by some isolated experiments in the early nineteenth century the modern Greek cooperative movement originated in 1900 with the formation of a local credit and threshing society. A few more credit societies followed together with a few wine growers' organizations. In 1914 a cooperative act was passed to aid tobacco growers, which gave a legal status to the societies, and the state later arranged with the Bank of Greece to make loans to cooperative societies for transmission to peasants settled on land expropriated in the course of the land reform. These steps led to a rapid expansion of the agricultural movement, especially on its credit side. By 1928 it included nearly 5000 societies with a quarter of a million members. Their principal business is in the granting of loans, and the deposits so far built up are inconsiderable. They therefore remain dependent on the Agricultural Bank of Greece, which is backed by the state and in 1930 replaced the Bank of Greece as a central credit institution. Sale of agricultural supplies and marketing of agricultural produce, especially olive oil and wine, have made some progress, and a number of land settlement societies exist which arrange for the transference of expropriated land. The consumers' movement is practically non-existent and urban cooperation is principally represented by industrial productive societies and building societies. None of the Greek cooperative organizations have international affiliations.

MARGARET DIGBY

UNITED STATES AND CANADA. *Consumers' Cooperation.* Consumers' cooperation, aside from insurance, telephone and building and loan societies, has always been backward in the United States compared with the movements in European countries. Yet its history in America dates back to pre-Rochdale days, the early forties, when a Boston tailor, John G. Kaulback, organized his neighbors into a buying club, which later became the first store of a movement extending over ten states and into Canada; the local societies numbered at one time 700 and each operated a store. Civil War enlistments and more especially the westward migration after the war marked the decline of this early movement, although a few of its stores still survive. A second wave of cooperation swept the entire country in the early seventies. In labor groups it was sponsored by the Knights of Labor; among the farmers by the Patrons of Husbandry, better known as the Grangers. To both of these elements, however, cooperation was secondary to other interests, and it therefore failed. From these misdirected efforts, nevertheless, emerged the Sovereigns of Industry, founded in 1874, whose local enterprises covered the eastern states from Maine down to Maryland. In social vision and idealism the Sovereigns stood equal to the British movement at its best, and had economic conditions been ripe there is no doubt that they would have been the founders of an enduring American consumers' cooperative movement.

Following the decline of the Sovereigns, in the later seventies came intermittent awakenings, notably in California and in the north central states; but the beginning of the present established movement properly dates back to the first decade of the century when active propaganda was taken up by the Cooperative League, a New York City organization, with a membership largely Jewish. Its literature had a far reaching influence, and the society itself, operating three hat stores and a hat factory, was the first in this country to embark on consumers' cooperative production. It eventually failed, but members of this group were among those who in 1915 organized the present Cooperative League of the United States. This is a central union, or federation, with a constituency in 1931 of 140 local societies comprising a membership of 125,000 individuals. Its purpose is entirely educational; it publishes a large quantity of literature, including the official organ, *Co-operation*, and gives practical advice to newly formed societies.

The largest number of societies may be found in the north central states, federated in the regional Northern States Co-operative League, which has a dues paying membership of about 50,000, organized in 88 societies. These include a wholesale federation, the Co-operative Central Exchange at Superior, Wisconsin, representing 90 local societies and doing a business of $2,000,000 a year. An outstanding local society in this region is the Franklin Co-operative Creamery Association of Minneapolis, Minnesota, with over 5000 members, distributing milk and other dairy products to the value of $3,500,000 a year; this is the largest consumers' co-operative on the continent.

The second largest and most active group covers the eastern states, recently organized in the Eastern States Co-operative League, a federation of 24 societies with 13,000 members scattered largely through Massachusetts, Connecticut, New York and New Jersey. A wholesale federation was organized in 1929. In this region are a number of large societies, chief of which is Consumers' Co-operative Services, Inc., operating a chain of cafeterias and food shops, a credit union and a large housing enterprise. Its 3300 members are mostly office workers.

In the central states coal miners have established a movement of small local store societies centering about Bloomington, Illinois, 13 of which are federated in the Central States Co-operative League. This region ten years ago seemed on the point of developing a significant movement and had established a wholesale federation in East St. Louis, Illinois. It has dwindled largely because the old mistake of making cooperation secondary to labor organization was here repeated.

Among the farmers there are two important groups, one in Nebraska and one in the region centering around Seattle, Washington, each operating a wholesale federation. Both are purely utilitarian without the elements of future expansion.

Ten years ago it was estimated that there were about 3000 cooperative societies of consumers in the United States. The estimate is now about 2000, but membership, turnover and solidarity of organization have increased. About half of the societies operate general merchandise stores in small towns; some 400 are groceries and some 500 oil and gasoline associations; the rest may be divided among restaurants, bakeries, apartment houses, creameries, coal companies, etc.

In Canada as in the United States consumers' cooperation has made a belated appearance. It is represented by the Co-operative Union of Canada, to which are affiliated 31 societies, as compared to 7 six years ago. These comprise about 10,000 members. The oldest of these societies and the most successful is the British Canadian Co-operative Society of Sydney Mines, Nova Scotia, with about 3500 members, doing a business of $1,780,000 a year.

ALBERT SONNICHSEN

Credit Cooperation. In marked contrast to the development of credit cooperation for agricultural producers on the continent of Europe the movement in the United States and Canada thus far is almost exclusively urban and credit is mainly used for direct consumption needs. The cooperative credit associations are of two kinds: building and loan associations and credit unions. If the former are accepted as cooperative credit institutions their widespread existence and large funds make the United States from the point of view of assets one of the leading countries of the world in the field of credit cooperation. The highly specialized function of these associations and certain variations from the usual cooperative type have, however, led to a separate classification of these associations.

The credit union is a variant of the "people's," or "popular," bank on the continent, particularly in Germany and Italy. The founder of credit cooperation in North America, Alphonse Desjardins (1854–1920), called the first cooperative society established on the continent in the province of Quebec in 1900 the Caisse Populaire de Levis. But the designation "credit union" is most common in the United States and is used in the first cooperative credit law enacted in the United States in 1909 by Massachusetts and in thirty of the thirty-two state enactments on the subject.

On the basis of this legislation a credit union in the United States and Canada may be defined as regards organization and administration as a society organized on the cooperative principle of voting by person rather than by capital share, self-managed by elected officers, receiving its right to operate from the state and functioning under state supervision. Its purpose is to supply its members with a ready system of savings from which they can then borrow at currently fair rates of interest, and net earnings are to be returned to the members as dividends

on their savings. Incidental and auxiliary functions of credit societies are those of education of the membership. Liability is usually limited to the member's share holdings, but generally the matter of individual liability has not been of importance since credit unions in the United States rarely borrow.

Although the movement began in Canada its greatest development has been in the United States. In Canada it has been limited on the whole to the French parishes of the province of Quebec, although favorable legislation has been enacted in Ontario. Its founder was much impressed not only by the basic economic principles of the Raiffeisen movement, which he studied for many years, but also by its religious and moral character and enlisted the active assistance of the French Catholic clergy. In 1929 there existed 168 societies with 41,374 members and assets of about eleven million dollars.

From Canada the movement under Desjardins' leadership spread to a French Catholic parish in New Hampshire. The most significant development has taken place, however, in Massachusetts, in which from 1908 to 1918 experimentation in legislation and administration formed the basis for similar movements elsewhere. The first cooperative credit law was enacted in 1909 under the leadership of Pierre Jay, then bank commissioner of Massachusetts, and Edward A. Filene with the advisory counsel of Desjardins.

The greatest development of the movement has appeared since the formation of the Credit Union National Extension Bureau, organized in 1921 under the initiative of Edward A. Filene and directed by Roy F. Bergengren. Less than 6 percent of the existing organizations were formed prior to 1916, and almost 75 percent were formed from 1925 to 1929.

It has been stated that the credit union movement has progressed more rapidly during the period of its existence in the United States than it has in any other country. In October, 1930, there were about 1500 such societies in existence with an approximate membership of about 300,000 and approximate assets of forty-seven million dollars. Sixty-nine separate types of credit organization have developed, including more than 200 credit unions, to which 40,000 postal employees belong. Of the total membership 40 percent are industrial workers organized in many cases in specific plant societies, 30 percent are employees of the government or of public utilities, 20 percent are drawn from communities mainly rural, and 5 percent are members in societies organized by labor unions. Membership has been drawn from groups with common bonds of occupation or association and has been made easily available through a weekly membership fee of about twenty-five cents, applied to shares of small denomination. The cost of administrative expense has been unusually low, averaging about 1.79 percent of total loans granted, and losses have been almost nonexistent. One of the largest credit unions in New York, representing 11,000 members with loans aggregating twelve millions, reports a loss of only forty dollars in the fourteen years of its existence. Almost 60 percent of the members are located in Massachusetts and New York—one third in Massachusetts alone. The movement has spread, however, over thirty-two states and has gained considerable strength in the South and in the Middle West.

The extension of the credit system into rural communities is now in process of experimentation. The development of credit unions in North Carolina has been significant but not sufficiently extensive to serve as a basis for prediction, and the few Jewish rural credit unions in New York state were neither typical nor significant. In the existing rural credit unions loans are made primarily for productive purposes and to assist in cooperative buying. At the present time, under the direction of the Credit Union National Extension Bureau, experiments with rural cooperative credit are being developed in communities in Nebraska, Georgia and North Carolina and in several Catholic parishes. Despite the existence of government aid in the form of intermediate credit banks or of marketing cooperation the need for rural cooperative credit persists.

ROY F. BERGENGREN

JAPAN. The cooperative idea has existed in Japan for centuries. As early as 1275 there existed the Mujin or Ko, societies which practised a very interesting sort of cooperative finance, closely resembling in procedure although not in wide range of objects the nineteenth century Starr-Bowkett English building societies. This type of society with manifold outgrowths of later development persists as the most popular system of finance among the poorer people, and it is claimed that there are at present more than one million Mujin societies.

The idea underlying the Mujin became more

elaborate and reached a closer resemblance to the modern credit societies in the Hotokusha, founded in 1843 by the disciples of Ninomiya Sontoku, a great scholar and social worker who particularly stressed the moral and ethical uplift of the members. The Hotokusha resembles in its object and organization the German Raiffeisen credit society, and after the enactment of the co-operative law in 1899 some of the Hotokusha societies were reorganized into modern credit societies, although a great number are still developing on their original lines.

These two were the cooperative types which flourished in Japan until the early part of the nineteenth century, when there appeared several cooperative marketing societies, called Minamisansha, owing nothing to western examples. These were organized by farmers, principally by those engaged in cocoon culture, and originally marketed hand reeled silk, but they now deal in machine reeled silk and also undertake cooperatively the actual reeling process. They have grown into powerful marketing organizations with several thousand individual members.

Shortly after contact had been established with western countries various investigators sent abroad acquired knowledge of foreign systems and began to urge upon the government the necessity for fostering cooperation on western lines As a result and principally at the instance of Viscounts Shinagawa and Hirata the government established in 1900 the German system of agricultural cooperation, and societies were formed all over the country. Since then they have developed to an astonishing degree and there were at the end of 1928 14,171 such societies with 4,157,000 members. An occupational classification of this membership shows 73 percent in agriculture, about 11 percent in commerce, about 5 percent in industry, 1 percent in fishery and about 10 percent in miscellaneous occupations. Most of these societies perform several functions. Thus although of this total only 2600, or 18 percent, of the societies are listed as strictly credit societies, actually 12,349, or 88 percent, include credit facilities among other functions. Similarly of the total 8148, or 57 percent, have cooperative marketing functions, 10,348, or 73 percent, have purchasing functions and 5069, or 36 percent, provide machinery, plant and other equipment for the common use of their members. Besides the cooperative societies enumerated above there are also 249 urban credit societies and 2431 agricultural warehouses owned and controlled cooperatively.

In 1927 the subscribed share capital of all forms of cooperative societies together amounted to $133,401,467, paid up capital to $90,998,745, reserve fund to $40,827,133 and money borrowed from outside to $74,071,265.

The internal organization of the credit societies is the same as that of the Raiffeisen societies in that the sphere of a society is limited to a small area, the value of the shares is relatively low, loans are granted for relatively long periods, the posts of directors and auditors are honorary in principle, the working of the society is simple and one or more other forms of cooperation may be combined therewith. Japanese societies have, however, no indivisible reserve fund, limited liability is on the whole preferred to unlimited liability and, finally, the moral aspect is not stressed.

The urban credit cooperatives, far less important than the rural, differ from the latter in several respects. In order to be registered as urban credit societies they must be established in cities or one of the quasi-cities authorized by the minister of state concerned. Since they serve primarily the artisan and tradesman class they may grant loans by way of discounting bills of exchange, a practise not permissible in rural societies. Urban societies have less rigid rules for accepting deposits from non-members. Finally, whereas rural credit societies may include other types of cooperation, the urban credit societies must confine themselves to credit business only.

The total amount of members' deposits and savings in 11,732 credit societies sending in reports was, at the end of 1927, $445,205,689 and that of loans granted to members $370,033,834. Taken as a whole the efficiency of credit societies is still relatively low, and in order to fulfil the function of a popular financing system there is much to be done by these societies.

Marketing societies are slow to develop as compared with credit societies. Yet their activities in recent years are noteworthy. At the end of 1927 the total amount of sales in 7513 reporting societies was $110,727,236. The most important marketing societies are those for silk and rice, the latter product being handled also by the agricultural warehouses mentioned above. Purchasing societies for fertilizers and other agricultural requirements are more flourishing than marketing societies and are fast gaining ground. At the end of 1927, 9739 purchasing societies distributed to their members all kinds of agri-

cultural requirements and necessaries of life to the amount of $76,716,586. Machinery societies are more of an adjunct of other forms of cooperation than purchasing and marketing societies are of credit societies. The most prevalent form of machinery societies is found in connection with cocoon culture and silk reeling.

In the period between 1900 and 1930 various federations, which now number 179 and include the National Federation of Purchasing Societies and the National Federation of Silk Marketing Societies, have been formed. These are organized nearly on the same principle as the unit societies, except that in federations no individual members are allowed and unlimited liability is not permissible by law. Central organizations have appeared one after the other in quick succession. The Cooperative Union acts as propaganda and educational headquarters for all cooperative societies. The Central Cooperative Bank, functioning as the central financing institution for the whole movement, has something of the nature of a state bank, the government contributing one half of the total subscribed capital of $15,000,000 and its president being nominated by the government. More recently a cooperative college has been opened under the auspices of the Cooperative Union. Japanese success in agricultural cooperation can thus favorably compare with that of many European countries.

This widespread and closely organized farmers' cooperative movement has three special characteristics. In the first place, it is a system that has been established from above by the government, which has financed it by tax remittances and by loans at low interest. The government therefore has been able to control the movement, and the closest supervision has been made possible by the prefectural system established in Japan shortly after the Meiji restoration. The whole system thus evolved is an importation en bloc of the German system, and hardly any attempt was made to integrate the indigenous system with it. At the time of its establishment the attempts that the people had already made at real self-help were virtually ignored. Recently, however, efforts have been made without great success by individual leaders of the movement to give it a character of self-help. A second feature is the exclusion by the government from the cooperative program of the workers' productive societies or self-governing workshops on the French model because it fears that such organizations constitute the first step toward socialism. The third feature of this system is that the consumers' interests are the least considered. The government wished particularly to encourage the small rice cultivators and incidentally the artisans, but it has ignored the consumers' movement, which is partly responsible for the relatively slow progress of the cooperative store movement.

The cooperative store movement actually began in 1879. For the next ten years beyond spasmodic efforts there was relatively little activity of any importance with the exception of the foundation of the Kyodokai, which was organized in 1901 by lower civil servants attached to the house of representatives and other government departments. After the World War real working class stores came into existence. At the present time there are some thirty such stores, mostly in Tokyo, grouped rather loosely into two federations with about 3000 individual members each.

There are now in Japan about 150 cooperative stores with 125,000 members, doing business to the amount of $10,000,000 per annum. The stores can be roughly divided into four classes. The first class includes general stores; that is, those open to all classes and existing simply to obtain good articles at low prices. Their members are mostly non-manual salaried employees. The second class includes the workers' stores, which have ideals of social betterment of their members. Some of them have socialistic political affiliations, although this is not openly admitted. The third class is composed of welfare societies set up by industrial and commercial concerns and by government departments for employees; in these, of course, the initiative comes from outside the movement. Finally, there are the students' stores in various colleges and universities, whose purpose is to reduce school expenses and give a cooperative training to the citizens of the future.

The main weaknesses of the consumers' movement are the lack of coordination between individual stores, the lack of experienced sales managers among those responsible for the administration of stores, the continued existence of the system of credit purchase and house to house delivery and the lack of consciousness on the part of the public of the full implications of membership in cooperative stores.

There are two other forms of consumers' cooperation—building societies organized as such and building societies organized as credit societies. There are about 2700 of these societies

with approximately 59,000 members. Yet another form of consumers' cooperation consists of the associations for providing services or appliances necessary for domestic economy. The most important of these are societies to supply electric power, which numbered fifty-three at the end of 1925.

K. OGATA

See: AGRICULTURAL COOPERATION; CREDIT COOPERATION; PRODUCERS' COOPERATION; CONSUMERS' COOPERATION; FARMERS' ORGANIZATIONS; LABOR MOVEMENT; PARTIES, POLITICAL; FOURIER AND FOURIERISM; OWEN AND OWENISM; SOCIALISM; GUILD SOCIALISM; ARTEL; SOCIAL CHRISTIANITY; MUTUAL AID SOCIETIES; FRIENDLY SOCIETIES; COMPETITION; ECONOMIC INCENTIVES; MIDDLEMAN.

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COOPERATIVE CREDIT. *See* CREDIT COOPERATION.

COOPERATIVE HOUSING. *See* HOUSING.

COOPERATIVE PUBLIC BOARDS. Besides the ordinary distributive societies organized by individual consumers there have existed for a long time in Belgium large cooperative organizations among public bodies, such as national, provincial or municipal governments, or bodies having a standing in public law. These are called cooperative public boards (*régies coopératives*) and like ordinary consumers' cooperative share societies are unlimited as to capital and membership. Their membership consists only of the public bodies which are direct or indirect consumers of their products or services. Every such board is open to any public organization which wishes to join it. Legally and in actual practise they are quite independent of their shareholders, the public corporations, in respect to commercial, financial and administrative action. According to their statutes they keep their own

profits and bear their own deficits. In this the cooperative public boards differ essentially from municipal or state boards. It is this freedom from all political influence which has assured the extraordinary success of all the cooperative boards thus far established. In accordance with the fundamental principle of cooperation every such board distributes the profits among the consumers in proportion to their purchases, when these are known, or else turns the entire profits into the reserve fund. The cooperative public board is then a type of distributive society, since it has all the characteristics of such organizations.

There are already a number of cooperative public boards in Belgium. Among the most important of these is the Crédit Communal de Belgique, founded in 1860, a bank which in issuing bonds of a uniform type to the public furnishes capital to Belgian municipal boards at cost price. Between 1918 and 1926 it advanced three billion Belgian francs to cities. The Société Nationale des Chemins de Fer Vicinaux (1884) has constructed and run the 5000 kilometers of branch railroads in the country, of which the receipts were 389,000,000 francs in 1927. The Société Nationale des Distributions d'Eau, founded in 1924 and capitalized at 120,000,000 francs, supplies drinking water to the large urban centers and to several rural communities. The Société Nationale des Habitations et Logements à Bon Marché, founded in 1920, is in the process of building tens of thousands of dwellings which the Belgian people still need. More than 650,000,000 francs have been invested in new real estate. There is also the Société Mutuelle des Administrations Publiques pour l'Assurance contre l'Incendie, la Foudre et les Explosions (1919). A cooperative public board, L'Énergie Électrique de la Moyenne Dordogne, has just been organized in France for the purpose of harnessing the powerful current of the Dordogne River.

These boards combining the vast financial resources of public corporations with the free action and commercial responsibility of a private enterprise are a form of compromise between the capitalist system and the alternatives suggested by either socialism or syndicalism. They demonstrate that socialization is possible without the assumption of economic functions by the state. This form of organization in fact has the merit of employing the capitalistic technique of production for the sole purpose of serving the public, without any violation of those essential demands for labor voiced by syndicalism.

BERNARD LAVERGNE

See: COOPERATION; CONSUMERS' COOPERATION; GOVERNMENT CORPORATIONS; GOVERNMENT OWNERSHIP.

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COPERNICUS, NICHOLAS (1473–1543), Polish astronomer. The theory that the earth moves, widely advanced since the fourteenth century, formulated by Copernicus and driven home by Bruno, Kepler and Galileo, stood for a revolution in intellectual method and interests extending far beyond astronomy. It meant for scientific procedure a definite break not only with all authoritarianism but also with superficial observation and common sense as well. Henceforth nature was considered a simple and uniform mathematical order; all observation must be corrected by reason operating demonstratively by mathematical calculation. For two centuries the net result of this Copernican revolution was to discredit sense observation and establish rationalism as the only respectable method in both natural and social science. "What the mere sense of sight gives us is nothing compared to the wonders the reason of the scientist discovers in the heavens" (Galileo, *Opere*, ed. by E. Albèri, 16 vols., Florence 1842–56, vol. ii, p. 45). Moreover, the whole impact of this revolution was humanistic. Although the earth had been the center of the universe its rank had been lowest of all; it was imperfect and mutable, the heavens perfect and changeless. Far from lessening the dignity of man, Copernicus for the first time made the earth and man's interests central in value. "We are ennobling and perfecting the earth by making it like the heavenly bodies, and in a manner placing it in Heaven" (Galileo, *Opere*, vol. i, p. 44). This was the real break with tradition. Practical science and social concerns were now as important as heavenly things, as theology and contemplation. Men were free to erect a naturalistic, rationalistic social science. The first thoroughgoing attempt to apply the new science to social affairs was made by Thomas Hobbes.

Copernicus also wrote on currency reform in his *Monetae cudendae ratio*, composed in 1526.

He demands pure coinage of full weight and monetary unity throughout the state. There may be found in his writings the germ of what has since become known as Gresham's law.

JOHN H. RANDALL, JR.

Consult: Dreyer, J. L. E., *History of the Planetary Systems from Thales to Kepler* (Cambridge, Eng. 1906) ch. xiii; Smith, P., *A History of Modern Culture* (New York 1930) p. 17–26; Stimson, Dorothy, *The Gradual Acceptance of the Copernican Theory of the Universe* (New York 1917); Dmochowski, J., "Nicolas Copernic, économiste" in *Revue d'économie politique*, vol. xxxix (1925) 100–26, and *Mikolaja Kopernika rozprawy o monecie* (Warsaw 1923), Latin text and Polish translation with introduction; Jastrow, J., "Kopernikus' Münz- und Geldtheorie" in *Archiv für Sozialwissenschaft und Sozialpolitik*, vol. xxxviii (1914) 734–51; Prowe, L., *Nicolaus Coppernicus*, 2 vols. (Berlin 1883–84).

COPLESTON, EDWARD (1776–1849), English theologian and political economist. He had a distinguished career at Oxford and advanced rapidly in the church; in 1827 he was appointed bishop of Llandaff and dean of St. Paul's. Although chiefly known as a theologian he had a keen mind for controversy and was alert on fiscal and social questions of the day. His economic writings consist of a flowery essay, "On Agriculture," written in 1796 (in *Oxford English Prize Essays*, Oxford 1830, p. 1–27); two open letters on currency and pauperism addressed to Robert Peel, member of Parliament for the University of Oxford; and an article on the "State of the Currency" in the *Quarterly Review* (vol. xxvii, 1822, p. 239–67). In the first *Letter to the Right Hon. Robert Peel . . . on the Pernicious Effects of a Variable Standard of Value, Especially As It Regards the Condition of the Lower Orders and the Poor Laws* (Oxford 1819) he made a sound analysis of the causes and evils of depreciated currency. He attributed the hardships of agricultural laborers and the institution of the English Poor Laws to the long continued rise in prices and demanded removal of "artificial" depreciation by resumption of redemption in specie. In *A Second Letter to the Right Hon. Robert Peel . . . on the Causes of the Increase of Pauperism, and on the Poor Laws* (Oxford 1819) he surveyed the means whereby return to normal currency and lower prices could be accomplished with greatest equity for all classes. Suspicious of legal aid for particular interests he opposed poor laws as "encroaching and unsatiable," corn laws as a form of special protection to agriculture and irredeemable paper as a concession to the mercantile classes. His solution was the issue of paper redeemable according to the currency principle, payment of higher wages and provision of useful work for the unemployed and removal of the corn laws. In his article in the *Quarterly Review* he again maintained the paramount importance of convertibility at the will of the holder of currency.

W. H. DAWSON

COPPER. *See* METALS.

COPYRIGHT is the exclusive right secured by law to an author or his assigns to multiply and dispose of copies of an intellectual or artistic creation whether by mechanical reproduction or public presentation. The social interest in copyright lies in the adjustment of two objectives: the encouraging of individuals to intellectual labor by assuring them of just rewards and the securing to society of the largest benefits from their products. The history of the concept reflects our progress in mechanical communication, our ideas of property and the functions of the state and our changing social ethics.

The first recognition of literary property was in Rome under the empire when the important manuscript book publishers paid authors for the right to duplicate and sell their works. Although no imperial act or provision in Roman law protected these copyrights, trade usage estopped infringement upon a bookseller's right in a work transferred to him. Such an arrangement may be called guild or trade copyright.

During the early Middle Ages literature was produced in the monasteries and schools of the Catholic church; but books were composed and classics copied not for profit but for the glory of God and the church, and the freer the diffusion of religious truth the greater the glory. Author or scribe enjoyed no property right although sometimes he was granted certain institutional privileges or exemptions. Some monasteries established a kind of copyright in rare or authentic manuscripts and allowed copies to be made for a fee or in exchange for other books. This represented a second step in the development of copyright—institutional copyright.

Institutional copyright was perfected in the newly arising universities of Bologna, Padua, Paris, Heidelberg and Oxford. Beginning at Bologna in 1190 two ideas developed. The *stationarius* was established as a recognized university official to provide and rent to students or instructors authorized and verified texts, the prices and rules being established by the uni-

versity. Next came the *librarii*, who sold instead of renting and grew into guilds of booksellers with a very substantial monopoly of the trade of making and selling books. In Paris the *libraires jurés* were controlled by both university and town to assure students correct texts at moderate prices and protection against heretical writings. This meant censorship and trade regulation in exchange for copyrights; but the restrictions were offset by municipal privileges and exemptions with regard to tax paying and military service. The university guilds of booksellers endured through the seventeenth century. They protected literary property rights through registration of title and through trade rules enforced by the guild masters against piracy. They became book publishers of the university towns; and they spread to other towns which were now interested in books, and where they were protected by the towns and by leaders of the church and state. It is to be noted that with this development the ideas of both institutional and guild copyrights were established; that the principle of censorship over book publishing was advanced; and that the book publisher and not the author was protected, presumably on the view that the publisher risked real money and expended physical labor.

The invention of printing in about 1450 revolutionized the ideas on copyright. Cheap duplication immensely enlarged the reading audience, and the author's rewards increased so vastly that he had a new pecuniary interest in his copyright. The state or crown as its power grew asserted the prerogative to control printing by issuing patents or privileges to individuals or by organizing companies of publishers with monopoly rights. The purposes were in part to be able to censor heresy or sedition, in part to foster literature by protecting publishers against piracy. In Venice the Council of Ten during the period 1469–1517 granted privileges for printing books, for an author's copyright, for a publisher's copyright and for outlawing imported books. The principle of a limited term of protection—usually for fourteen years—with a right of renewal was first introduced at this time but was not definitely adopted until the Act of Anne in 1710. In England royal grants were made to favored printers; in 1556 the Star Chamber under Queen Mary incorporated ninety-seven printers, booksellers and stationers in the Stationers' Company, and this act was followed by others elaborating its provisions. Presses and books were licensed and other persons forbidden to print any book at all. Registration with the company established copyright *prima facie*. Other legal action was unnecessary since the company had powers to punish illegal publishing, first as piracy and second as unlicensed printing. This licensing system endured with various changes until 1694.

Meanwhile, in contradistinction to this concept of state born monopolies to printer publishers, there arose the novel idea that an author had a common law claim to his own intellectual creations before and after publication. The royal patents, for example, recognized individual rather than guild rights and were often granted with acknowledgment that time and money had produced the literary property so protected. Authors prospered and became class conscious and set up the idea of personal versus institutional literature. They claimed their works were private property, produced by arduous labor, in which they enjoyed perpetual rights. In Venice by 1545 the printer had to present to the university commissioners of Padua documentary proof of the author's consent to publication; in England a licensing act in 1643, supplemented by a series of subsequent enactments (especially 13 & 14 Car. II, c. 33, 1662), prohibited printing any work without the author's sanction. Thereafter the lapse of the licensing system and the confusion between the idea of a state grant and property at common law resulted in such confusion with widespread piracy that authors and printers demanded new formal protection, a statute against piracy and recognition of registration at Stationers' Hall.

In 1710 they secured the first copyright law the world had known, the Act of Anne (8 Anne c. 19). It granted copyright for fourteen years with a renewal for fourteen years during the lifetime of the author, required registration at Stationers' Hall but allowed others than members to register titles, demanded the deposit of certain copies (for the king's library and certain universities) and required copyright notice to be printed in the book. These are the roots of modern copyright legislation. By 1774, after long litigation, authors found (by Donaldsons *v.* Becket et al., 4 Burr. 2408) that they had exchanged a common law right in perpetuity for a statutory protection of limited term. Then and since authors have sought to reestablish their perpetual rights, but the law has granted these only for unpublished work. Publication implies impact on society and society asserts its social interest by statutory regulation. The continent

was about a hundred years behind England in recognizing the author's individual interest in his productions. Italy recognized the change about 1780 and France at the time of the revolution. Before this time copyright in these countries was based on guild control of publishers, royal patents, trade agreements and municipal regulation. Since 1800 the basic principles of Anne's Act have been perfected and codified; protection has been extended to dramatic, musical and art forms; the term of the right has been lengthened; and the new mechanical methods of reproduction (the phonograph, music players, the cinema and the radio) have been covered.

The increase of intercourse and communication between modern nations revealed the need of an agreement to stop international piracy. In each country the native author needed protection against infringement on his rights by smuggled copies and some method of protecting his works in other countries. France in 1793 gave equal protection to resident and non-resident authors; Prussia in 1837 preserved the rights of authors of other nations that granted reciprocal guaranties; in 1838 Great Britain by orders in council provided for similar reciprocal agreements. As these reciprocal treaties became general the idea developed that both cultural and private ends could be served by one common international agreement. Thus the International Copyright Union was formed, based on the Berne Convention of 1886, the Berlin Convention in 1908, the Protocol of 1914 and the proposed revision formulated at Rome in 1928.

The union is the climax of social wisdom in respect to copyright in its recognition of the international character of letters and art and of the just claims of the individual creator. The provisions of international copyright under it are generous and sweeping. First publication in a member country of the union automatically secures a copyright in all others either for the life of the author plus fifty years or for the term of years legal in the particular country, with all the rights granted its nationals plus special rights under the convention without respect to the terms of protection in the country of origin. No formality is required, the appearance of the name of the author (or publisher) on the work being an evidence of the proper right. It is even provided that authors from non-member nations who secure first or simultaneous publication in any member country enjoy there the rights of nationals and union rights in all other countries. Through this backdoor privilege authors in the United States—which does not belong to the union—now are able to secure international copyright.

The United States protects the works of its authors in other countries, or those of foreign authors here, by reciprocal treaties. Until 1891 American citizens and residents only were granted copyright in the United States—a condition which caused great friction, for works of foreign origin were reproduced at will without payment. This was especially true of works of English authors, since the common language made them profitable, although reputable American publishers did share with the authors the profits from American editions. The present law, passed in 1909, grants copyright to foreign authors when domiciled here, when their country grants reciprocal protection equal to that of this act or when the country is a member of an international agreement for reciprocity. The rules of registration, deposit of copies and printed notice on the article must be complied with. Since 1891 the American law has required American manufacture of works in English, e.g. the type must be set, plates and illustrations made, printing and binding performed, within the United States. The purpose is to protect the bookmaking industry, but it is doubtful whether this clause has been of any great value to the industry. It confuses trade protection and labor legislation with cultural and educational interests. At hearings on the proposed revision of the act (Vestal Bill, 1926) the labor group was willing to modify the manufacture clause to permit the United States to adhere to the International Copyright Union convention. The bill was not passed but there are grounds for believing that such legislation will pass in the not distant future. Our self-interest now coincides with the demands of justice, since it becomes increasingly important that the United States secure protection for growing exports of films, books and music records.

The Russian Soviet experiment has modified certain of the concepts of national and international copyright generally accepted by other modern nations. The doctrines of state communism, the limitation of property rights and private enterprise and the establishment of a special status for labor have all influenced Russian copyright legislation. The publishing and distribution of books throughout Russia is largely in the hands of the government. The State Publishing House (*Gosisdat*) is the largest

in the world. Few private book publishers or sellers exist, and these are rigidly supervised. The decree of January 30, 1925, of the Central Executive Committee of the Union of Socialist Soviet Republics, adopted by the Council of the People's Commissars of the Russian Socialist Federated Soviet Republics on October 11, 1926, and supplemented by a new decree of the Central Executive Committee on May 16, 1928, grants protection to a citizen of Russia in that nation for his productions regardless of their place of publication. Foreign authors are granted copyright for works published in the Soviet Union but can receive protection for work published in another country only where reciprocal agreements exist with that country. The term under the first decree was twenty-five years, changed by the second one to the life of the author and fifteen additional years for his heirs, with various terms (five or ten years) for special forms like motion pictures, photographs and periodicals. The theory of the indivisibility of copyright is firmly maintained. Publishers are forbidden to change the work or title or to supply illustrations without the consent of the author. Certain rights in copyrighted material are excepted with a view to what the Russian government considers cultural or educational purposes. The decrees further provide that copyright may in all cases be compulsorily purchased by the Soviet Union or by the constituent republic where the work was first published, with adequate compensation as determined by the People's Commissars. The whole field of translation can be declared a state monopoly. All this represents the interesting situation of a return to the sixteenth century conception of the state control of printing. The actual practises under these various clauses are too complex to be covered here.

The recent development of radio broadcasting has introduced problems not incomparable to the revolutionary ones consequent to the invention of printing. Can the holder of a copyright control the broadcasting of musical, dramatic or literary works and require payment from the broadcaster? The weight of present opinion is that adequate protection of the author's right is given by the Act of 1909 (section 1, a, c, d, e) and by decisions of federal courts. The Supreme Court has held that the owner of a copyright has exclusive right to use or license the use of his work for performance for a profit and that since radio broadcasting is a public performance for profit the broadcasting agent must pay a royalty for the use of such works. The purchase of a printed or published musical or other work does not carry with it the right of performance as often and before as large or small an audience as may be desired unless the performance falls under section 28 on educational or charitable performances. The stations have contended that their broadcasts are not for profit, but education, since they collect no fees from the listeners. Their profits from advertising programs would seem to contradict this. The present trend to extend copyright protection in this and other new fields, such as television, is shown by the following proposals. In the Vestal Bill (March 17, 1926), which was not passed, appeared the clause: "To grant to the copyright proprietor exclusive rights to communicate the work to the public by radio broadcasting, telephoning, telegraphing, or by any other means for transmitting sounds, words, images, or pictures." The proposed convention for the International Copyright Union, Rome, 1928 (English translation: Library of Congress, Register of Copyrights, *Report . . . 1928*, Washington 1928), adds section 11 *bis*: "The authors of literary and artistic works enjoy the exclusive right to authorize the communication of their works to the public by radio diffusion." The same code protects the "moral right" of the author against any corruption of the form in which he has issued the work. This final triumphant assertion of the right to the creator of any intellectual or artistic work to control its form and its diffusion by every possible means of communication rounds out the long struggle for a true copyright.

LEON WHIPPLE

See: PRINTING AND PUBLISHING; PATENTS; TRADEMARK; LICENSING; CENSORSHIP; PROPERTY; LITERATURE; DRAMA; RADIO; MOTION PICTURES.

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COQUELIN, CHARLES (1803–52), French publicist and economist. After completing his law studies in Paris Coquelin practised for a few years in his native city of Dunkirk, but his growing interests in political economy prompted him in 1832 to return to Paris and enter upon the uncertain career of a journalist. Coquelin's contributions, covering a wide range of economic subjects, began to appear first in the *Temps* and were continued during the course of the next twenty years in the *Monde*, the *Droit*, the *Revue des deux mondes*, the *Revue de Paris* and the *Journal des économistes*. These articles, especially those dealing with banks, commercial associations, tariffs and labor, established his reputation as one of the outstanding leaders among contemporary economic liberals. He was called upon in 1851 to assume with Guillaumin the editorship of the *Dictionnaire de l'économie politique*, the first work of its kind in the French language. As editor and as contributor of important articles Coquelin was instrumental in making of the work a coherent and unified expression of the liberal ideas then dominant. Although in general he was seldom more than an able publicist with slight doctrinal influence, his ideas were widely circulated during his lifetime. His study of credit and banks, *Le crédit et les banques*, which advocated a free banking system, ran through several editions and exerted a strong influence on the American economist Henry C. Carey. As secretary of the Association pour la Liberté des Échanges Coquelin took an active part in the agitation for free trade. His zeal for economic liberty led him also to attack the existing restrictions on free commercial association as well as any manifestations of socialism or organizations tending to interfere with freedom of labor.

WILLIAM OUALID

Works: *Essai sur la filature mécanique du lin et du chanvre* (Paris 1840); *Nouveau traité complet de la filature mécanique du lin et du chanvre* (Paris 1846); *Le crédit et les banques* (Paris 1848, 3rd ed. 1876).

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COQUILLE, GUY (1523–1603), French jurist. He was one of the stars, and not the least brilliant, in that remarkable *pléiade* of jurisconsults which France produced in the sixteenth century. But with excessive modesty he had early formed the resolution to pass his life in his native province, Nivernais, after study in Italy and at Orléans. In the Estates General he participated in the political and religious struggles of his time. His opinions were moderate and in favor of the Gallican doctrine as against the ultramontanists and of a limited monarchy as against the League. His views are expressed in his singularly penetrating and almost prophetic *Traité des libertéz de l'église de France* (1594) and his *Discours . . . contre les bulles . . . Gregoire XIV contre la France en 1591*. In contending that it is the people who make the law he expressed a theory very close to that of national sovereignty. Among laws he distinguished two kinds: those which are simply published and registered in the Parlement and the others, which he calls "fundamental" (we should say constitutional) and which are created in the Estates General. He was no less original in private law. With Dumoulin, d'Argentre and Loisel he was one of a remarkable group of jurists who worked on the French customs after their redaction and created a veritable *droit commun coutumier*. Coquille considered the customary law equal if not superior to the Roman law, and he gave a remarkable description of that of his own province in his celebrated *Les coutumes . . . de Nivernois*. But the diversity of the customs appeared to him intolerable. He worked for their unification, especially in his notable work *Institution au droit françois*, which makes him one of the first generalizers of French law. The best editions of Coquille's works are in two volumes (Paris 1665; new ed. Bordeaux 1703).

HENRI LÉVY-BRUHL

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CORN LAWS. Although restrictions and tariffs on the export and import of cereals have always been common to many countries, it is perhaps only in Great Britain that they have ever been the cause of a political controversy so bitter as to threaten revolution before their complete and peaceful abolition.

The earlier corn laws of England were aimed mainly at preventing exports. Thus in 1194 an edict was issued forbidding the export of corn (grain, sometimes specifically wheat) or any

kind of victual in order "that England might not suffer from the want of its own abundance." Evidently the order was ineffectual, for in 1339 an act was passed ordering "that no corn be exported till further ordinance be made therein."

By that date parliamentary government had begun, and kings were forbidden to levy taxes "save by the consent of the Common Council of the realm." This condition the kings constantly tried to evade, and among other expedients they appear to have granted licenses to export corn on payment of what amounted to bribes. The first indication of a change in national policy was a general leave to export, granted in 1394 on account of the low price of corn. In 1463 the Hanse merchants were found to be importing corn and were forbidden to do so when the price of wheat was less than six and eight pence a quarter.

It was not, however, until the time of the Tudors that the price of corn became a notorious hardship. With the influx of precious metals from the New World and the debasement of the coinage by Henry VIII prices rose beyond all precedent, while the regulation of wages under the statutes of laborers prevented a corresponding increase in the reward of labor. Under Mary and Elizabeth export was again prohibited, and it was not until the reign of Charles II that Parliament gave serious attention to keeping corn prices up by the restriction of imports. In 1670 an import duty of 16/- a quarter was imposed when wheat did not exceed 53/4, 8/- when wheat was priced between 53/4 and 80/- and 4/- when the price was above 80/-; while export restrictions were abolished.

During the greater part of the eighteenth century, according to Thorold Rogers, the corn laws were inoperative as far as consumers were concerned. Until the outbreak of the French Revolution the tendency, at least, was toward a liberal policy; indeed, from 1774 to 1791 only a nominal duty of 6d a quarter was imposed on imported corn.

During the revolutionary wars the corn taxes, far from being inoperative, became a terrible instrument of oppression, threatening revolution and leading to that practical alliance of the new industrialists and the working classes which was to be the basis of Victorian liberalism. The industrial revolution had created a new manufacturing class, particularly in textiles, which was increasing the powers of production far more rapidly than it was possible for an underpaid proletariat, compelled to spend nearly all its wages on bread, to increase its power to purchase industrial products. To aggravate the matter, dependence on the uncertain climate of Britain, at a time when any partial or complete failure of the home harvest made foreign supplies of corn necessary, resulted in price fluctuations ruinous both to the poor and to industry. From 1773 to 1793 the average price of wheat was only £2.6.3; in 1801, with the new duty of 24/3, it rose to the famine rate of £5.19.6. Two years after, with a more abundant harvest, wheat had fallen to £2.18.10 during the short peace of Amiens; in 1814, after much higher prices, it fell to £2.15.8.

With the coming of peace a collapse of corn prices was inevitable, and with this collapse either a great reduction of agricultural rents or the ruin of the tenant farmers. Under the stimulus of inflated prices much land, good for pasture but not suited to corn growing, had been brought under the plow. With the drop in prices much of this land became "uneconomic," and even the rents of the best corn land had to come down under the competition of free imports. The Parliament of 1814, dominated by landowners, prohibited the import of corn unless the price exceeded 80/- a quarter.

This law was revised in 1822 and in 1828 was enacted the famous "sliding scale," the heart of the subsequent bitter contest. The duties were fixed at 23/- a quarter when corn was 64/- or under, at 16/8 from that price to 69/- and at 1/- when the price exceeded 73/-.

Thus far the landed interest had its own way. Economists were, however, undermining their theoretical position although they were guarded in the proposals for dealing with the actual situation. Ricardo, after contending that the public would lose more than the farmers would gain by a tax on corn, advocated an import duty adequate to equalize the special imposts on home agriculture, viz. tithe and poor rate. Malthus, stating the strength of the free trade case, feared the return of famine prices in the event of another war if the country became dependent on foreign corn.

Free trade ideas were now beginning to influence statesmen. The commercial treaty which Pitt made with France in 1786 was the result of his reading the *Wealth of Nations*, and although the war drove him back to protection his ideas continued to influence the younger Tory statesmen, notably Huskisson and Canning. Huskisson in 1825–26 made great reductions in the tariff, carrying reform further than Pitt himself.

In the thirties Sydenham made further reductions. Before Peel returned to office in 1841 the free traders in the House of Commons had succeeded in getting a commission appointed to inquire into the workings of the tariff. The chairman was Joseph Hume, himself a free trader. The report of the commission in 1840 destroyed all faith in the value of protection as an instrument for raising revenue: out of a total of £22,122,000 customs revenue derived from 862 dutiable articles no less than £18,550,000 came from nine articles, most of which did not compete with home produce. That is to say, the bulk of the revenue was not protective. Although pledged to maintain the corn law, Peel nevertheless swept away the duties on 750 articles and aroused suspicion among his protectionist followers when at the outset of the new Parliament he said: "If I thought that the repeal of the Corn Laws could be an effectual remedy for the distress of the manufacturing districts, the recital of which has caused me much pain, I should recommend it as essential to the welfare of the agriculturalists themselves; but I cannot come to that conclusion."

Meantime the business world was becoming converted to free trade. Frequent and terrible trade depressions, which occurred whenever harvest failed and bread was dear and during which factories were closed and their owners driven into bankruptcy, compelled manufacturers to realize that their prosperity absolutely depended upon a steady and moderate price of corn, on the margin left over in the average household after the necessary food had been paid for.

The laboring classes needed no conversion to free trade ideas; all records indicate their appalling misery during the first half of the nineteenth century. A selection of letters written by aged survivors of the "Hungry Forties" published in 1904 reveal what a nightmare the memory of the sufferings of their youth was to the grandparents of Edwardian England. It is certain that, helpless and voiceless as they were, the British working classes hated the "hunger tax" from the first.

In the face of these forces it was impossible to keep the tariff on corn "out of politics," but official circles were loath to face the prospect of abolition. The landowners still held the great majority of the seats in Parliament, and the Whigs were just as much opposed to such radicalism as the Tories. Political discussions turned on the respective merits of a fixed duty of 8/- as opposed to the existing sliding scale. When economists, theoretically opposed to protection, were willing to compromise, it is not wonderful that statesmen hesitated. The Whigs fought the election of 1841 committed to the fixed duty; the compromise was uninspiring and they were defeated. It is impossible to say how long the controversy would have remained unsettled had not a new force come into action.

Manchester was the natural headquarters of opposition to the corn laws. Lancashire, perhaps more than any other district, had suffered from the poverty they caused. Lancashire's staple, cotton, was the most common basis of workers' clothing at that time and was hence more than other industries dependent on the margin left of working class wages after the necessary food had been bought. Lancashire manufacturers were ruined; Lancashire workmen were unemployed and starving whenever food prices rose through failure of the British harvest.

The Anti-Corn Law League was the "new model army" and Richard Cobden the Cromwell of the struggle for repeal; neither had any use for drawn battles. From the first the league stood for total repeal and refused either to take subscriptions from those who would accept less or to allow any other question to be confused with that of repeal. The league was an ad hoc organization prepared to sweep aside all party or other considerations tending to confuse the issues. For this purpose immense sums of money were raised, trained lecturers were sent all over the country, millions of leaflets and pamphlets were distributed. The two great leaders of the movement, Cobden, the persuasive reasoner, and John Bright, a master of oratory, addressed enormous meetings in the great centers of population. Candidates pledged to total repeal were run for Parliament, and Cobden was elected member for Stockport in 1842. He was exactly the man to influence the candid mind of Peel, already virtually a free trader as far as other commodities were concerned and apologetic about corn. The fatal rains that ruined the harvest of 1845 convinced the troubled prime minister; Peel resigned and promised the Whig leader, Lord John Russell, to support him if he formed a ministry to abolish the corn laws. Russell failed to do this, and Peel returned to office expressly to carry repeal. By the votes of the Whigs and those members of the Tory party who stood by their leader the corn tax was reduced for the next three years and

abolished, except for a registration duty of 1/- a quarter, in 1849. On the day on which the bill passed the House of Lords the government was defeated in the Commons by a coalition of outraged Tories and factious Whigs on another issue. Peel resigned office and abandoned politics.

In 1862 Robert Lowe removed the remaining shilling tax on imported corn, and save for an interval of one year during the Boer War when the tax was again enforced the import of corn into Great Britain has since been entirely free. But the hatred of such taxes survives. The temporary imposition of the shilling tax in 1902 immediately destroyed the popularity of the Conservative government. From the day of its imposition a long series of by-elections adverse to the government led to its overthrow in 1906. During the long "tariff reform" controversy beginning in 1903 it was the proposed food taxes more than anything else that prevented any possibility of a success for the policies advocated by Joseph Chamberlain and the Tariff Reform League. In 1912 Bonar Law surrendered the food tax part of his program reluctantly, for these taxes were really an essential part of the tariff reform scheme for interimperial preferences.

Food taxes are not uncommon in continental Europe; they have not met there with such determined resistance as in England. In 1911, however, there was a very fierce and widespread agitation, especially in Austria, against them and during the Great War practically every country in Europe, including neutrals, was forced to suspend their operation. But as the growth of population on the continent renders it dependent on overseas supplies, as was England in the forties, it seems likely that the story of the Anti-Corn Law League will be repeated there.

F. J. SHAW

See: CUSTOMS DUTIES; PROTECTION; MERCANTILISM; FREE TRADE; ANTI-CORN LAW LEAGUE; AGRICULTURE, section on AGRICULTURAL REVOLUTION IN ENGLAND; FOOD SUPPLY.

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CORNER, SPECULATIVE.

A corner may be defined as a plan of manipulation whereby one operator or more secures possession of all or substantially all of a given commodity or of the shares of a given issue of stock available for delivery upon the outstanding contracts of short sellers, in order to compel such sellers to settle at an arbitrary and abnormal settlement price imposed by the operator of the scheme. Such operations are possible only because of the practise of short selling in organized security and produce exchange markets. At times they have been the cause of some of the most disastrous price upheavals in the history of organized markets.

Corners have been numerous in the past, and there is scarcely a year that does not afford an illustration on some one of the nation's major exchanges. In many instances the existence of the corner is beyond dispute. But frequently the situation cannot be judged definitely, the price being apparently an unwarranted one but the manipulative program being so deftly engineered as not to arouse unusual suspicions. Broadly speaking, corners are of two kinds: those which are planned deliberately for the fleecing of shorts and those which are brought about unintentionally through an unavoidable set of circumstances, such as a fight for control of a corporation.

In the first type of corner the operator having acquired control of the particular shares or commodity usually proceeds to induce short sales on the part of unsuspecting speculators by raising the market price, through matched orders or otherwise, to an apparently unwarranted level. All that is sold by such short sellers is purchased by the operator, who knows that delivery cannot be made at the due date because he already owns or controls all that is available for delivery. Every manipulative device is used to keep the true situation secret. In the stock market, for example, short sellers may keep their contracts open only by borrowing the security for fulfilment of delivery on "regular way transactions." The manipulator will therefore camouflage the situation by lending his own stock to the prospective victim freely and on terms so easy as to indicate the existence of a perfectly free continuous market. The shares he lends, however, are of necessity returned to him immediately by the borrowers in fulfilment of the short sales. Finally, when conditions seem ripe for the greatest profit, the manipulator withdraws all of his shares from the market. Those with outstanding

short contracts suddenly discover that no shares are available for borrowing or for purchase. They find themselves "cornered" and can obtain release from their contracts only through a settlement with the manipulator at his own terms. To be successful the manipulators must have sufficient funds or credit to acquire the necessary amount of the shares or commodity and in the case of stocks also to pay for the shares purchased from short sellers.

The famous gold corner of 1869 and the equally famous Leiter corner in wheat in 1898 are outstanding illustrations of the deliberate corner. The first of these corners was operated by a syndicate which after acquiring the apparently available supply of deliverable gold in New York secured additional contracts from short sellers for approximately $100,000,000. The market quotation was raised to the abnormal figure of 162½, but the nefarious scheme was frustrated by the government's decision to place its own treasury holdings of gold on the market, thus furnishing a supply which the manipulators were unable to finance. The abnormal price broke in a few minutes to 131, and many of the leaders of the scheme were forced into bankruptcy. The Leiter corner represented a control of practically all of the nation's wheat market and proved successful for many months, the price gradually rising from below $1.00 to $1.85 in May, the last crop month of the year. The operators, however, had miscalculated in many important respects. More wheat was offered than they had anticipated, and the consuming world also resorted to substitutes and refused to purchase the syndicate's wheat holdings at such abnormal prices. The new crop proved unusually large, and early harvesting was urged as a means of swamping the syndicate. All of these factors combined successfully to break the corner, and bankruptcy was again the penalty for many of the participants.

The Northern Pacific corner of May 9, 1901, furnishes the most notable illustration of the unintentional corner. The Harriman interests were seeking to wrest control of the Northern Pacific Railway from the Hill-Morgan interests. Both groups purchased all the shares available and in the final reckoning controlled between them all but about 10,000 shares of the common stock. Between January 21 and May 9 the price had risen from $77 to $160. Many short sellers, unaware of the situation, resisted this abnormal rise with sales and finally found themselves unable to deliver. The price of the stock then rose to $1000 a share. To save themselves many who were caught with short sales were obliged to sell their holdings of other stocks. There ensued one of the greatest panics in the history of the New York Stock Exchange.

With respect to produce markets it is important to note another twofold classification of corners: those which involve the actual cornering of the nation's supply of the commodity and those which are operated in some one exchange center only with a view to "squeezing the shorts" by making it impossible for them to deliver on contracts for a particular month. The latter type of corner occurs frequently and as a rule does not affect consumers seriously. The manipulator merely acquires control of the deliverable supply of the commodity in the particular city where the produce exchange is located. He keeps his program secret until near the end of the month. Short sellers for the option for that particular month are obliged to make delivery by the last business day of the month. If they are unable because of lack of time to bring adequate shipments into the city the short sellers are not in a position to meet their commitments and are therefore required to settle their contracts with the manipulator on his own terms.

Corners constitute a menace to speculative markets and do not serve any useful social function. When financed knowingly they represent a misuse of credit funds. They tend to disrupt the machinery of legitimate speculation and cause the greatest injustice to short sellers. Short selling is a vital necessity to any organized market, and the public derives many benefits therefrom. Deliberately to mulct the shorts is nefarious, and the sooner deliberate corners are treated as unsocial acts the better.

There is reason to believe that the practise of operating corners will become less frequent. Repudiation of contracts is already permitted by law in the event of a corner, but that practise is frowned upon in many quarters. By statute law corners have also been declared illegal in certain states, but the difficulty is to prove the existence of a corner. For the most effective remedy we must look to the organized exchanges themselves, all of which are opposed to corners. In produce markets the short seller is usually given the privilege of delivering any one of a considerable number of grades of the commodity, thus making it much harder for the manipulator to acquire the available supply. In other instances, where a corner is known to exist the exchange

can by appropriate action fix a reasonable settlement price. In the stock market, however, this last remedy seems impossible because of the difficulty of fixing a proper price for a given stock. The most wholesome remedy would seem to be the development of a public opinion which visits financial ostracism upon the perpetrator of a corner.

S. S. HUEBNER

See: SPECULATION; STOCK EXCHANGE; COMMODITY EXCHANGES.

Consult: Huebner, S. S., *The Stock Market* (New York 1922) p. 332–42; Atwood, A. W., *The Exchanges and Speculation* (New York 1907) ch. xix; Dice, C. A., *The Stock Market* (Chicago 1926) p. 440–50; Smith, J. G., *Organised Produce Markets* (London 1922) p. 43, 58, 112–18; New York (State) Committee on Speculation in Securities and Commodities, *Report of Governor Hughes' Committee . . .* (Albany 1909) p. 8.

CORONER. The word coroner is derived from the Latin *corona* and signifies an officer of the crown. In the English statutes the incumbent was generally known as the coronator, or coroner, and under Henry VIII as the crowner. The exact origin of the office is unknown. There is some evidence of its existence as early as the tenth century; it is certain, however, that the office was functioning in England during the reign of Richard I. There were and still are four types of coroners in England: the ex officio sovereign coroner, whose office is an adjunct of a judgeship in the high courts; the franchise coroner, whose office is created by charter; the borough coroner, who is found only in boroughs having a separate court of quarter session; and the county coroner, who exercises his jurisdiction in the shire or county.

In the early days great dignity attached to the coroner's office. Primarily he was not to "hear and determine," but to keep records of all matters pertaining to criminal justice within the county. His duties extended to collecting for the king all goods and chattels of criminals, deodands, treasure troves, shipwrecks and royal fish. He also heard appeals of felony and the confessions and abjurations of felons and kept records at inquests. The county coroners were elected by the legal freeholders, a system which was retained until the enforcement of the Local Government Act of 1888, since which time they have been appointed by the county councils. The Coroners Act of 1887 limited the duties of the coroner to acting as a substitute for the sheriff and to holding inquests for the purpose of determining the cause of violent and extraordinary deaths. In the Coroners Amendment Act of 1926 an attempt was made to meet modern needs by the stipulation that a coroner must be a barrister, solicitor or physician of five years' standing. The county councils attempt to appoint men with training in both fields.

The coroner system was brought to America by the English settlers in the same form as it existed in England at that time. The functions of the coroner in the United States since 1800 have, however, been largely judicial. The present qualifications of age, citizenship, residence within the county and non-acceptance of incompatible office are the same as in England. In most states the coroner is elected for a term of from two to four years; in several he is appointed, while in others the justices of the peace are empowered to exercise the ordinary duties of the coroner. Only a few states require the coroner to be a licensed physician.

The duties of the coroner are established by statute, and although some states have delegated to him various other functions, his chief function always is to hold inquests. The investigation of deaths involves two tasks. As medical officer the coroner must furnish the state with a definite decision as to the cause of deaths which have occurred under unnatural circumstances; as legal officer, where he believes that there is evidence of a crime, he must summon a jury of six or more men, examine witnesses, seize evidence and aid in the apprehension of the criminal. For criminal action the information must be filed with the courts or prosecuting attorney.

Unfortunately there are few coroners in the United States who have either the necessary legal or medical qualifications. The compensation, which except in a few of the larger cities is on a fee basis, is so low and the honor of being coroner so slight that the office has not attracted capable men. Consequently it is usually held by minor politicians who use it to further their own fortunes rather than to aid the course of justice. For example, the coroner has the right to have an autopsy performed when the circumstances of the death are suspicious; very often, however, he neglects to do so either for a pecuniary consideration or from sheer carelessness. Where the autopsies are performed they are rarely done by physicians specially trained for the work. This results in the obliteration of valuable clues which would readily be detected by an expert. From the

point of view of legal procedure also the system is faulty. The coroner frequently selects a jury from among his friends and in general his ignorance of legal methods makes his inquests valueless. The usual lack of cooperation between the coroner and prosecutor is another factor which makes the office of coroner a deterrent rather than an aid in tracing the criminal.

However adequate the work of the coroner may have proved in earlier times, there is no doubt that the office does not meet modern requirements. Such a system must break down because the training now required is so highly specialized that it becomes increasingly difficult to find anyone for the position who has both the necessary medical and legal qualifications. Accordingly there is a definite trend toward the elimination of the office and the division of the functions of the coroner between a qualified medical examiner and the district attorney. New York City and all the New England states except Connecticut have adopted this scientific and non-political system. In New York and New Jersey it is optional. The Massachusetts statutes require the governor to appoint one or more medical examiners for each county for a term of seven years, with provision for reappointment. In New York the medical examiner is appointed by the mayor and holds his office in permanent tenure. In both states the medical examiner must be a physician and in New York he must also be a skilled pathologist and microscopist. The medical officer is relieved of all legal duties but has the full responsibility for medical examinations and opinions as to the cause of death. All persons who have died under unnatural circumstances must be examined by the medical officer or a member of his staff and complete records of examinations and autopsies kept. Where there is any indication of criminality the records relating to the death are promptly delivered to the appropriate district attorney, upon whom criminal prosecution depends. The medical examiner system places upon men trained for autopsy work the full responsibility for determining the cause of death and upon men of legal training the responsibility for examining witnesses and apprehending criminals. In New York and Boston the salary attached to the medical examiner's office is sufficiently large to attract men of high character and ability. In the counties outside of Boston the compensation is on the fee basis. Despite the obvious advantages of the medical examiner system, however, most states continue to use some form of the coroner system.

PAUL E. BRUBECK

See: JUSTICE, ADMINISTRATION OF; CRIMINAL LAW.

Consult: Wellington, R. Henslowe, *The King's Coroner*, 2 vols. (London 1905–06); Moley, Raymond, "The Sheriff and the Coroner" in Missouri Association for Criminal Justice Survey Committee, *Missouri Crime Survey* (New York 1926) p. 77–110; Schultz, Oscar T., and Morgan, E. M., *The Coroner and the Medical Examiner*, National Research Council, Bulletin no. 64 (Washington 1928); Moley, Raymond, *Politics and Criminal Prosecution* (New York 1929) p. 110–26; Rockefeller Foundation, Division of Medical Education, *Methods and Problems of Medical Education*, 9th ser. (New York 1928) p. 297–315, 329–48.

CORPORAL PUNISHMENT. By corporal punishment is meant the legalized infliction of bodily pain by one person on another as a penalty for the violation of certain laws, rules or customs. There are, of course, many instances in which such pain is inflicted without legal sanction or in defiance of the law, but this article is concerned chiefly with those forms of corporal punishment which have either been prescribed by law or permitted under the law: in short, socially sanctioned methods of corporal punishment.

Sex perversions and substitutions have played no small part in the nature and severity of corporal punishment. The sadistic tendencies of man have led some to gain much personal satisfaction from the infliction of hideous punishments on others. The almost fabulous cruelty of the convict overseers in Australasia a century ago affords a good illustration of this situation. Denied most normal outlets these men took a delight in brutally beating those under their control. Fear has also been a decisive factor in provoking corporal punishment. Convict guards and overseers, always in a small minority, have sought to increase their safety through the fear which they believed they could engender by means of brutal and frequent punishment.

As a method of punishing criminals flogging has been from early times one of the most frequently utilized of all types of corporal punishment. It is still legal and frequently employed in Delaware, Canada, Great Britain and some continental and Asiatic lands as a punishment for certain crimes, chiefly assault, robbery and rape. In England as late as 1922 the Court of Criminal Appeal upheld a sentence inflicting punishment by the "cat-o'-nine-tails" for robbery with violence and assault. Where flogging

was forbidden as a method of punishing criminals its use often continued within the prisons. Throughout the nineteenth century prison investigations revealed the scandalous prevalence of flogging as a method of disciplining convicts, and the practise has by no means disappeared. The whipping of men in southern prisons today is as brutal as in the Australian shambles of the last century. The lash is openly administered in Alabama, Louisiana, South Carolina, Arkansas, Mississippi, Tennessee, Texas and Virginia and is used under cover in many northern states. The revival of flogging in the United States is frequently advocated by exponents of severity in dealing with convicts. Before modern methods were introduced it was a common custom to maintain discipline in "lunatic asylums" by cruel floggings of the inmates. The flogging of slaves, children, pupils in schools, soldiers and sailors has been common through the ages, although the severity has varied widely in relation to the age and status of the person flogged. The instruments and methods of flogging have varied greatly. In maintaining discipline in the home sticks, rods, straps, whips and other handy objects have been drafted into service. Rods, straps and whips with a single lash have prevailed in the schools, although more recently short pieces of rubber hose have been utilized. In punishing criminals and in maintaining discipline in the army and navy the lash, with a variety of diabolically ingenious elaborations, has predominated. One of the most popular refinements of brutality with the lash has been the so-called cat-o'-nine-tails, constructed of nine knotted cords or thongs of rawhide attached to a handle. A form of lash still widely used in southern prisons has three broad straps, one of which is equipped with three rows of brass studs. The Russian *knut* was an instrument constructed of a number of dried and hardened thongs of rawhide interwoven with wire, the wires often being hooked and sharpened on the end so that they would tear the flesh when the blow was delivered. A painful type of flogging used in the Orient was the bastinado, or blows delivered upon the soles of the feet with a light rod or a knotted cord or lash. In the period before the reaction set in against corporal punishment flogging was executed with great brutality. The backs of the condemned were frequently cut in strips and blood gushed from their wounds. Not infrequently salt was thrown upon the bleeding backs to increase the pain.

Another type of corporal punishment which was widely used down to the time of punishment by imprisonment was mutilation. This was early employed in connection with the *lex talionis*, which designated a punishment exactly duplicating the injury originally inflicted. Mutilation as a punishment was also conceived of as a deterrent. Thus the hands of thieves and counterfeiters were cut off, the tongues of liars and perjurers torn out, the eyes of spies gouged out; those guilty of rape were castrated and women guilty of adultery had their noses cut off or were otherwise disfigured. The pain involved in these mutilations, inflicted as they were without any anaesthetic, was excruciating and loss of blood and infection were likely to produce death in the case of major mutilations. Mutilation continued even in England until after the beginning of the sixteenth century. The cutting off of the ears and hands persisted until the eighteenth century.

Branding has been very generally used as a method of corporal punishment. The Romans branded criminals with some appropriate mark upon the forehead. In France in the later Middle Ages the criminal was branded on the shoulder with the royal emblem, the *fleur-de-lis*. Later this was changed to the initial letter of the particular crime committed. In England wide use was made of branding and it was not abolished until the latter half of the eighteenth century. As late as 1698 it was ordered that criminals should be branded upon the face. The letters used in branding bore at least a rough general resemblance to the nature of the crime committed. Murderers were branded with an M, thieves with a T, vagrants with a V, idlers with an S (meaning slave) and fighters and brawlers with an F. Most widely used was the letter M, meaning malefactor. Branding was also common in American colonial jurisprudence and criminal procedure. Closely associated with branding was the piercing of the tongue with a hot iron. This punishment was particularly popular for such offenses as lying, perjury and blasphemy.

The use of the stocks and pillory was extremely widespread as a method of corporal punishment, particularly in early modern times. The pillory was not abolished in England until 1837. When it was employed in a simple fashion and not accompanied by any other mode of punishment it was designed to bring about a feeling of humiliation attendant upon the infliction of public disgrace. But the stocks and pillory were very rarely utilized merely as a method of confining a person in public and ex-

posing him to the contempt of his fellow citizens. The confinement was very frequently supplemented by making the person thus detained a target for decayed vegetables, rotten eggs and even stones; occasionally persons in the stocks and pillory were pelted to death. It was a very common custom to nail to the beams of the pillory the ears of the persons confined in such a manner that when they were released they would be compelled either to tear their ears loose from the nails or have them carelessly cut away by the officer in charge. The "Spanish mantle," a barrel with a hole for the head and arms, was also used as a humiliating device which the prisoner was compelled to wear while being marched through the streets subject to the derision of the onlookers. Other devices were an iron frame fastened about the body, iron masks and cagelike helmets. Prisoners were frequently confined by jougs, or iron collars attached to a wall or post.

The ducking stool was a well known expedient employed as a form of corporal punishment for lesser crimes, particularly in the punishment of scolds and gossips. The culprit was strapped to a chair fastened to a long lever and was submerged in the water of a stream or pond at the pleasure of the operator in the sight of jeering crowds.

The first vigorous movement to put an end to corporal punishment for crime was launched by the Quakers toward the close of the eighteenth century. In Europe they could not bring about any effective reform, but in America they abolished corporal punishment in 1681 in West Jersey and in Pennsylvania in 1682–83. In its place they prescribed imprisonment and fines. This Quaker innovation gained little headway for a century, but after the American Revolution imprisonment soon came to be the accepted method of punishment in this country. Similar reforms followed in the various European countries. In the nineteenth century there was but little legalized corporal punishment for crime in the western world. The main argument against corporal punishment for crime has been its pain and brutality. There is no doubt that severe corporal punishment brutalizes not only the victim but the person who executes the punishment and the spectators, awakening sadistic tendencies and demoralizing the finer sensibilities. It is largely due to a recognition of this fact that public floggings have been abolished.

Corporal punishment of the insane and feebleminded has been abandoned in keeping with the progress of knowledge of the nature of insanity and mental defects. As long as insanity was looked upon as mere perversity it was believed that by severe flogging one could produce fear and enforce discipline. Now that the irresponsibility of the insane person and the feebleminded has been thoroughly established the flogging of these types appears as illogical as it is cruel.

The gradual abandonment of corporal punishment in the school and home has been the result of the advancement of psychological knowledge and the improvement in general culture. Modern psychology, especially educational and behavioristic psychology and psychiatry, has shown the very real dangers to personality development which lie in corporal punishment. Deep seated hatreds may be instilled. Powerful resentments may be built up. Both of these may recede into the unconscious and constitute the basis of personality difficulties and complexes of a serious nature. The use of corporal punishment as a general method of preserving discipline is condemned by modern pedagogy and psychology without reservation and is tabued by contemporary humanitarianism.

HARRY E. BARNES

See: PUNISHMENT; PENAL INSTITUTIONS; PRISON LABOR; HUMANITARIANISM.

Consult: Andrews, William, *Punishments in the Olden Time* (London 1881), *Old-Time Punishments* (Hull 1890), and *Bygone Punishments* (London 1899); Clarke, M. A. H., *For the Term of His Natural Life* (London 1912); Du Cane, E. F., *The Punishment and Prevention of Crime* (London 1885); Davis, W. S., *Life on a Mediaeval Barony* (New York 1923); Duff, Charles, *A Handbook on Hanging* (Boston 1929); Ives, G., *A History of Penal Methods* (London 1914); Lea, H. C., *Superstition and Force* (4th ed. Philadelphia 1892), and *A History of the Inquisition of the Middle Ages*, 3 vols. (New York 1887–88); Maine, H. J. S., *Ancient Law* (10th ed. London 1885); Napier, C. J., *Remarks on Military Law and the Punishment of Flogging* (London 1837); Pike, L. O., *A History of Crime in England*, 2 vols. (London 1873–76); Pollock, Frederick, and Maitland, F. W., *The History of English Law before the Time of Edward I*, 2 vols. (2nd ed. Cambridge, Eng. 1898); Salt, H. S., *The Flogging Craze* (London 1916); Stephen, J. F., *A General View of the Criminal Law of England* (2nd ed. London 1890); Thompson, J. J., "Early Corporal Punishment" in *Illinois Law Quarterly*, vol. vi (1923–24) 37–49; White, C. D., *Convict Labor* (Boston 1880); Wines, F. H., *Punishment and Reformation* (new ed. New York 1919); Freud, S., "Ein Kind wird geschlagen" in *Gesammelte Schriften*, 11 vols. (Leipsic 1925–28), tr. in *Collected Papers*, 4 vols. (London 1924–25) vol. ii, p. 172–201.

CORPORATION. A corporation is a form of organization which enables a group of individuals to act under a common name in carrying on one or more related enterprises, holding and managing property and distributing the profits or beneficial interests in such enterprises or property among the associates. Its structure is defined and sanctioned by a statute, charter or certificate granted by the state; its shares are transferable; its life is independent of the lives of the individuals; and its debts do not usually create a liability for the latter. Although the most familiar type is that engaged in business activities, corporations may also be the vehicle for carrying on charitable enterprises (*see* CHARITABLE TRUSTS; ENDOWMENTS AND FOUNDATIONS), cooperative non-profit enterprises, municipal and governmental operations (*see* MUNICIPAL CORPORATION; GOVERNMENT CORPORATIONS) and religious and social activities.

The corporation is of unknown antiquity. Under Roman law bodies corporate possessing common treasuries and legal personality separate and distinct from that of the individuals comprising them were well known Such were, for example, the various municipal, religious, industrial and trading associations called *universitates*. The organization of such associations was practically uncontrolled under the republic; the requirement that all such corporations must have a license from the state dates from the empire, probably from the reign of Alexander Severus (*c.* 205–35 A.D.). This requirement was probably due to the tendency of some of the associations to develop political aspects and to the consequent desire of the government to keep close watch on all of them. After the Christianization of the empire the popes claimed that their fiat was necessary to the creation of bodies corporate within the church. Thus certain ecclesiastical entities such as abbeys, monasteries and bishoprics were recognized by the Roman Catholic church as possessed of perpetual succession and a continuing body of property despite a changing membership.

In Anglo-Saxon civilization corporations were known in the early Norman period and possibly existed at an earlier date. The classic theory is that they originated in England in two institutions: the early English borough—an association of inhabitants joined together for mutual defense and civic works; and the mediaeval guilds—associations of traders or craftsmen organized to forward their interests, to provide for needy members and in part to control their respective trades. Until recently it was supposed that these institutions were created by crown franchise, but it now seems well established that both boroughs and guilds developed gradually and that they subsequently—from the time of Henry VI—obtained legal status by securing from the king patents recognizing their corporate character. This question is significant in the light of the American legal theory that a corporation is purely a creation of the state.

From the standpoint of economic form and functioning, however, the modern corporation can probably be traced more directly to certain peculiar developments in the business of overseas trade. Because of the great risk attendant upon navigation a practise developed under which a number of associates contributed to the fitting out of a single ship. The value of the ship was divided into shares according to the contributions of the original participants in the voyage, and the profits were distributed proportionally. Such early associations were formed purely by agreement of the associates, who fixed the terms under which each contributed to the capital of the enterprise and by which power was delegated to a person or persons chosen to manage the undertaking. Special treatment was accorded such sea trading ventures under Greek and Roman law. Similar overseas trading corporations existed in the mediaeval Italian ports. They appeared in Genoa as early as the twelfth century. The rapid extension of commerce to distant lands after the middle of the sixteenth century stimulated their formation and they soon spread to Holland, the Hanse cities and England. The famous British East India Company, formed in 1600, at first carried on operations in the established manner; but in 1602 the Dutch East India Company, generally considered the first stock corporation, was organized in Holland with a permanent capital, and in 1612 the English company began to issue stock on a more permanent basis, steadily lengthening the period of time for which the stock was issued.

The development of corporations in England entered on a new phase with the accession of the Stuart kings. James I and his advisers, perhaps taking an analogy from the ecclesiastical organizations of the Catholic church which were created bodies corporate by the church law, are thought to have brought into English law the so-called fiat doctrine, the theory that corporations are fictitious legal persons distinct from their officers or members and created by the fiat of

the state. History hardly warranted this contention, but the doctrine enabled the crown to extend control to all corporations, including boroughs, guilds and trading companies. At the same time it permitted the crown to grant monopolies and privileges to corporations organized by court favorites. The doctrine gained strength from the vigorous support of Lord Coke (1552–1634). It soon became the accepted legal doctrine that a "corporation is a franchise" —a "freedom" or grant of special privilege. The privilege not only permitted a number of associates to carry on an enterprise in a common name, to have a common seal and to appear in the courts in their corporate capacity; it usually included a monopoly of some sort, such as the right to run a ferry or a mill, or the exclusive privilege of trading in a particular area subject only to the rivalry of companies granted similar monopoly rights by other countries. To secure such a privilege direct negotiations with the crown were required, culminating in a royal grant of a charter or patent. The colonization of America and the appropriation of India were achieved primarily through the medium of such chartered companies.

On the continent the corporation was in fact frequently created by the sovereign and endowed by him with certain special privileges. The organization of such corporations was subject to royal concession, and especially in Germany the sovereign was an active force in their promotion and financing. Under the mercantilist political philosophy they were frequently looked upon as arms of the state, performing for the state certain functions of a public character. But the first principle never became accepted legal doctrine as in England and was in fact discarded under the *Code Napoléon*.

The success of the joint stock form, demonstrated by the Dutch and English East India companies, led to its increasing use. Near the close of the seventeenth century England entered on a period of extensive joint stock corporate organization. In 1711 a corporation, huge for its day, was chartered and granted a monopoly of the trade with the South Sea islands. In France John Law formed the Compagnie de la Louisiane ou d'Occident in 1717 to take over the grant for the Mississippi trade. While Law's Mississippi company was stimulating speculation in France, the rise in value of the South Sea securities led to a tremendous wave of company promotion and speculation in England. The puncturing of these two gigantic bubbles in 1720 brought the stock corporation into disrepute. Corporations continued to be formed under special royal grant or legislative act, but a new economic stimulus was needed to restore the corporation as an important force in economic life.

In both Europe and America the development of the modern corporation appears to have received its impetus from the industrial revolution. Economic expansion demanded larger economic units. Railway building especially was one of the dominant forces seeking large capital. The participation by the French, German and Austrian branches of the house of Rothschild in commercial as distinguished from governmental finance emphasized the financial aspect of the corporation. All over the continent banks in corporate form on the model of the Crédit Mobilier, organized in Paris in 1852, were established to help in organizing corporations. The organization of the steel enterprises in the Ruhr in Germany, the Schneider enterprises in France and the Skoda works in Austria were forerunners of the large scale industrial corporations of today. The corporation as the principal means of providing necessary large capital acquired increasing economic importance and more definite and liberal legal recognition.

France led the way in the liberalization of corporate law. In continental law a distinction had early appeared between two types of property owning entities. One was the "community," described as a purely passive property holding device, without hope of profit, whose distinctive characteristic was its maintenance of a body of property for common use but individual ends. Such was, for example, a quasi-corporate institution originating in Spain and on the whole limited to Spanish territory—the institution of land owned in common for a particular purpose, such as a sheep or cattle run, with ownership vested in a guild like the *mesta*, or wool growers' association. The other was the *société*—an active enterprise having, as Pothier observes, " . . . an ulterior and common end which was to acquire property, to realize profits, the association of the parties being only a means toward this end." At the time of the French Revolution the difference between these was recognized: in the community each associate had a right only to division or partition, whereas in a true association each associate had rights *pro socio*; that is, a right to insist that the concern be actively run for his benefit, that he be fairly dealt with and that he share in the profits.

A *société* (the generic name for all types of profit seeking associations from a partnership up to a true share capital corporation) was constituted by an active contract between the parties, and the parties were considered the shareholders. The entity resulted only from the segregation of a common enterprise and a common body of property coupled with a common administration. In this aspect the administration of the concern was more nearly a joint agency. Continental law, however, found the entity not in the legal form but in the enterprise; thus although the legal *société* may be reformed or entirely broken up, as by bankruptcy, the entity may persist where there is a defined enterprise which continues in existence. This realization that an economic unit maintains its existence in large measure irrespective of individuals or of legal machinery for its administration is well known now to economists in England and America, although its legal implications have never been adopted into Anglo-American law.

The modern French corporation takes its form essentially from the *Code de commerce* of 1807 (bk. i, title 3), which sets up three classes of commercial societies: the partnership (*société en nom collectif*), the limited partnership (*société en commandite*) and the share corporation (*société anonyme*). The *société anonyme* derived its name from the fact that the name of none of the associates could appear in the corporate title. Personal credit was not in theory to enter into its operations; it was strictly a body of property managed under common rules by officials subject to an administrative board; the shareholders had no personal liability; interests were distributed by means of shares of stock with voting rights. But unlike American stock securities these could be issued to bearer. This is the usual method of issuing stock in Europe today. Until 1867 the specific authorization of the government was required for the formation of a *société anonyme*. The thorough revision of French corporation law which took place in that year abolished the requirement for state authorization. A *société anonyme* is now formed by a contract witnessed by a notary and so registered as to be a public act; the articles of association are deposited with public registrars and made available for inspection by interested persons. French law was again revised in 1893, 1903, 1907 and 1917, and there have been many minor amendments. In 1917 the law authorized an arrangement by which the workers might participate in the corporate profits, permitting the creation of "labor shares" which were not freely transmissible.

The conception that incorporation was a special concession specifically granted by the government to specific enterprises continued as a general feature of German law, except in the Hanse cities and a few other states, until the law of 1870 established the principle of the freedom of corporate organization. This freedom was subject only to compliance with certain normative provisions intended to protect stockholders and creditors. A period of widespread company speculation, culminating in the crash of 1873, brought demands for reform, and the thorough revision of 1884 set the fundamental character of modern German corporation law. It retained the principle of freedom of incorporation but safeguarded the organization of the company by provisions for publicity of its proceedings and liability on the part of the founders, and the operation of the company by provisions for liability, civil and criminal, on the part of the members of the managing body (*Vorstand*), the controlling body (*Aufsichtsrat*) and under some circumstances the stockholders. The law was revised in 1897 and modified at other times, especially temporarily during the World War.

In England the Bubble Act, passed in 1719 to stop the formation of joint stock companies not possessing a charter from the king or Parliament, was not repealed until 1825. Incorporation continued to be a matter of special grant by king or Parliament until 1844, when associations with more than twenty-five members were permitted to register as corporations. Limited liability was not accorded such corporations until 1855. The laws regulating joint stock companies with limited liability were consolidated in 1862 and again in 1908 and 1929.

In America the corporation has developed along distinctive lines and to a more advanced stage than elsewhere. Many of the American colonies had their inception in a trading grant to certain associates; these developed into governmental corporations and ultimately into political entities. In spite of the strong prejudice against business corporations some fifteen or eighteen of these can be traced prior to 1789. The revolution left the common law intact in the American states, thus perpetuating the principle that a corporation is a franchise but granted by the sovereignty of the state instead of by the crown. A number of stock corporations organized for business purposes appeared prior to 1800; the process of chartering them was sub-

stantially the same as that used in England except that the organizers dealt only with a legislature or a legislative committee. Most of these corporations desired special privileges from the state, such as the right to condemn land by eminent domain for canals and turnpikes or to issue banknotes or to occupy shore lands for wharves. Corporations later appeared which asked nothing save the right to have a corporate name and seal and the privilege of limited liability. Fear of monopolies, however, led the legislatures to restrict quite closely the powers granted to corporations in their charters.

With the disappearance of the demand for the grant of distinctive state privileges the function of the state in the creation of these corporations became obscure. The justification for the fiat theory came to rest primarily on the so-called grant of limited liability. So long as a corporation required a state privilege, there was ground for believing that the state maintained unlimited control or even that the corporation was in some sense an agency of the state itself. But limited liability is not necessarily a privilege granted by the state, since it can be obtained by the agreement of each creditor of the corporation that he will look only to the corporate assets and not to the individual property of the associates or stockholders. Many of the early charters did not involve limited liability, and in California at the present time the limitation is far from complete.

Beginning with the New York law of 1811 the states began to substitute general incorporation laws for the process of negotiating with the state legislature for a charter. The change was due to the inconvenience of the older system, the attendant legislative corruption and the danger of the grant of valuable public privileges to private corporations. The laws permitted organizers of corporations to write out their own charter in accordance with statutory requirements and to file this with an officer of the state, usually the secretary of state. Incorporation followed automatically upon filing of the application. Where special privileges were necessary, as where a railroad desired the privilege of condemning land, recourse to the legislature was still necessary. The laws laid down rigid requirements designed to protect creditors, some of which operated incidentally to protect the stockholders. Chief among the requirements were those that a certain amount of capital should be paid in before business was started, that stock should have a par value and should not be issued except against payment of such par value, that capital could not be reduced or paid out as dividends to the prejudice of creditors, and that original holders of stock who had not paid full par value for their stock were liable to creditors to the extent to which they had underpaid for their stock. The securities which could be issued were rigidly delimited. By 1850 such general incorporation laws were common and by 1875 they provided the usual method of incorporation.

Meantime corporation managers found it necessary to ask constantly broadening powers for the operation of their enterprise. Consequently charters included grants of powers primarily adapted to the particular enterprise but empowering the corporation to do almost anything imaginable. With the advent of the first large American corporations about 1845, formed to operate the railroad systems, managers were faced by the constant need of raising additional capital in large quantities. They accordingly sought power to alter and vary the participation rights of shares of stock already floated or about to be issued. If, for example, a railroad financed by common stock needed additional capital and preferred stock was a convenient method of raising this, the corporate manager desired authority to issue preferred stock ahead of the existing and outstanding common, although this necessarily changed to some extent the rights of the common shareholders. As early as 1865 we find the germ of the modern conception of corporate power—the belief that the rights of the participants as well as the technical conduct of the business must be subject to managerial discretion. The grant of power to a corporation (which means, in reality, to its board of directors and senior officers) to vary participation, to change the rights of stockholders and to alter the apparent contract rights of such stockholders represented a very drastic grant of authority. On the theory that the state infused its life into all departments of the corporation the argument was at once made that any action taken by the corporate management was in some sense action by the state itself, although in fact the action was based primarily on the interests of the corporate management.

The common law had supplemented the doctrine of a state franchise with the doctrine that a corporate charter was a contract. This is still the law. The contract is in theory an agreement between the state and the corporation, the corporation and the stockholders and among the stockholders themselves. Logically much of this theory cannot be supported, but it is still ac-

cepted. The contract is said to include the charter and the general corporation law governing the charter; and stockholders by subscribing to or purchasing stock are held to have assented in all respects to the charter and to the law. So long as the law was itself rigid and required a rigid charter, this was perhaps not burdensome. But as corporate activities extended and as general incorporation laws became increasingly loose, permitting corporate organizers to write almost any clause they desired into their charters, the corporate charter became an extremely one-sided document, granting to corporate management the most extreme powers not only to operate the business but also to alter or take away preexisting rights of stockholders.

The history of the nineteenth century in American corporation law is in fact that of a slow abdication by the state of control over corporations. The process was hastened by the multiplicity of chartering agencies in the United States. Control of corporations was primarily vested in the individual states. For most purposes the charter granted by one state was equally effective for carrying on corporate business in others. Individuals seeking a corporate charter went to the state granting the broadest powers. Certain states became known as "charter mongers," and the competition among them for the income derived from this source resulted in the granting of ever broader powers to the corporations and especially to corporate management. The process may be said to have been completed upon the enactment by certain states (notably Delaware, Maryland and Nevada) of general corporation laws permitting extreme latitude to corporate management, an opportunity promptly seized by corporations which in increasing size and number have used such states for their incorporation. The increase of management power has roughly paralleled the increasing size of corporate enterprise, thereby setting the stage for the corporate system of today.

In practise the business corporation in the United States appears in two forms, the private and the quasi-public corporation. These are so essentially different in character that they must be regarded as distinct institutions. No sharp dividing line separates the two, but the difference becomes evident when more or less extreme types of corporations are considered. An individual can incorporate his private business, thereby setting up a legal alter ego as the nominal vehicle for its conduct. His business will remain as before except for such legal changes as the limitation of liability, the new tax status and the necessity that it be managed at least nominally through a board of directors. In essence it remains a private business. In contrast, the corporation may be employed to combine the capital of many investors secured through the public securities markets into a single enterprise, bringing great aggregates of wealth under a single control. In this form the corporation assumes a quasi-public character and gives rise to problems of economic and social organization of far reaching importance.

The most obvious and pressing of these problems is the inevitable separation of ownership and control which the quasi-public corporation involves. The functions of the entrepreneur become divided. The single owner of a private business, exercising all the functions of the entrepreneur—supplying the capital, taking the risk, managing the property, receiving the profits and exercising ultimate control over all—is replaced by two groups each exercising certain of these functions. One group, the security holders, supplies the capital, takes the risk and presumably receives the profits without exercising any appreciable degree of management or control over the enterprise or over the capital which they have contributed. Control rests rather with a group which can dictate the choice of all or a majority of the board of directors and which therefore exercises ultimate authority over the enterprise, authority almost princely in its extent, almost despotic in its character but frequently due only in a negligible degree to ownership in the enterprise.

The first stage in this separation of ownership and control is that in which the ownership of a majority of the voting stock of a corporation lies in the hands of an individual or small group while the remaining stock is scattered. In such a case control is in large measure combined with ownership and the controlling group is able to maintain its position almost indefinitely. At the same time the minority stockholders are virtually without a voice in the management of the company except where they have the legal right to elect a minority of the board of directors, a rare provision. Their interests may be protected to a very considerable degree, however, by the large proportion of ownership held by those in control. Where the major interests of those in control, however, are in some other business, similar or related, the large proportion of ownership in their hands may be of little protec-

tion to the minority owners. This is especially true where the corporation is the subsidiary of another corporation engaged in the same type of activity.

There are various devices through which control may be further separated from ownership. One is the voting trust, or the pooling of a majority of the stock in the hands of trustees having power to vote it. The most recently adopted device has been the disfranchising of all save a very small class of stock, a device used notably by the banking house of Dillon, Read and Company in its reorganization of Dodge Brothers Motor Company. The use of this device of non-voting stock has, however, received a setback owing to the hostility of the New York Stock Exchange. A familiar and popular device is that of the pyramided holding company, best typified by the system through which the Van Sweringen brothers maintain control of their transcontinental railway system. Reduced to its simplest terms this device involves the control of one corporation by a second smaller corporation through majority stock ownership, the control of the second by a third still smaller and so on. By sufficiently pyramiding the chain of holding companies a very small investment may achieve control of a tremendous aggregation of corporate capital. This is the typical process by which the large public utility systems have been built up. By these devices legal control can be maintained almost as effectually as by majority ownership, yet with only a small proportion of the investment which the latter would involve. The minority of disfranchised stockholders can rely on the ownership interest of control to a much smaller extent; and only in the case of the voting trust, where trustees assume acknowledged fiduciary responsibility, is the stockholder given partially compensating protection.

Control although of a somewhat more precarious nature can be maintained through the ownership of a large minority interest. Where the ownership of the remaining stock is widely scattered, 15 or 20 percent of the voting stock may be sufficient to perpetuate a control already established. If contested, however, its continuance may depend upon the active good will of many other stockholders. The larger the corporation and the more widespread the ownership the more easily is such control retained.

The most significant form of control is management control, which rests primarily on the power to use the proxy machinery. Where ownership is so widespread that no one individual or small group owns more than a very minor fraction of the voting stock, the management—the board of directors and senior officers —may retain their control without appreciable ownership. The board of directors although in theory elected by the stockholders is in practise elected by "proxies," or agents named by the stockholders to act for them at the annual election. Prior to that election the management sends a proxy slip to each stockholder proposing a certain individual as his proxy. Stockholders rarely either attend meetings or name proxies other than those suggested by the management; the latter therefore receive the power to vote most of the stock represented at the election. Armed with these powers they attend the annual meeting and elect their slate of directors. Control can be wrested from the management only through the purchase of a majority of the voting stock or through a proxy fight, in which outside interests establish a committee and seek proxies from the stockholders in competition with the committee sponsored by the existing management. Where the volume of stock outstanding is very large the capital investment necessary to purchase a majority would almost prohibit such action, while a proxy fight against an existing management is both very expensive and likely to be unsuccessful except when the corporation has been seriously mismanaged. The difficulty is increased by the fact that the expenses incurred by the existing control in maintaining its position are paid out of the corporation treasury. The larger the corporation and the more widely distributed the stock, the more easily can an existing management retain its position through control of the proxy machinery. Such a management becomes virtually a self-perpetuating body. Such control without appreciable ownership has already been attained in many large American corporations, such as the American Telephone and Telegraph Company, the General Electric Company, the Pennsylvania Railroad and the United States Steel Corporation, and it appears to be the form toward which the modern corporation is tending. In such a corporation the separation of ownership and control is well nigh complete. The stockholders no longer hold the position of partners in an enterprise; they have joined the bondholders as suppliers of capital. They are merely lenders of capital with a return which is not fixed but contingent upon the will of those in control. Their right to vote has become a right to revolution rather than a method of control.

Interests in the property of these great quasi-public corporations are represented by a variety of securities, which are for the most part held by public investors and bought and sold in the public markets. Primarily these securities represent possible participations in the future earnings and assets of the various corporations. They range in an almost continuous hierarchy from gilt edged bonds having a fixed return and bearing almost no risk, through stocks having greater opportunity of return with greater risk, to the newest instrument of finance, stock purchase warrants, having possibilities of the highest return but involving a most extreme degree of risk. The law divides them arbitrarily into three classes: obligations which are in theory debts of the corporation; stocks which are in theory rights to participate in the earnings and in case of dissolution in the assets of the corporation; and stock purchase warrants which are options with a legal status yet to be defined. It has likewise been customary in the past for economists to distinguish between bonds which were loans and stocks which were a form of partnership in an enterprise (warrants are too new to have been considered) and to assume that they required quite different treatment.

While such a distinction could properly be drawn in the case of a private corporation it has ceased to have meaning with regard to the quasi-public corporation. From the economic point of view this sharp distinction between bonds and stock has disappeared. Each has tended to become more like the other. Formerly the bondholder looked for his safety to the physical property of the corporation. He was safe whether the company was operated well or badly, since if his principal and interest requirements were not met he could seize the company's tangible property, sell it and thus protect himself against loss. Some bonds are still of this nature, but as corporations have increased in size and complexity their wealth has tended to take less the form of tangible goods and more the form of an organization built up in the past and available for use in the future. Even the tangible goods have come to have value primarily because of their organized relationship within the company. The value of the company's property is therefore in the main dependent on continued operation. If the company is dismembered the value of the organization disappears, and the tangible property has little more than scrap value. The expectation of interest and ultimate return of principal must rest upon the profitable operation of the business. From the economic point of view the bondholder may thus be regarded as a participant in the enterprise with a fixed return and priority over the stockholder in both interest and principal.

The hierarchy of securities introduces an element into the modern corporation with which neither the lawyer, the economist nor the business man has effectively coped. In theory the participants in a corporation are all working toward a common end. In practise the varied claims of different security holders are frequently and perhaps necessarily hostile to each other. Thus bondholders will wish limitation of operation and conservative management in the direction of safety of their principal and interest. But a class B stockholder, who has a security costing him little and with little or no equity behind it, will wish the corporation to take extremely long chances on the theory that he has little to lose and everything to gain. Management is required to harmonize all of these interests. It is only too easy, however, to sacrifice one group within the corporation for the benefit of another and only too human for the management to be influenced by its private interest in particular classes of securities.

The new power of management to apportion earnings and assets between the various participants in the corporation is obviously distinct from the old common law power to manage the enterprise. It has no close connection with the power to run a plant, to determine the selling prices of goods, settle effective operating policies or the like. All of these policies may remain unaltered, but under cover of a continuous uniform and profitable operation various legal devices may permit the management to enhance the value of one class of securities at the expense of another.

Thus the corporation may be financed with non-cumulative preferred stock and common stock. Under the rule in the federal courts a non-cumulative dividend although earned is lost forever if it is not declared. But the discretion of directors to declare or not to declare dividends on such stock is almost absolute. It is thus possible for the directors of a corporation which is earning profits to withhold dividends on the preferred stock year after year, building up an equity in the common stock out of the dividends so withheld. Again under the laws of certain states, notably Delaware, a fairly large proportion of the consideration paid for stock may be assigned as "paid in surplus"—immediately

available as dividends. Where a large proportion of the consideration paid for the issue of preferred stock only has been assigned as paid in surplus and dividends are declared for both preferred and common stock, the effect is to turn over to the common stockholder a part of the capital contributed by the preferred stockholders.

To meet these possibilities of exploitation the legal doctrine is slowly being developed that all powers granted to the management to shift property interests in earnings or in assets must be considered as having been granted as powers in trust to be used only for the general benefit of all concerned. It is thought by some students of corporation law that the law will ultimately cope with such powers by declining to sanction their use except where it is shown to be reasonably necessary for the benefit of the enterprise as a whole and where the interests of no class of security holders are unduly sacrificed. But this doctrine is still in its infancy, and the difficulty of legal enforcement is great.

The stockholder's position is further weakened by a curious development in American law. The individuals who constitute the management owe to the corporation certain fairly well defined duties. They must act with reasonable business prudence. They must be reasonably diligent. They must not acquire an interest adverse to that of the corporation in any transaction on which they may be called to pass in its behalf. Thus directors cannot be merely passive and shelter themselves from the claim of mismanagement by pleading inattention to the company's affairs. Nor can directors purchase property and resell it to the corporation at a profit. While this standard of fidelity is somewhat modified in the modern law, there is no marked tendency to eliminate the original demands made upon the persons actively conducting the corporation's affairs. But the law has introduced a metaphysical distinction. These liabilities, it is said, have to do only with the corporation and not with the individual shareholders of the corporation. Accordingly, the shifting of interests within the corporation from preferred to common stockholders or the like does not fall within the normal legal doctrine. The corporation as such is not hurt if one block of assets is transferred from one class of stock to another; the total corporate assets remain the same. There is a damage to one group of shareholders; there is none to the corporation. Hence there is no liability on the part of the directors.

The usual security holder in America is thus slowly being reduced by these devices and interpretations to a point where he becomes a petitioner for the wages of capital. He is safeguarded rather by business ethics and policy than by any easily enforceable right. In Europe the separation of ownership from control is growing, although it has not yet reached the stage which it has in the United States. The European corporation tends to be a more rigid unit and many of the devices worked out in the United States to secure varying participation in earnings and control are unknown in continental law. But the increasing use of many of these devices, together with the limitations placed upon individual corporations by the intercorporate combinations which are so common on the continent, places the shareholder in a position which approaches that of the American shareholder, who is, furthermore, probably far more likely to attempt to vindicate his rights in courts than is the European. In Germany especially the problem of the divergence between the corporation and its stockholders has become an increasingly important problem. Walter Rathenau in *Von kommenden Dingen* (Berlin 1918; tr. by Eden and Cedar Paul, London 1921, p. 119–22) suggested that corporate enterprises had reached a stage where they were almost nameless, soulless and without any individual objective; he suggested the logical possibility that a corporation might even own all of its shares, continuing as a self-perpetuating organization of men working for an idea as abstract as the concept of the nation.

The true significance of the corporation can best be seen in the light of the development of business in the last three centuries from the extreme individualism of private enterprise to the collective activity of the modern giant corporation. The corporate system has done to capital what the factory system did to labor. As the factory system separated control from labor, so the corporate system has separated control from ownership. The one brought the labor of a multitude of workers under a single control, the other is bringing the wealth of countless owners under the same unified control. The limits to the size of the business unit have thus been extended far beyond the bounds of the wealth of the individual or partnership, as they were before extended beyond the bounds of the labor of a single worker and his apprentices. The economic areas within which production can be conducted on a rational coordinated basis be-

come limited only by the ability of a few individuals to administer successfully the huge organization of workers and of wealth which can be brought under their control.

The centering of economic activity in the hands of a few giant corporations has already progressed far and is continuing at a rapid rate. Corporations today carry on most of industrial and an increasingly large part of commercial activity. While a great many of these are private in character, the bulk of corporate wealth is in quasi-public corporations. In 1927 nearly half of the wealth and income of corporations (not including banks and other financial corporations) was owned or controlled by two hundred companies, for the most part quasi-public in character. The relative growth of the large companies in the last twenty years has been such that if the same rate were maintained all corporate wealth would be in the hands of two hundred companies within fifty years—a concentration of economic power unknown in the world's history, unless it be compared to the present control of Soviet Russia.

The development of large scale business, predicated in the modern world primarily upon the quasi-public corporation, has raised problems of the new relationship of business to the workers and to the consumer. With the increase in the scale of business more and more individuals who might have been independent entrepreneurs have become major or minor executives without the independence and the full spur of business profits inherent in private enterprise. At the same time the individual laborer works for a distant management which tends to assume in his eyes the form of an impersonal force rather than the direct individuality of the owner of a private business. The very strength of the quasi-public corporation as an employer weakens the bargaining position of the workers even when organized, makes organization more essential to their welfare and is often used to make impossible or to destroy such independent organizations or to replace them with dependent or "company" unions. These same factors, however, may make possible a more rational planning of production with greater stability of employment. A few corporations have advanced far in this direction: some plan their work on a long time schedule in order to have full time work for the bulk of their employees; others insure against unemployment; still others guarantee practically full time employment to all but their newest workers. On the other hand, some corporations have aggravated the instability of employment. It has yet to be proved that the corporate system as a whole has provided the worker with any greater economic stability.

The position of the consumer like that of the worker has been weakened by the size of these organizations. He has to deal with a great impersonal institution which considers its consumers in statistical tables and averages, as types and not as individuals; which is weighed down with rules and regulations; which may have a very considerable control over prices, either monopolistic or duopolistic in nature; and which supplies standard goods or services throughout national or international markets. At the same time the size of the corporations may through the possibilities of research and mass production supply a type of product or service of a quality and cheapness quite beyond the power of smaller companies.

Control of the relations of big business to the consumer and the worker necessarily involves control of the quasi-public corporation, the form which modern large scale business usually takes. When the state has attempted to regulate the business of the corporation it has done so primarily from the standpoint of state policy toward monopoly, unfair competition and public utilities. This regulation has been extended into other fields, such as those of finance and labor relations. But the bulk of corporate activity today is unregulated. The entire problem of the relations of government to large scale business as represented by the giant corporations remains controversial. In the United States especially there is vigorous opposition to any attempt by the state to regulate the activities of corporate business as such and considerable cynicism as to the ability of the state to intervene effectively.

The corporation has become more than a method of doing business; it has assumed the aspect of an institution of social organization comparable to the state itself. During the Middle Ages the church, exercising spiritual power, dominated Europe and gave to it unity at a time when both political and economic power were diffused. With the rise of the modern state political power became concentrated into a few large units and challenged the spiritual interest as the strongest bond of human society. Out of the long struggle between church and state which followed, the state emerged victorious and nationalist politics superseded religion as the

major unifying force of the western world. Economic power still remained diffused.

The rise of the modern corporation has brought a concentration of economic power which can cope on equal terms with the modern state—economic power versus political power, each strong in its own field. The state seeks in some aspects to regulate the corporation, while the corporation, steadily becoming more powerful, seeks independence and not infrequently endeavors to avail itself through indirect influence of governmental power. Not impossibly the economic organism, now typified by the corporation, may win equality with the state and perhaps even supersede it as the dominant institution of social organization. The law of corporations, accordingly, might well be considered as a potential constitutional law for the new economic state; while business practise assumes many of the aspects of administrative government.

A. A. BERLE, JR.
GARDINER C. MEANS

See: ASSOCIATION; VOLUNTARY ASSOCIATION; GUILDS; CHARTERED COMPANIES; JOINT STOCK COMPANY; PARTNERSHIP; COMBINATIONS, INDUSTRIAL; HOLDING COMPANY; TRUSTS; CORPORATION FINANCE; CORPORATION TAXES; FOREIGN CORPORATIONS; ULTRA VIRES; GOVERNMENT CORPORATIONS; PUBLIC UTILITIES; GOVERNMENT REGULATION OF INDUSTRY; BUSINESS; CAPITALISM; INDUSTRIALISM; ECONOMIC ORGANIZATION.

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CORPORATION FINANCE deals with the financial problems of corporate enterprises. These problems include the financial aspects of the promotion of new enterprises and their administration during early development; the accounting problems connected with the distinction between capital and income; the administrative questions created by growth and expansion; and finally the financial adjustments required for the bolstering up or rehabilitation of a corporation which has come into financial difficulties. Three phenomena of our time have constantly augmented the social importance of corporation finance: the extent to which business today is corporately organized, the widening distribution of corporation ownership and the increasing tendency to separation of ownership and management.

The extent of corporate organization can be indicated by a few summary figures. In the United States all railroads and the great majority of public utilities are organized as corporations, while about nine tenths of the total manufactures are produced by corporations. The numerous mergers of the post-war period have reduced the total number of corporations, increased their average size and correspondingly complicated their financial structure. No single individual could furnish capital for the huge enterprises of today. For instance, the capitaliza-

tion of the Pennsylvania Railroad system is over a billion dollars. Such funds are obtained either through the use of credit—long time obligations called bonds or short term loans for current needs—or through the sale of stocks which represent ownership rights in the business. The bond issues of the railroads are held by life insurance companies and savings banks, which in turn are the property of thousands of thrifty individuals whose savings these institutional purchasers have invested. The United States Steel Corporation has more than one hundred and fifty thousand individual stockholders. Such business activity rightly entails public concern. The interaction among increasing size of corporations, increasing groups of stockholders and bondholders and their increasing public importance is one of the most significant elements in contemporary economic life.

These changes have been concurrent with a growing divergence between owners and operators. In small undertakings such a separation is difficult and inexpedient. The farmer is both owner and operator of his farm; even the small manufacturer may own his workshop, hire his employees, supervise manufacturing operations, act as his own sales manager and control all financial policies. But when ownership is distributed among a great number of stockholders, responsibility for administration necessarily passes into the hands of trained specialists paid for their services. The all important economic problem of the past century has been to secure to private managers the necessary capital to carry on vast and expensive undertakings and at the same time to preserve the initiative and coherence, the force of individual ambition with its attendant responsibility, that ordinarily go with the private conduct of an enterprise. The corporation has furnished one solution of the problem. The stockholders and bondholders furnish capital in unlimited amounts; the officers and directors of the corporation retain the responsibility of private effort.

The capitalization of a corporation includes the capital stock which it has issued and its permanent or funded debt; in other words, the total securities or representative values issued by the corporation against its actual property. State laws attempt to insure that such capitalization shall not exceed the "value" of this property, but as the appraisal is made by the promoters of the enterprise, this state supervision and control is of limited significance.

The chief instruments of capitalization are bonds and stocks. Bonds, paying a fixed rate of interest and usually issued in denominations of five hundred dollars and upward, are the guaranty of loans made over a long period. Like mortgages they are usually secured by specific property. Yet in the last analysis their value is dependent upon the earning capacity of the corporation which issues them, since the liquidation value of an idle plant is negligible. The payment of their principal and of their interest, however, is legally a first obligation on the business.

Shares of stock in contrast to bonds represent ownership in the business and as such carry its responsibilities and risks. After the payment of debts, fixed charges and such preferred stock dividends as have been contracted for, the common stockholders own the remainder of the business in proportion to the number of shares held. In general common stock alone is vested with voting power, by which its shareholders control the policies of the corporation through the directors they choose. Preferred stock guarantees its holders a fixed dividend rate, payable before the common stockholders receive anything, and priority of claim in case of liquidation; but the preferred stockholder usually has no voting rights and no claim to any earnings beyond the guaranteed dividend.

It was formerly the universal practise to assign a nominal value to shares of stock; this was known as the par value. The only permanent and important fact about capital stock is that it stands for a definite share of the corporate property, whatever the fortunes of the business. Hence this nominal value has little actual significance and is frequently misleading. In recognition of this fact and in view of the added ease of manipulation it is becoming more and more the custom to issue stock of no par value.

Underlying all developments of corporation policy is the organization and establishment of the corporation as a going enterprise. This is promotion. A successful promotion usually involves the cooperation of a promoter with entrepreneurial ability and of a banker who makes available large supplies of capital. Five stages may usually be distinguished in the promotion of a large corporate enterprise: the conception of the enterprise by the promoter; the working up of its details, also by the promoter; the formulation of the financial plan, usually the joint work of the promoter and the banker; the formation of an underwriting syndicate by the banker; and, finally, the sale of the securities of the corpora-

tion to the public, from whom ultimately the capital is obtained.

The promoter, in spite of a common and regrettable misunderstanding of his function, really performs a valuable service to the community in that he discovers business possibilities, sifts them out and does the necessary but often unprofitable work of organizing the means for realizing in practise what has been merely an idea or project. Since his payment is generally common stock of the company, he assumes large risks and bases his hopes for remuneration on the success of the promotion. Those who see the great profits which are occasionally the reward of courage and imagination overlook the cases where the promoter expended much time and effort only to see the project fail through no fault of his own.

After a preliminary investigation of a proposed enterprise the promoter approaches an investment banker, one of whose functions is the forecasting of the future social and economic needs of society. The modern investment banker subjects the promoter's estimates to the analyses of a large staff of specially chosen experts, who report on all questions of cost and construction. While he calls to his aid for examination of technical details the engineer, the accountant and the lawyer, the final decision rests on his own judgment.

Perhaps the most important function of the investment banker is his mediation between the promoter and the great body of small investors whose aggregate savings are necessary for the further development of the enterprise. In selling the securities of a corporation, whether a newly organized or an established enterprise, the banker acts as a retailer of forms of capital investment. Once he has agreed to market an issue of stocks or bonds, it is the usual practise for him to form an underwriting syndicate in order that the financial responsibility may be divided. This syndicate is a temporary association of bankers, each of whom agrees to take over and sell a definite amount of the securities in the issue. The sale of securities is accomplished by the same merchandising methods as are used in the sale of any other commodity. Quite generally, however, the investment banker sells his securities more on his own standing and the success of previous enterprises with which he has been connected than upon the actual value or earning power of the assets behind the securities. For this reason he tends to be very reluctant to promote untried enterprises.

Because his reputation is so closely involved, the banker often formulates the financial plan according to which bonds and stocks are issued; and he may supervise the organization and audit the accounts of the company, if large amounts of money are to be spent immediately. Often the investment banker becomes identified with the undertaking for a considerable period, and in any case he quite generally retains some form of supervision through acting on the board of directors or as chairman of the finance committee. There is an implied mutual obligation, on the part of the banker to supply the further needs of the corporation for capital and on the part of the corporation not to turn to other bankers without his consent. Another customary service of the banker is the maintenance of a fair market for the securities he has sold. Failure to do this would penalize clients obliged to dispose of little known securities and by depressing the price of these securities would endanger the credit standing of the corporation which issued them. Hence the investment banker usually agrees to buy back at a figure slightly below the prevailing selling price securities which investors wish to sell.

In European countries, where a far greater degree of supervision over the setting up of a corporation is exercised by the government than is the case in the United States, the investment banker plays a less significant role in the original determination of the financial structure of a corporation. Nevertheless, his advice and assistance are essential to most corporate organizations and especially to the continuing adjustment of the corporation to changing business and economic situations.

Formulating the financial plan for a corporation, usually the joint task of the promoter and banker, involves decisions as to the proportion of each type of security, as to the interest rates of the bonds and the dividend rates for preferred stock. Such decisions are determined by the value and cost of the tangible assets to be acquired by the company, the certainty and regularity of expected future earnings, the traditions and width of market in which the securities are to be sold and the attitude of promoters concerning the concentration of control of the enterprise. It is generally agreed that except in fixing the amount of money that must be raised at the time of promotion the cost of property should have no influence on the financial plan. The determining factor is earning power: the amount of earnings and their presumptive

regularity. In the case of an established business these can be estimated from past experience of the corporation over a period of years, although the dominant importance of skill of management has always to be taken into account.

Sound policy requires that bonds should be issued only when the future earnings of the corporation are liberal and reasonably constant; that preferred stock may be issued when the earnings are irregular but, when averaged over a period of years, give a fair margin over the preferred stock dividend requirements; that, when earnings are uncertain and unpredictable, common stock only should be issued. In any case it is desirable that capital be obtained from the sale of bonds only if the interest charges will amount to less than half the anticipated income. If no bond issue is required, preferred stock dividends may run to two thirds or even three quarters of the minimum. Even if it were possible to market bonds of untried enterprises, it would be unwise to burden them with fixed charges, since the uncertainty of their earnings is still greater than for established companies. Failure to pay interest on bonds leads to financial disaster, a default of preferred stock dividends severely impairs credit, but non-payment of dividends on common stock is a risk undertaken by the owners of the business and is followed by no disruption of the corporation.

The relative marketability of bonds, preferred stocks or common stocks also influences the outlines of the financial plan. Security with low income yield, greater risk with possibilities of higher income and appreciation of capital investment, or adaptation to tax requirements appeals more or less at various times and to various types of investors. For instance, in the period from 1926 to 1929 common stocks were readily absorbed, while there was little market for bonds. Since voting power is usually vested in the common stock alone, most promoters and bankers endeavor to keep this type of security in their own hands, so that they may control the business and profit from any exceptional earnings. Capital is obtained from the public, when conditions warrant, by the sale of bonds and preferred stock which pay interest or dividends as low as is consistent with marketability. When money is needed for the expansion of an established business, capital can usually be obtained at lower cost by a bond issue than by the sale of stock, and control is retained by the present owners of the business. On the other hand, stock carries no enforceable obligation to pay regular dividends, and the ability to market it is helpful to the credit of the corporation.

Although many corporations have successfully marketed securities direct to their stockholders, there are decided advantages in the more usual method of selling them through an investment banker. Close association with a banker often proves useful in times of stress, when capital is difficult to obtain. Moreover, not only is the banker able to distribute securities at lowest cost, but the corporation obtains capital from him in advance of their final distribution. Through the banker's established connections the securities reach a wider market, by no means a negligible element in insuring price stability and discouraging speculation in the company's securities.

In recent years many corporations have supplemented the sale of stock through the ordinary market channels by its sale to customers or employees. Aside from the fact that this taps a new source of capital it gives the customers or employees a common interest with the corporation and tends to make them economically conservative. Public utilities in particular have marketed large issues of preferred stock among their customers at low cost. At the beginning of 1930 it was estimated that a billion dollars' worth of employee stock was held by 800,000 employees in the United States. The implied obligation of the corporation to maintain dividends to these special groups of stockholders is, however, somewhat greater than in the case of a general distribution.

A common method of raising new capital is the "privileged subscription," the offer by a corporation to sell a new security, usually a stock, to its stockholders for less than the current market value. To be a successful means of raising new capital the market price of the outstanding stock must be well above the price at which the new stock is offered and the outstanding stock must be widely held, or the failure of a few stockholders to use their subscription rights will throw these rights on the market and depress the price of both outstanding and new stock. Moreover, stockholders must ordinarily be convinced by the directors that the new stock is issued to secure capital for a justifiable purpose and that it does not dilute their equity.

The capital invested in a corporation falls into two main divisions: fixed capital, invested in land, buildings, equipment and permanent improvements to the plant, which are not likely to be resold; and working capital, which is used in

the operation of the business and turned over with relative rapidity. Working capital is the flow of raw materials, goods in process of manufacture, finished goods, ledger accounts, notes representing sales of these goods and the cash recovered for such sales waiting to be spent again for raw materials.

Four factors influence the amount of working capital which a business requires: the technique of the business, the period of manufacture, the customary credits allowed customers and the fluctuations in the availability of raw materials and of demand for the products. Railroads and public utilities have enormous plant investment but require relatively little working capital, because practically no raw materials are required, no finished materials are stored and the services they sell are paid for soon after they are delivered. Such a manufacturing business as a tannery, on the other hand, may have only a few thousand dollars invested in vats in a dilapidated wooden building, but through these vats may pass many thousand dollars' worth of expensive skins. Distributing businesses require large amounts of working capital in proportion to their fixed capital. The amount of working capital required increases with the length of the period between the purchase of raw materials and the sale of finished goods. This factor is more or less in the control of the management, since shorter processes may often be introduced or semi-finished parts purchased. Also partially under management control is the credit policy; liberality in granting credit necessitates ample working capital. For example, some mills have as much working capital tied up in accounts as in inventories, while on the other hand a well known chain store system operating on a cash basis has over $6,000,000 in inventories and less than $100,000 in accounts receivable. Whether to tighten credit terms and perhaps reduce sales is a matter of policy which must be decided by the management. Large inventories also create a demand for working capital, whether these are due to advance purchases to insure a supply of raw materials or to the seasonal nature of the business, which forces holding a stock of finished goods. These factors have resulted in increasing emphasis on management devices to secure rapid turnover.

Working capital may be obtained in three ways or by combinations of the three. Some part of it may be borrowed from creditors with or without their consent. Whether a corporation obtains the use of its money for a longer period by delaying payments to companies from which it makes purchases or pays less by availing itself of discounts allowed for prompt settlement, it is in effect securing loans from its creditors.

Or working capital may be contributed by the stockholders, in which case the entire working capital of the corporation is represented by net quick assets. In a youthful, vigorous and profitable industry it is usual to obtain the successive increments of working capital by continuous reinvestment of earnings. Later, when the business is seasoned, it becomes comparatively easy to obtain new capital by the sale of stock. In either case these additions to working capital come from the stockholders as direct investment or through withholding of dividends as indirect investment.

Institutional banks are the third source of working capital. The corporation may obtain funds directly through establishing lines of credit or indirectly by the sale of commercial paper through note brokers. The banking tradition that total working capital should be twice the current debts to banks and merchandise creditors is today being superseded by a tendency to extend credit on the basis of the corporation's earning power, as it is recognized that in a general depression no ratio between working capital and debts can insure immediate payment.

The cost to a corporation of borrowing through banks or through a note broker is approximately the same. The ability to sell notes in the open market is helpful to credit, but the corporation loses the advantage of close banking connections, which may be indispensable during a business crisis. Regular frequent borrowings from banks give stability to a corporation's credit and the money is obtained at lower rates than through the sale of stocks. A reserve for working capital obtained from stock issues must be invested in high grade easily salable bonds or loaned on call so as to be immediately available, and the interest obtained will be lower than the dividends paid on the stock. Such a reserve, however, makes the corporation independent of all fluctuations in the demand and supply of money.

The favorable difference between the property of a corporation and its debts is known as the surplus. Changes in this surplus from year to year arise from profits or losses. The amount of this surplus at any time can be determined only after the difference between gross receipts and direct costs has been calculated, various indirect costs deducted and an adjustment made be-

tween payments and receipts of interest, rentals, royalties and the like not directly derived from the business. Direct costs such as labor, materials and rent are easily ascertained, but indirect costs are dependent on estimates. In the conduct of a business therefore accountant and managers set aside from gross receipts sums of varying amounts for reserves to meet these indirect costs.

One of the most important of these indirect costs is the depreciation reserve to compensate for the wearing out of physical property used in the business. The amount appropriated yearly to pay for replacements must be, so far as it is possible to determine, proportionate to actual deterioration. Standard rates of depreciation have been worked out for different types of property and are generally used by corporation accountants. Irregularity in such appropriations is often an indication of manipulation of accounts to conceal unusual earnings or to bolster up the statement of an unsuccessful year.

More difficult to compute than depreciation is obsolescence, since no one can predict when new inventions may destroy the value of costly machinery or patent processes. Hence another and generous reserve must be created to replace equipment which becomes out of date while still serviceable. The amount of this annual allowance will naturally be largest in forms of business dominated by the style element or in which new processes are being developed with unusual rapidity. Expenditures of the iron and steel trade in the United States in one year for construction to accommodate new technical processes were estimated to total $70,000,000.

Most businesses also require special reserves to meet such risks as are not covered by insurance and paid for among direct costs for premiums. One of these risks is possible legislation which may impose unforeseen taxes or require expenditures which bring no corresponding financial return. In the latter class, for instance, are labor laws limiting hours of work or requiring specified sanitary or safety conditions within a plant.

In determining the corporate surplus adjustments must also be made by deducting interest or discounts paid for bank or mercantile borrowings, bond and note interest and similar charges on capital and by adding such interest earned by corporation funds loaned or discounts taken. Rentals or royalties paid and received on property or patents are also balanced.

Theoretically the surplus remaining after the setting aside of reserves and the payment of interest and other capital charges may be distributed in dividends. Actually, since the computations of the accountant are based on estimates of engineers, credit men and others, great caution must be exercised to maintain the economic value of the business. Hence experienced business men are more than likely, even after all anticipated exigencies have been provided for, to lay aside yearly a further sum for unexpected emergencies. Within recent years much more attention has been turned to detailed planning and budgetary control than formerly. Cost accounting systems based on records which establish the cost of manufacturing and selling a unit of product make possible the forecasting of future business transactions and the estimate of expenditures by departments as well as for the corporation as a whole.

It is an established principle of law and finance that dividends may not be paid out of capital. But after all interest charges have been met and all special reserves laid aside, business expediency dictates how much of the so-called stockholders' surplus which remains shall be disbursed. The foremost question is the proper balance between the dividend payments and the amount of yearly earnings to be reinvested in the business. Two considerations affecting this decision have already been touched upon: the varying needs for working capital and the element of uncertainty in the best estimates of accountants. A third is that dividends should be constant and regular. Regularity of dividend payments attracts stockholders who buy for investment rather than speculation and strengthens the credit position of the corporation when it has occasion to negotiate loans or to market bonds. Earnings are subject to fluctuation, differing in extent according to the type of business. In general, earnings of corporations producing inexpensive necessities, sold to and immediately consumed by the ultimate consumer, are most regular and most subject to reliable prediction; earnings of corporations producing costly commodities sold to other producers and not absolutely necessary for their business operations are least regular and least subject to regular prediction. To secure regularity of dividend payment the directors must set aside reserves in good years to be drawn upon in poor years and must fix a dividend rate so far below average net earnings that the undistributed profits shall be added to more frequently

than drawn upon. In the end the regular dividend is a matter of arithmetical averages of earnings through a series of years. If a conservative policy results in the accumulation of more undistributed profits than the business requires, there may be an additional distribution to stockholders. Unless this is clearly designated an extra dividend, expectation of its continuance may be awakened, the non-fulfilment of which will eventually affect unfavorably the market price of the corporation's securities.

Although dividends are usually paid in cash they may be distributed in the form of securities. The stock dividend is the most common and the most important of such payments. Since legally no stock should be issued unless it represents property equivalent to its full par value, stock dividends are justifiable only if a considerable amount of actual earnings has been used to acquire new buildings or equipment or to increase net quick assets so as to maintain or strengthen the credit position of the corporation. If a corporation is seeking to obtain capital from outside sources, it is a misrepresentation to proceed as if it had capital to divide in the form of a stock dividend. It is also wise for directors to avoid creating the impression that a stock dividend is declared to aid manipulation of the market price of the stock by those in control of the company.

An outstanding characteristic of the past decade has been the growing tendency toward corporate expansion through concentration of financial control. Public sentiment is less opposed to consolidations than formerly and legislation, as in the case of the railroads in the United States, sometimes directly favors them. One of the most effective devices for centralized financial control of otherwise separate companies is the holding company (*q.v.*). Such a company is organized under the laws of a state which permits its corporations to hold the securities of other corporations in its treasury. After acquiring at least a majority of the stock of the corporations which it seeks to control, the holding company either issues its own stocks against these treasury securities or markets new security issues for the subsidiaries. Through the central financial organization the subsidiaries profit from the economies of large purchasing and obtain technical, legal and management service which would have been prohibitive in cost to them as separate units. The holding company renders both temporary and permanent financial aid to its subsidiaries: weak companies are tided over critical periods, often by using the credit of the stronger subsidiaries. and the credit of the whole organization is made available to those companies which are so small or so deficient in earning power that they have no independent credit. The established name and the banking connections of the holding company enable it to sell securities at lower cost and in a wider market than would be possible for the individual subsidiaries. From the point of view of the investing public these securities are more readily marketable, but they are subject to the risk of being inflated in value by the holding company without detection.

Chief among the causes which have furthered consolidations and mergers, especially in manufacturing and mercantile industries, are rising overhead costs, which threaten to outrun profits unless business is done on a scale which distributes them over a great volume of units. Costly machinery, which becomes obsolete with alarming rapidity, technical research and elaborate sales promotion are important and under existing conditions unavoidable elements in overhead. Mass production and standardization in themselves make central financial organization imperative. Many mergers are directed toward single control of valuable processes or of essential sources of supply or of adequate agencies of distribution.

Whether the advantages sought by consolidation actually ensue is dependent less upon size or complexity or capitalization than upon skill of management. To be successful the companies combined must form a logical whole which profits from a common general staff and unified methods of operation. There is in combinations a danger of overfunctionalization, which eats up the anticipated savings. Personal loyalty and devotion of officials are more difficult to retain in large than in small corporations. Even under favorable economic conditions the net income of a consolidation in its first years is likely to fall below the previous aggregate earnings of the member companies. Unless this probability has been taken into account in the decision as to the amount of bonds to be issued, the consolidation will experience financial difficulties.

The immediate causes of embarrassment to a corporation may have been ill judged price cutting or overextension of sales promotion or payment of interest or dividends disproportionate to earnings; the underlying cause is always lack of financial ability on the part of its directors. When such financial embarrassment

occurs it is not practicable for a new management to take over the assets of a large corporation for the benefit of creditors, as too many conflicting interests are involved; and the chief values of the enterprise are destroyed if operations are stopped, the organization is broken up and the good will abandoned. Hence it is customarily reorganized, either publicly under a legal receivership or privately by a friendly committee, usually associated with the management, before the difficulties become apparent. Reorganization involves a reduction of activities and refinancing. Three factors are important to the final outcome of such reorganizations: economic motives govern decisions affecting profits; legal requirements determine procedure; but most influential are the human ambitions, antagonisms and friendships which underlie every financial episode.

A reorganization without compulsory sale, even though a receiver is appointed by the courts, is called voluntary; the great majority are of this type. In general the procedure involves the appointment of a receiver who assumes management of the business during reorganization but makes contracts or large expenditures only on authorization of the court. At the same time committees of creditors, bondholders, stockholders and all interested are formed, from which a general reorganization committee is selected. This committee authorizes investigation of the financial situation by auditors; of legal matters affecting abrogation of contracts, pending suits and the like by lawyers; and itself lays out the new financial plan, to which it must secure the agreement of the opposing interests.

Since the public cannot be interested in the securities of an unsuccessful enterprise, new funds can be secured only by substantial sacrifices, chiefly on the part of stockholders. In the course of a reorganization common stockholders are likely to be assessed for new capital in proportion to their holdings, and preferred stockholders are often paid arrears of dividends in common stock which has become practically worthless. Yet note holders and merchandise creditors are frequently obliged to take 50 percent of their claims in long time securities, and even bondholders may be obliged to accept preferred stock for part or a whole of their lien on the assets of the company, in order that a new bond issue or notes secured by the property of the corporation may provide it with working capital. Even in the case of bondholders their chance of finally receiving a part at least of their investment is usually better if they consent to such arrangements than if they attempt to block reorganization by insisting on their claims, for legal adjudication of their rights is likely to bring them a very small proportion of the face value of their bonds. Not infrequently the largest creditors assist in refinancing a corporation, receiving in return securities which make them practically its owners. The investment banking house with which the corporation has been associated is likely to be one of the largest creditors and a leader in reorganization plans. However these may prosper, in a great number of cases the original common stockholders are practically eliminated.

ARTHUR S. DEWING

See: CORPORATION; PROMOTION; INVESTMENT; INVESTMENT BANKING; CAPITALIZATION; BONDS; DEBENTURES; STOCKS; HOLDING COMPANY; MONEY MARKET; MERCANTILE CREDIT; ACCOUNTING; AUDITING; FINANCIAL STATEMENTS; DEPRECIATION; GOOD WILL; COST ACCOUNTING; PUBLIC UTILITIES; BANKRUPTCY; RECEIVERSHIPS.

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CORPORATION SCHOOLS. *See* INDUSTRIAL EDUCATION.

CORPORATION TAXES. A large part of the complexity and confusion which at present characterize taxation in the United States is directly traceable to the widespread introduction in comparatively recent years of the corporate form of ownership organization. Before the era of the corporation it was possible to achieve a fairly satisfactory result by requiring each individual to list all of his property, allowing liberal deductions for debts. The result was a rather complete assessment of tangible property and almost no assessment of intangible values. But the system had at least the merit of taxing practically all tangible property and taxing it but once, the tax falling for the most part upon the real owner of the property. The general adoption of the corporate form of organization, involving the convenient legal fiction of an artificial person with powers to hold property, make contracts and accumulate income, which in turn is owned by other artificial or natural

persons often very numerous and widely scattered, has created taxation problems for which no completely satisfactory solution has as yet been found. The corporation has radically affected the adequacy of the general property tax, at least as a personal tax. Moreover, the corporation, which from the beginning was prominently identified with large scale, quasi-monopolistic enterprise not confined in its operations to a single state, presented a special taxation problem in a country with many chartering and taxing authorities of limited territorial jurisdiction.

The introduction of the corporate form created the problem of taxing intangible property, an element of value not commonly taxed before, perhaps because it was seldom sufficiently explicit in the economy of the individual. Thus in addition to the regular taxation of the corporation on its tangible property a new tax, the so-called corporate excess tax, was widely introduced. It imposed a charge upon the excess of the aggregate market value of the securities issued by the corporation over the value of tangible corporate property taxed locally. In some states, instead of an annual tax on the corporate excess which can be justified legally as a pure property tax, resort has been had to more or less arbitrary flat rate annual taxes on capital stock, which are defended legally as excise or franchise taxes imposed for the privilege of owning property and carrying on business in the state. In a few cases this annual franchise tax has been based on net income, the tax being in lieu of a property tax on intangibles and in some cases, New York for example, in lieu of a tax on tangible personalty as well. In some cases, as in California, a corporate excess tax has been legally described as a franchise tax.

The corporation also raised the question as to whether the corporation itself or the shareholders should be assessed and taxed. For a number of legal and practical reasons the answer given was that both should be taxed. Thus the securities, which are mere paper evidences of interest in the corporation already fully taxed, were almost universally subjected to full taxation through the individual owners. In some states, it is true, concessions were made in the case of securities of domestic corporations owned by residents of the state, but this policy offered only slight relief because it proceeded on the assumption that the taxes paid by a foreign corporation to its home state contributed nothing toward the discharge of a resident's tax obligation in his own state.

With wide variations existing in tax practises and tax rates from state to state a situation of great complexity and of almost intolerable discrimination developed—a situation which might well have seriously discouraged the growth of the corporate form of organization had it not been for the ease with which the individual could evade his legal responsibility to report his holdings of securities to the assessor. The practical result has been the virtual nullification of the laws imposing full property tax rates on stocks and bonds in those states which still persist in their efforts to list them. A considerable number of states have attempted with indifferent success to mitigate the situation by placing such securities in a special class carrying a low rate of tax or have abandoned the attempt to tax them at all as property, merely including the income in the personal income tax base. For the country as a whole, however, the existing situation may still be described as extremely unsatisfactory.

Very early in the history of corporate development the states came to appreciate the revenue possibilities of a system of fees which could be imposed for the privilege of receiving a corporate charter or, in the case of a corporation with a charter in another state, for the privilege of qualifying to do business in the state in question. Liberality in grants of powers and freedom from onerous restrictions, on the one hand, and the reasonableness of incorporation fees, on the other, have been commonly stressed in the lively competition which has developed among the states for the business of supplying articles of incorporation. Among the states which have been favored by those seeking articles of incorporation New Jersey was for many years prominent for its especially large revenue derived from this source. The stress of competition from other states has tended, however, toward a reduction of such fees to rather nominal amounts.

In addition to the various state taxes on corporations there exist also federal corporation taxes. In the absence of a general provision for granting federal articles of incorporation there is no system of federal incorporation and license fees. In 1909, however, the federal government availed itself of its privilege of imposing on corporations an excise tax measured by net income. This tax disappeared in 1913 with the adoption of the general federal income

tax, which continued to tax corporations as such but permitted a partial offset in the individual share owner's tax in the form of a reduced rate on dividends. Since 1913 the rates imposed on corporations and the offset given individual shareholders have often been changed and at times the discrepancy between the two has been so substantial as to constitute in effect a heavy corporation tax. During the World War an additional tax was imposed on corporations, based on the value of the capital stock, and except during a short period after its introduction the excess profits tax was exclusively a corporation tax. Both of these taxes have now disappeared, but the differentiation under the federal income tax still remains.

Corporation taxes in the narrow sense seem destined to decline in importance. The trend of opinion seems to be definitely in favor of transforming the existing franchise taxes on corporations into comprehensive business taxes, based on net income and applying to all business—to individual proprietorships and partnerships as well as to corporations. Some sentiment, however, exists in favor of substituting sales taxes for net income taxes in this field. Organization taxes and license taxes may be expected to remain but their fiscal significance will probably decline. With continued progress toward the objectification of the property tax the most troublesome problems will consist of the treatment of corporations under the personal income tax. Until individual accounting is refined and perfected to the point where accurate annual valuations of individual interests in corporations are available, it will probably be found necessary to include as a part of a personal income tax system a direct levy upon the corporation to compensate for the privilege of reinvesting its profits rather than distributing them as dividends.

In industrial Europe the advent of the corporation found the tax systems in a state of development different from that in the United States. In Switzerland, it is true, a form of the general property tax existed and still persists, giving rise to problems very similar to those in the United States. They have been attacked with indifferent success, although double taxation as among corporations has been largely avoided. In England, where the income tax dates back to 1842, the corporation has been effectively utilized as an agency for collection-at-source for the tax on income from interest and dividends. Influenced by the example of the United States with its heavy taxes on corporations as such, England in 1920 imposed for the first time a true corporation income tax but the outcry from those who objected to a tax on earnings "ploughed back into the business" was so great that the tax remained in force only until 1924. In France, as in England, there are no property tax complications, but corporate profits are subjected to the commercial and industrial profits schedule of the income tax and in addition dividends are heavily taxed as *valeurs mobilières* under the system established in 1872. In Germany a heavy discrimination against the corporate form has developed. Under the tax legislation adopted in 1920 and amended in 1925 a corporation is subject to the *Körperschaftsteuer* at a basic rate of 20 percent on its net income, and the dividends are in addition subject to the full personal income tax rates. Similarly under the *Vermögensteuer* (net fortunes tax), not only is the corporation itself subject to the full rates but the shareholders must also submit to half rates on the value of the holdings. It is apparent that in Europe as well as in the United States the problem of corporate taxation has not been found easy of solution.

In the United States special circumstances have made it desirable to tax certain groups of corporations, notably the public utilities, insurance companies and banks, by methods and standards different from those commonly applied to corporations in general.

The public utilities pay the usual type of organization or license taxes based on capital stock, a tax on tangible property and in addition often one or more franchise taxes and special franchise taxes bewildering in their complexity. New York furnishes an interesting if extreme illustration of the confusion which sometimes results. The multiplicity and complexity of the taxes are due to the peculiar difficulties of assessment offered by such enterprises. The traditional technique of valuations by local assessors soon demonstrated its inadequacy when applied to the specialized property of vast public utility enterprises, and the assessment of such properties, particularly railroads, was one of the first functions to be assigned to a central state authority. Indeed, in 1928 in only two states were local officials given authority to assess the intangible element in public utility property and in all but eleven states the assessment of tangible property was the function exclusively of central state officials. The

difficulties of assessing intangible value are of course much greater. While in all but three states the tangible property of utilities is assessed on the same basis and at the same percentage of full value as other tangible property, many special methods are used for determining the intangible value. The valuation of the property of the company as a whole, one necessary step, is accomplished by methods highly flexible, almost infinitely varied and seldom frankly exposed; at present the capitalization of net earnings seems the most popular basis. The allocation of the total value among the states into which the activities of the utility extend is accomplished by the use of arbitrary criteria, such as track or wire mileage, gross receipts and the like, with results which leave a great deal to be desired from the point of view of both equity and uniformity.

There have been several efforts to avoid the complexities of property and franchise valuations and to achieve simplicity through the substitution of net income or gross receipts for property as the tax base. California, for example, since 1911 has imposed a state tax on the gross receipts of its public utilities and has exempted all the operative property of such corporations from local taxation. Legally, however, this plan does not represent a departure from the property tax system since the gross receipts tax is specifically held to be in lieu of the property tax and is levied at rates which are supposed to result in a burden on the property of the utilities, tangible and intangible, equivalent to the tax burden imposed on property in general. Although the routine administration of the California gross receipts tax is exceedingly simple, the determination of the tax rate has proved to be a problem involving great expense and legislative turmoil. In 1929 an official tax commission recommended that the gross receipts tax on public utilities be abandoned, that the real estate of the utilities be valued by a state authority but returned to the localities for taxation and that the net income of the utilities be taxed by the state at a low rate. A similar plan has recently been recommended by an official Utah commission. In New York state a legislative committee in 1922 proposed a "gross-net" plan for taxing public utilities which contemplated in addition to real estate taxes a tax on gross receipts, the rate of which would have varied with the ratio of net to gross earnings. This plan has been recommended for general adoption by a special committee of the National Tax Association.

The future of public utility taxation appears to depend largely upon the degree of success achieved in the public regulation and control of the rates charged by the utilities. Undoubtedly the utilities will continue to be called upon to pay property taxes on their real estate and perhaps also on their tangible personal property; such taxes would be allowed as expenses in determining the rates to be charged for their services. But it seems probable that in place of the present complicated array of taxes on intangibles and franchises some new type of tax will be evolved especially designed to supplement the system of rate regulation by recovering for the public at least a share of any excessive profits which may accrue to the utilities because of the necessary crudity of the rate scales fixed by public authority. On the other hand, if the present efforts to regulate and control public utility charges should result in failure and the alternative of public ownership should be generally adopted, the problem of the taxation of utilities would probably disappear through the exemption of all the property of the utilities or at least the intangible property.

Similarly, in the case of insurance companies the usual methods of corporation taxation have been found inadequate because of peculiarities inherent in the insurance business. The stock of the insurance company is usually closely held and seldom dealt in, and its property is usually invested in intangibles of a type either legally exempt or difficult to discover and appraise. An effort to utilize property as the base threatens to distort investment policy and to result in unsound practises in an effort to achieve tax advantages. Moreover, since the insurance business is highly competitive and each state has been eager to protect its home insurance companies against heavy taxation in other states in which such companies desire to do business, there has been a highly interesting development of reciprocal and retaliatory provisions which are designed to secure equality of taxation. A simple, easily determined base, supplying a rough but generally satisfactory test of the weights of the taxes imposed by any state, is necessary to facilitate the operation of such provisions.

Net income as a tax base presents even more difficulties than property. Even those states which have adopted net income as the measure

of their taxes on ordinary corporations have declined to place insurance companies on this basis. One difficulty is the determination of proper deductions to cover losses. To restrict deductions to losses actually suffered would be unfair to the companies, while to permit the deduction of the legal contributions to reserves would be unfair to the public fisc. Another difficulty is that of determining what portion, if any, of the so-called dividends to policyholders should be deductible. With a large part of the insurance business organized on the mutual basis this question is one of grave importance.

A gross premiums tax makes it possible to secure what is considered an adequate contribution from these companies without delving into the complications involved in a valuation of the company's assets and liabilities. At present insurance companies are taxed almost without exception throughout the country on the basis of their gross premiums at rates which range from 1 percent in New York to 3 percent in Indiana. The allowable deductions and offsets for taxes also vary somewhat from state to state. Under the reciprocal and retaliatory clauses, one or the other of which exists in most of the states, the actual rates imposed may vary from the statutory rate. It seems probable, however, that this method will persist for a long time to come.

The third important group of corporations taxed in a special fashion consists of banks. In this case the primary reason for special treatment lies in the historical circumstances which led Congress during the Civil War period to prescribe narrowly the limits within which national banks could be taxed by the states. The national banking system, with provisions for bond secured banknotes, was established largely as a measure of war finance designed to stimulate the demand for federal bonds. To increase the attractiveness of the new federal charters Congress imposed a high tax on the issues of currency by state banks and naturally considered it necessary to protect the new national banks against retaliatory measures by the states. Since it is not practicable for a state to impose on its own banks taxes which are heavier than, or very different from, those which it imposes on the actively competing national banks located within its borders, the taxation of all banks throughout the country has tended to become standardized along lines dictated by Congress for national banks. Until 1920 this meant a tax on the shares of the bank payable by the bank on behalf of the shareholders to the state in which it was located; the shares were ordinarily valued on the basis of the capital, surplus and undivided profits of the bank minus the value of the real estate of the bank, which was taxed as other real estate. The rates of this tax on bank shares varied somewhat from state to state but could not be higher than those imposed "upon other moneyed capital in the hands of individual citizens" of the state. Under the general property tax system as it existed a half century ago the share tax method was not open to serious objection from the states. While it precluded the application of any corporate excess tax on the bank itself or indeed any other special form of corporate taxation, it assured the state of a complete assessment of the shares including those belonging to non-residents.

No active dissatisfaction developed until about 1920. By this time various types of corporation taxes had become common, carrying with them varying degrees of exemption for the shares of stock in the corporations so taxed. Also, in many states mortgages were either exempted or subjected only to light recording fees; and stocks, bonds and other intangibles were either classified and taxed at light rates or exempted entirely when the yield was included in the base of the new state personal income taxes. So long as the shares of state banks were taxed as heavily as national bank shares, it was generally thought that such changes in the tax system did not affect the validity of the taxes on national banks. In a line of decisions, however, beginning with the Richmond case in 1921 (256 U. S. 635, 65 L. Ed.), the Supreme Court seems to have made it clear that no state tax on national bank shares is valid under the provisions of section 5219 (Revised Statutes) if this tax is imposed at a higher rate than that which the state imposes on mortgages, intangibles and credits generally. Consequently, practically every state which had taken any steps at all to extricate itself from the demoralizing situation caused by the breakdown of the general property tax on personal property faced the necessity of repealing its reforms if it was to validate its bank taxes. In this emergency Congress amended section 5219 in 1923 (42 Stat. 1499) and 1926 (44 Stat. 223) so as to permit the taxation of national banks on their net income (or by means of a type of franchise tax according to their net income) by states

which imposed similar taxes at similar rates on other corporations. Six states have availed themselves of this option. It appears that in all of these states the change from the share tax method has involved a heavy diminution in the yield of the taxes on the banks.

All of the states which have taken advantage of the 1923 and 1926 amendments, with the single exception of Wisconsin, have chosen the so-called franchise tax plan, which imposes a tax on the banks "according to or measured by their net income." Under this plan the states have proceeded on the assumption, apparently justified by the Supreme Court's interpretation in the case of Flint *v.* Stone Tracy Co. [220 U. S. 1907 (1911)], that various elements, such as interest on tax exempt government bonds, might be included in the base used as a measure of the tax. The banks own such bonds in very substantial amounts and to drop the interest from the computation would greatly reduce the bank taxes. In 1929 the Supreme Court handed down a decision (Macallen Company *v.* Commonwealth of Massachusetts, 279 U. S. 620) which practically reversed its former position. Although modified somewhat by later adjudication (Educational Films Corporation *v.* Ward, Attorney General, U. S. Sup. Ct., decided January 12, 1931), this decision, casting doubt on the validity of the franchise taxes in force in various states, makes it imperative that Congress amend section 5219 still further if the various states are to receive an adequate revenue from bank taxes.

What form the new legislation expected from Congress will take is not yet clear. The banking interests are extremely reluctant to surrender the special privileges they have so long enjoyed in the statutory requirements regarding the precise form and extent to which states shall be permitted to tax them. The historical reasons for their existence have long since lost their relevance, and it is becoming increasingly obvious that the problem of bank taxation cannot be satisfactorily and permanently solved by means of federal restrictions formulated along the narrow lines of the present statute. A federal statute, if needed at all, would find its true function in clearly stating that in imposing business taxes the states must not discriminate against the national banking business; that in imposing property taxes the states shall not discriminate against property engaged in the national banking business; and that in imposing personal taxes the states shall not discriminate against persons engaging in or investing in the national banking business. The banks will receive all the protection they require or can fairly demand if discrimination of every sort is prevented.

ROBERT MURRAY HAIG

See: CORPORATION; BUSINESS TAXES; GENERAL PROPERTY TAX; INCOME TAX; PUBLIC UTILITIES; INSURANCE; ASSESSMENT OF TAXES; DOUBLE TAXATION.

Consult: Seligman, E. R. A., *Essays in Taxation* (10th ed. New York 1925) chs. vi–viii; United States, Bureau of Corporations, *Taxation of Corporations . . . in the States*, 6 vols. (1909–15), and *Special Report on Taxation* (1914); Hunter, M. H., *The Development of Corporation Taxation in the State of New York* (Urbana 1917); Friedman, H. G., *The Taxation of Corporations in Massachusetts*, Columbia University, Studies in History, Economics and Public Law, vol. xxvii, no. iii (New York 1907); Moore, J. R., *Taxation of Corporations in Illinois Other Than Railroads, since 1872*, University of Illinois, Studies in the Social Sciences, vol. ii, no. i (Urbana 1913); Blumenstein, J. H., *National Problems of Canada: the Taxation of Corporations in Canada*, McGill University, Economic series, no. iii (Toronto 1925); United States, Library of Congress, Legislative Reference Division, *Taxation of Incomes, Corporations and Inheritances in Canada, Great Britain, France, Italy, Belgium, and Spain*, 68th Cong., 2nd Sess., Senate Document 186 (1925); Laufenburger, Henry, *L'impôt sur le revenu et les sociétés commerciales . . .* (Strasbourg 1926); Blum, Leo, *Die steuerliche Ausnutzung der Aktiengesellschaften in Deutschland*, Münchener volkswirtschaftliche Studien, no. 108 (Stuttgart 1911); Vincent, Georges, *Le régime fiscal des sociétés des valeurs mobilières et des assurances* (Paris 1928); Natoli, Fabrizio, *La personalità giuridica delle società commerciali e l'imposta di ricchezza mobile* (Rome 1912).

CORPUS JURIS CIVILIS. This name is now given to the restatement of Roman law sponsored by the emperor Justinian. The name *Corpus juris civilis* seems to have been first used in this connection by Denys Godefroi in his famous edition of 1583. It is now often referred to on the continent as the *Pandects*. Announced by Justinian February 13, 528, a few months after his accession, the work of compilation was placed in the hands of a commission which eventually included seventeen members, presided over by the eminent jurist Tribonian. It appeared serially in four parts as follows: *Institutes*, November 21, 533; *Digest*, December 16, 533; *Codex*, first collection April 7, 529, revised collection November 16, 534; *Novels*, 535 and following years. The best modern text of the *Corpus* is found in the three-volume Berlin edition of 1872–80. The *Institutes* and *Codex* were edited by P. Krueger, the *Digest* by T.

Mommsen and the *Novels* by R. Schoell and G. Kroll.

The *Institutes* may be regarded as a general introduction to the whole work, although it followed the first issue of the *Codex*. It is a general survey of the field of Roman private law and may be described as an elementary law school textbook. The members of the commission who prepared it were law teachers—Theophilus of the Constantinople school and Dorotheus of that of Berytus—and their production was notably different from the other parts. Law books known as *Institutiones* were quite familiar to the Roman public, the term having been borrowed from elementary works on rhetoric. Such *Institutes* had been written by the great Ulpian and by Callistratus, Florentinus, Marcianus and Paulus. But the most successful, if not the most scientific, of these treatises was that of the "law coach Gaius"; and its vogue as a textbook for nearly four centuries naturally made it a model, as well as an important source, for the new work. But its contents were not borrowed bodily. Obsolete matter was eliminated and new legislation substituted with a view to stating the then existing law. Indeed, the method known as interpolation, which will be found to have been so extensively employed in preparing the *Digest*, was also used by the draftsmen of the *Institutes*, and in some instances where Gaius purports to have been taken over literally changes more or less important appear in the text.

The *Digest* is by far the most important part of the Justinianian compilations. While the *Institutes* recited the law for students and chiefly stated general principles, the *Digest* was intended for practitioners and judges and contained the law not only in much greater detail but also in concrete form, important points being clarified and illustrated by *responsa* of jurisconsults and imperial constitutions, really prepared by jurists. Thus while the *Digest* has been compared to a modern code it more nearly resembled a modern casebook with the cases stated in condensed form. This made it more valuable to the lawyer but less intelligible to the layman and led eventually to the preparation of abridgments like the *Ecloga*.

In the *Constitutio de auctore* providing for the *Digest* Justinian commanded Tribonian "to collect from the works of the ancient sages." While this injunction was literally followed to the extent that no writer within two centuries was used, the early writers were also very much neglected. Indeed, the *Digest* may be said to be almost circumscribed within about a century from the Perpetual Edict to the death of Alexander Severus. About two thirds of the extracts are taken from Papinian, Paul, Ulpian, Gaius and Modestinus. The extracts in the *Digest* are, however, often not in their original form. Indeed, as Gibbon tells us, "3,000,000 of lines or sentences were reduced in this abstract to the moderate number of 150,000." Changes were frequently made for various reasons: to bring passages up to date and make them harmonize with the law as it actually was; to effect changes in the law; to provide explanations; to afford a place for certain constitutions. Some of the interpolations are entirely freakish—due, perhaps, to dictation from memory. What the compilers really did in such passages was to speak through the mouths of "the ancient sages"—a method common enough among writers of that period. A process of intensive study, beginning with the Renaissance but most productive in our own day since Savigny, has demonstrated the importance of these interpolations to an understanding of classical Roman law. The work of Gradenwitz, Lenel, Eisele, Gerhard Beseler in Germany, of Appleton and Collinet in France and of the new Italian school, which includes Albertario, Riccobono, Ferrini, Rotondi, Sollazzi and Bonfante, has provided a new method of approach to the problem of the interpolations. But, according to Riccobono, interpolations are most common in the first half of the *Digest*, the second half being a more hasty piece of work. In this respect the *Digest* parallels the much later *Epanagoge* and Riccobono has come to believe that Justinian's compilers were really disclosing the internal development of Roman law.

In its arrangement the *Digest* is divided into seven parts, whose contents may roughly be indicated as follows: (1) *Prota*, an introductory part dealing with jurisdiction and parties; (2) *De judiciis* and (3) *De rebus*, both dealing with various kinds of actions; (4) the so-called *Umbilicus* (middle section), dealing mainly with family law; (5) *De testamentis*, dealing with testamentary succession; (6) having no special name and dealing with a variety of subjects, among them intestate succession, manumission, acquisition, especially by possession, judgment and execution, injunctions or interdicts, special pleas, suretyship; and (7) of a similar miscellaneous character but concentrating more upon criminal law and public law and concluding with

canons of interpretation. Within these parts are inserted fifty books, although a book is often divided between two parts. The books, except XXX–XXXII, relating to legacies, are subdivided into titles, 432 in all, and each title contains one or more extracts of uneven length, the total being estimated at 9142. A glance at the above enumeration of parts alone must suffice to show how illogical this arrangement is when judged by modern standards. Not even the rough classification of Gaius is observed. The discovery of Bluhme has done much to explain the confusion: the *Digest*, as published, was the work not of the whole commission but of three separate subcommittees, one dealing with the *jus civile*, another with the commentaries on the edicts, producing the so-called Edictal Mass, and still another examining casuistical works, the chief of which were Papinian's, thus producing the so-called Papinian Mass.

The *Codex* of Justinian which has come down to us is that of 534, the earlier one of 529 being lost. It is a collection of constitutions (the generic term for imperial legislation) consisting of *rescripta* to officials and others in response to formal inquiries; *decreta*, or decisions on legal points; *edicta*, having the force of law; *epistolae*, letters to various functionaries, etc.; and *orationes*, or proposals to the senate. These represent a period extending from Hadrian (A.D. 117–38) to Justinian himself and aggregate about 4700 legislative items of which 1200—more than one fourth—emanated from the period of the joint reign of Diocletian and Maximian (284–305). The *Codex* has been compared to a modern compilation of statutes, but the comparison is inapt unless limited to such statutes as the English and American statutes at large. Topically the *Codex* contains much more public, criminal and ecclesiastical law than the *Digest*, and of this much was of merely temporary interest.

Because of the character of the *Codex* the question of sources presents little difficulty. The earlier codes (Gregorian, Hermogenian and Theodosian) contained similar collections and were no doubt resorted to for many constitutions. But a comparison of the rescripts among these with the corresponding ones of the *Codex* discloses that the latter have often been abridged. As in the *Digest* the compilers of the *Codex* are believed to have followed the arrangement of the *Edictum perpetuum*. The *Codex* consists of twelve books, which contain material in much the same order as the *Digest* although of a different character. The books are subdivided into titles, which are composed of *leges* arranged in chronological order, each preceded by the name of its imperial author and of the addressee and followed by date and place of promulgation.

As the *Codex* embodied the selected legislation of three centuries preceding Justinian, provision was made for including the future legislative output in a separate work, to which the appropriate name of *Novellae constitutiones* was given. It contained the important Justinian legislation from 535 on and it naturally extends to a variety of subjects. More of the *Novels* pertain to ecclesiastical law than to any other subject and these are addressed to the patriarch of Constantinople. But important subjects of private law are considered, e.g. intestate succession which is materially altered by *Novel* CXVIII. Most of the *Novels* were in Greek, a few in Latin and some in both languages. A Latin edition, the so-called *Epitome* of Julian, is believed to date from Justinian's time. A fuller Latin version known as the *Authenticum* was in use in the Middle Ages.

The immediate purpose in preparing the *Corpus juris* was to relieve the chaotic situation in which Roman law found itself after more than a thousand years of evolution. That purpose was accomplished, if not in an ideal manner, at least more completely than ever before. But the ultimate consequences of the achievement were even greater and certainly more far reaching than the immediate ones. For the Roman law was now reduced to crystallized form and as such was prepared to survive the cataclysm already raging in the West. What would have been its fate otherwise the lost texts of the great Roman jurists, including those of Gaius, show but too plainly. With the body of the law written down and officially published in numerous editions, however, the dangers of destruction were minimized and the work was slowly assimilated by succeeding generations. In the East it had various successors—the *Ecloga*, the *Basilika* and the *Hexabiblos*—and its influence there was direct and uninterrupted. In the West it was more of a stranger and full recognition came only after the Bologna revival beginning in the eleventh century. But it soon spread through such works as the *Partidas* and was the chief instrument in the reception of Roman law in mediaeval Europe. And when the national legal systems crystallized in the modern era, the *Corpus juris* became at once the inspiration and the model of the new national codes that were

created. Thus its doctrines and principles have entered into and form a great part of the law of civilized nations.

CHARLES SUMNER LOBINGIER

See: ROMAN LAW; CODIFICATION; RECEPTION.

Consult: Sohm, R., *Institutionen, Geschichte und System des römischen Privatrechts* (17th ed. Munich 1923), tr. by J. C. Ledlie from 12th German ed. as *Institutes of Roman Law* (3rd ed. Oxford 1907); Muirhead, J., *Historical Introduction to the Private Law of Rome* (2nd ed. London 1899); Walton, F. P., *Historical Introduction to Roman Law* (4th ed. Edinburgh 1920); Lobingier, C. S., *Evolution of the Roman Law* (2nd ed. Omaha 1923); Krüger, Paul, *Geschichte der Quellen und Literatur des römischen Rechts* (2nd ed. Munich 1912); Bluhme, F., "Die Ordnung der Fragmente in den Pandectentiteln" in *Zeitschrift für geschichtliche Rechtswissenschaft*, vol. iv (1820) 257–472; Roby, H. J., *Introduction to the Study of Justinian's Digest* (Cambridge, Eng. 1884); Collinet, Paul, *Études historiques sur le droit de Justinien*, 2 vols. (Paris 1912–25), and "The General Problems Raised by the Codification of Justinian" in *Tijdschrift voor rechtsgeschiedenis*, vol. iv (1922–23) 1–30; Appleton, Henri, *Droit romain, des interpolations dans les pandectes* (Paris 1894); Gradenwitz, Otto, *Interpolationen in den Pandekten* (Berlin 1887); Hofmann, F., *Die Compilation der Digesten Justinians* (Vienna 1900); Schulz, F., *Einführung in das Studium der Digesten* (Tübingen 1916); Beseler, Gerhard, *Beiträge zur Kritik der römischen Rechtsquellen*, 4 vols. (Tübingen 1910–20); Kalb, W., "Die Jagd nach Interpolationen in den Digesten" in Königliches altes Gymnasium in Nürnberg, *Program-Abhandlung 1896–97* (Nuremberg 1897) p. 11–42; Peters, H., *Die oströmischen Digestencommentare und die Entstehung der Digesten* (Leipsic 1913); Lenel, Otto, "Zur Entstehung der Digesten" in *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, romanistische Abteilung*, vol. xxxiv (1913) 373–90; Kantorowicz, H., "Über die Entstehung der Digestenvulgata" in *Zeitschrift der Savigny-Stiftung, romanistische Abteilung*, vol. xxx (1909) 183–271, and vol. xxxi (1910) 14–88; Pringsheim, F., "Beryt und Bologna" in *Festschrift für Otto Lenel* (Leipsic 1921) p. 204–85; Riccobono, Salvatore, "Outlines of the Evolution of Roman Law" in *University of Pennsylvania Law Review*, vol. lxxiv (1925–26) 1–19, and "Formulae Ficticiae, a Normal Means of Creating New Law" in *Tijdschrift voor rechtsgeschiedenis*, vol. ix (1929) 1–61; Buckland, W. W., "Interpolations in the Digest" in *Yale Law Journal*, vol. xxxiii (1924) 343–64. For a general index on literature of interpolations see: *Indexinterpolationum quae in iustiniani digestis inesse dicuntur*, ed. by E. Levy and E. Rabel, vol. i- (Weimar 1929–).

CORRELATION

THEORY. Correlation analysis comprises that portion of statistical technique which treats of the relation of one variable factor to one or more other variable factors. It measures the closeness of association between the factors and the exact quantitative manner in which changes in one factor are related to changes in the other or others. The measurement of the degree of association between factors which cannot be assumed to vary continuously is in a sense a simplified form of correlation analysis. The whole subject of correlation may be treated as a refinement of inductive logic to make it applicable in fields where a strict causal or functional relation appears merely as an ideal limit.

The method of simple induction assumes that causal relations between phenomena can be established by observing whether B, the effect, always coexists with or follows A, the cause. A research worker attempting to apply this method would soon encounter several difficulties. In any real situation, no matter how perfectly controlled or rigidly simplified by the experimenter, there are present a multitude of other factors in addition to A and B. In order to make certain that B coexists with or follows A rather than some other factor it would be necessary to reduce each situation in which A and B occurred to a combination of simple and independent factors and by comparing the combinations for a sufficient number of observations to isolate mentally A and B. Four of the methods of induction formulated by John Stuart Mill, those of agreement, difference, joint agreement and difference, and residues, take account of the various conceivable types of combinations and offer a technique of mental isolation.

The achievement of such clear cut results is, however, rarely possible. A research worker can never be certain that he has recognized in his observations all the factors which may conceivably influence B nor that he has reduced these factors to simple and independent elements. As likely as not he will find that while B is in a majority of observations associated with A it is not always so associated. If he has rational grounds to believe that A and B are related he may resort to the hypothesis that the true causal relation exists between some part of A and B or A and some part of B or some part of A and some part of B and that his analysis is not refined enough to reduce A and B to combinations of simpler elements. For practical purposes he may be satisfied to leave the problem of the rigid causal relation unsolved, if on the basis of a sufficient number of observations he obtains a fairly reliable measure of the degree of association between A and B.

The derivation of one such measure is fairly simple. If in the B universe A occurs only as

frequently as in the rest of the general universe, or, using Yule's notation, if $\frac{(AB)}{(B)} = \frac{(A\beta)}{(\beta)}$, where β stands for the non-B, then B is clearly not related to A. If, on the other hand, A occurs more frequently or less frequently in the universe of B than in the rest of the general universe, then B is positively or negatively associated with A. The cases of A always occurring with B or never occurring with B obviously present the limiting cases of a rigid causal relation between A and B. The degree of association may therefore be measured by the difference between the observed frequency of association of A and B and the frequency which might have been expected were A and B independent. It is possible to prove that if A and B are not related then the equation $\frac{(AB)}{N} = \frac{(A)}{N} \times \frac{(B)}{N}$, where N stands for the number of observations, must hold true. The measure of association may therefore be written as $\frac{(AB)}{N} - \frac{(A)}{N} \times \frac{(B)}{N}$; by a series of transformations it may be turned into the form $\frac{(AB)(\alpha\beta) - (\alpha B)(A\beta)}{(AB)(\alpha\beta) + (\alpha B)(A\beta)}$, which is called the coefficient of association. It varies within the limits of −1 to +1, where unity stands for perfect association or close causal relation and the value zero indicates that no relation between the two factors has been established.

The looseness of association between factors represents but one of the difficulties encountered in applying inductive methods. Another problem presents itself where the relationship between A and B cannot be ascertained by merely observing their concurrence or sequence, however regular that may be. In a great many cases, particularly in the social sciences, A and B may always be present, but in varying quantities. They may vary discretely or continuously, shading by minute imperceptible degrees from the lowest to the highest limit of variation. In the case of discrete variation, i.e. where A may appear as $A_1, A_2, A_3 \ldots A_n$, it would be possible to conceive of a close causal relation, if B_1 were always associated with A_1 only, B_2 with A_2 only, and so forth; the various values of A and B could then be treated as new simple factors and a causal relation established between A_i and B_i. In practise, however, such simple cases are rare, nor is it practically feasible to reduce the relationship between continuous variables to strict causality by the method of "concomitant variation," which presupposes a certain change in A to be always associated with a fixed degree of variation in B. Here again the measurement of the degree of association is substituted for the establishment of a rigid causal relation.

In dealing with the variable factors the investigator is concerned not with the influence of the occurrence of B on the occurrence of A but with the influence of variation in B upon variation in A. Association between variable factors is indicated therefore not by the relative frequency of occurrence of A in the universe of B's but by the relative similarity of arrays of the frequencies of various values of A for the different values of B. In the case of continuous variables each array of frequencies may be treated as a frequency distribution and the degree of association measured by noting the amount of dispersion. When the relationship between A and B is perfectly rigid, to each value of B there corresponds but a single value of A, all of which lie along the same line or curve; thus the scatter of frequencies of the several values of A found in the B_i universes indicates the degree to which the relationship departs from perfect. Moreover, where the variables are continuous the relationship between them may be presented as a continuous mathematical function. In addition to measuring the closeness of relationship correlation makes it possible therefore to establish the exact character of change in the dependent variable associated with a change in the independent variable.

The fact that the relation between the two variables may be presented in the form of a mathematical function is a logical corollary of the tendency to continuity in their covariation. Correlation can therefore be approached not by substituting the concept of association for that of causal relationship but by expanding the concept of causal relation to include not only concurrence and sequence but also covariation. In many instances, particularly in social science, this approach has proved more fruitful because it has permitted the establishment of more complex relationships. After the most probable form of the function has been established, "the curve fitted," the transition to looser types of association can be achieved by measuring the deviations of the observed frequencies from the frequencies that could be expected did the function describe a strictly causal relationship. It follows that the measure of the closeness of correlation depends to some extent upon the type of function employed and that the closeness of correlation is

indicative of the degree of reliance which can be placed upon the equation or graph of the function in estimating the value of the dependent variable from that of the independent variable.

Where the distributions of frequencies of various values of A for B_i and of various values of B for A_i are of such a type that normal frequency curves can be fitted to them and where the functional relationship between the variables is of a straight line type, the entire distribution of frequencies of A_i B_i may be represented by a double frequency surface with a definite mathematical equation in the same way that a frequency distribution can be represented by an equation. Such elaborate mathematical treatment, however, has not as yet been found of value in dealing with data of the social sciences.

The technique and formulae most frequently employed in correlation work in the social sciences are best illustrated when worked out in a concrete example. The data to which the correlation methods will be applied are the production of oats in the United States and the Chicago price of oats for the period from 1881 to 1913, as given in "What Makes the Price of Oats" by Hugh B. Killough (United States, Department of Agriculture, *Department Bulletin*, no. 1351, 1925, p. 28). The problem is to establish the relation between the variation in production and the variation in price, as shown in these data. Since both production and prices exhibit a long time trend owing to causes not directly relevant to the production-price relationship, such as the growth of population and the changes in the general level of prices, it is necessary to refine the data by eliminating the trend. If instead of annual figures the data consisted of monthly figures subject to the influence of a seasonal factor, the latter too might be eliminated in preparation for the correlation analysis. When the trend is eliminated, our data are represented by a set of thirty-three observations in each of which the production, expressed as a percentage of the trend value, is paired with the price for the same year, expressed similarly as a percentage of its own trend. The pairing of production and price figures is in this case synchronous, but relationships occur in which an appreciable time elapses before the influence of the independent variable is reflected in the dependent variable. In such situations the necessary passage of time may be partially allowed for by pairing observations for the nth and the $(n + i)$ time interval, i indicating the number of time intervals constituting the "lag" between the dependent and independent variables. Unfortunately, the period of "lag" is rarely of unvarying length.

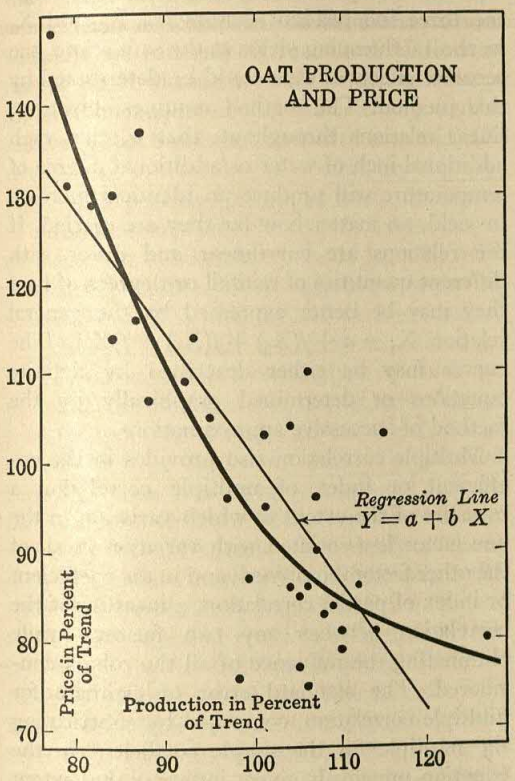
The relationship between the production and price of oats may now be studied in three different ways by applying increasingly sensitive methods of analysis. The data may be arranged in a double frequency or correlation table and an approximate inference be based on the change in the distribution of frequencies for the dependent variable (Y) as we pass from the lower to the higher classes in the independent variable (X). The accompanying correlation table for the

Class Intervals for Price Trend Percentages (Y)	Class Intervals for Production Trend Percentages (X)		
	70–89	90–109	110–129
	Number of Observations		
70–89	–	9	5
90–109	1	8	1
110–129	3	2	–
130–149	4	–	–

oat prices indicates that the means of the price frequency distributions tend to fall as production is increased. Were the available number of observations larger, a more detailed classification could be used and a clearer impression of the relationship derived from the table. As it is, a scatter diagram, or dot chart, in which each dot stands for a paired observation of the corresponding values of the two variables, is apt to prove more illuminating than a correlation table. Thus from the appended chart it is at once evident that as the production increases the price tends to decrease, but that this tendency is not so marked for production above the trend as for production below the "normal."

The relations may be more concisely and definitely expressed by the calculation of the correlation constants, the coefficient of correlation, the regression coefficient and the standard error of estimate. Using the notation M_x for the average of X, M_y for the average of Y, x for $X - M_x$ and y for $Y - M_y$, σ_x for the standard deviation of X and σ_y for the standard deviation of Y, the coefficient of correlation for X with Y may be defined as follows: $r_{xy} = \frac{\Sigma xy}{n\sigma_x\sigma_y}$. The coefficient of correlation may vary between $+1$, showing perfect positive correlation, and -1, showing perfect negative correlation. For the oats data r is -0.82, indicating a marked tend-

ency for crops in excess of trend to be accompanied by prices below trend and vice versa. The coefficient may be interpreted by saying that roughly 67 percent, or r^2, of the variance of price from trend is associated with the departure of production from trend.



The formula for the coefficient of regression of Y on X is $b_{yx} = \frac{\Sigma xy}{n\sigma^2_x}$; it measures the average change in Y associated with a change in X. The value of the regression coefficient b_{yx} in this case is -1.37, which shows that each departure of production from trend is accompanied on the average by a departure of price 1.37 times as large and in the opposite direction. There is a second regression coefficient showing the average change in X with unit changes in Y; its formula is $b_{xy} = \frac{\Sigma xy}{n\sigma^2_y}$. If the variables are so selected that changes in Y may be expected to follow from changes in X, rather than the reverse, the second coefficient is of limited significance. When the correlation is perfect the regression coefficients stand in the relation of reciprocals, that is, $b_{yx} = \frac{1}{b_{xy}}$.

The coefficient of regression is the slope of the line of regression. There are two such lines: one, whose equation is $Y = a + bX$, indicates the regression of Y on X; and the other, with an equation $X = a + bY$, indicates the regression of X on Y. The regression equation in the case of oats, $Y = 2.37 - 1.37\,X$, may be used for estimating probable price when only production is known. Thus in a year when production is only 80 percent of trend the probable price would be given by this equation as 127.4 percent of the trend. The regression line shown graphically in the dot chart is drawn to this equation and gives the estimated price for any given figure of production.

The standard error of estimate, S_{yx}, for Y from X is the square root of the mean square deviation of the observed Y values from the values which might be estimated from the regression equation. It serves to indicate the standard error which might be expected if estimates of Y were made for new values of X under exactly the same conditions as prevailed during the period or, more generally, in the universe represented by the sample. The formula for linear correlation is $S^2_{yx} = \sigma^2_y(1 - r^2)$. The value of S_{yx} in our example is about 11 percent.

The correlation worked out in the example of oats was based on the assumption of a linear relationship between X and Y, or that each given change in X yields the same average change in Y, no matter how large or how small X becomes. In many types of problems this assumption is not justified and the linear regression fails to express the true relationship. Thus even in the illustration used here it is quite evident that when supplies are very short the prices advance more drastically than is indicated by the straight line, and when supplies are very large prices do not fall so low as the straight line would indicate. Such curvilinear regression may be treated by representing the relation by more complicated mathematical expressions or by a free hand curve. The closeness with which the individual observations are represented by the curvilinear functions may be measured by the index of correlation. Its formula is $\rho_{yx} = \sqrt{1 - \frac{\Sigma z^2_y}{n\sigma^2_y}}$, where z stands for the deviation of the observed value of Y from that which is given by the equation or graph of the regression curve. As in the case of the coefficient of correlation, ρ may assume values between the

limits of zero and unity. Thus when our data are represented by the free hand curve shown in the dot chart, the value of ρ is 0.91 and that of the standard error of estimate about 8 percent. Use of the linear regression therefore would have understated the closeness of the relation of price to production.

Where the number of observations is considerable a different measure of correlation, the correlation ratio, may be computed without reference to the regression curve. The means of the frequency distributions in the columns of the correlation table (a jagged, discontinuous line), rather than the points on the regression curve, are taken as the benchmarks from which to measure the deviations of the individual observations of the dependent variable. The measure of correlation computed by this method, the correlation ratio, is defined as $\eta_{yx} = \sqrt{1 - \frac{\sigma^2_{ay}}{\sigma^2_y}} = \frac{\sigma_{my}}{\sigma_y}$ and $\eta_{xy} = \sqrt{1 - \frac{\sigma^2_{ax}}{\sigma^2_x}} = \frac{\sigma_{mx}}{\sigma_x}$, where σ_a denotes the mean of the standard deviations in the several frequency distributions of the dependent variable and σ_m the standard deviation of the means of the several distributions from the mean of the entire distribution of the dependent variable. The limits to the value of η are zero and unity. Since it does not apply to a continuous functional relation, the correlation ratio is of less significance than the correlation index.

Where a variable is associated with several factors varying simultaneously, it is possible by multiple correlation to determine the way in which the dependent variable varies with each of the other independent factors in turn, while simultaneously ruling out or holding constant the variation which is associated with the remaining independent factors. The proportion of the variation in the dependent factor which is associated with all of the independent factors combined can likewise be measured. Multiple correlation is particularly useful in dealing with complex relations where the real influence of one variable factor may be hidden or distorted by the presence of another variable factor with which it is highly correlated. Thus a factor which appears to have no relation to the dependent variable may prove to have a definite relation after the influence of other independent factors has been allowed for; or a factor which appears to have a negative effect may finally be found to have really a positive influence.

Multiple linear correlation extends the simple linear treatment by including other variables in the regression equation. Thus if in a particular study the relation of corn yields to temperature, rainfall and humidity were to be determined, the separate effects of each might be determined by calculating the constants for the equation $X_1 = a + b_2X_2 + b_3X_3 + b_4X_4$. Even though the three independent factors X_2, X_3 and X_4 were all influencing yields at the same time, the separate effects of each could be determined by this method. The method assumes, however, linear relations throughout: that is, that each additional inch of water or additional degree of temperature will produce an identical increase in yield, no matter how far they are carried. If the relations are curvilinear and differ with different quantities of rainfall or degrees of heat they may be better expressed by the general relation $X_1 = a + f(X_2) + f(X_3) + f(X_4)$. The curves may be either described by definite equations or determined graphically by the method of successive approximations.

Multiple correlation also provides in the coefficient or index of multiple correlation a measure of the extent to which variation in the one factor is associated with variation in all of the other factors combined; and in the coefficient or index of partial correlation, a measure of the correlation between any two factors, while eliminating the influence of all the others considered. The standard error of estimate for multiple correlation, computed by substituting the multiple for the simple coefficient in the equation previously given, indicates the extent of the variation remaining in the dependent factor after all the independent factors have been allowed for.

In those cases where the data consist of a random sample drawn from a defined universe, statistical measures of standard error and of reliability may be calculated to determine how much confidence can be placed in the conclusions drawn from the sample or in subsequent estimates based upon the relations determined from it. Where the data are not obtained by a random sampling or where they do not represent a specific universe, these methods do not apply. Particularly in the analysis of time series is there great danger of too definite an interpretation. For example, there was little in the history of the period prior to 1914 to indicate how supplies of oats would be related to oat prices while a world war was being fought or while the gasoline engine was displacing horses. New elements are always coming into dynamic situations. So long

as the new elements are relatively slight or the evolution relatively slow, the analysis of the past gives a fairly dependable guide to the future. But when the new elements are of great magnitude or of rapid development, the relations in the new situation may be drastically different from what they were in the old. To the extent that growth is regular and progressive or the change in the relations gradual and continuous the introduction of regressions which shift with time may give some measure of the rate of change in the relationships; but even this device is inadequate when drastic breaks in continuity occur. Generally speaking, inferences from the results of correlation analysis of economic time series as to events in subsequent periods have no empirical probability. Such inferences must be seasoned with the judgment of the investigator.

Although statistical inference can be enormously strengthened by an analysis in which the probable causal factors in the situation under investigation are determined on the basis of already known facts and firmly established generalizations, it must be remembered that the fact of related variation between two factors in a narrowly defined situation is in itself no more than a compact description of the particular situation. A technically high correlation may on further investigation prove to be spurious, that is, caused by a still unrecognized fault in method, or may merely indicate that the two factors are closely related to a third factor not taken into account. Similarly, it is not safe to rule out of consideration in the future factors which have shown no correlation with what has been supposed to have been their effect. Like other statistical methods correlation analysis is merely a tool for the test against observation of the validity of the hypotheses which determine the choice of the variables.

History and Applications. Although there have been some anticipations of correlation and association in the works of probability theorists and of logicians, the ideas and basic methods of correlation analysis were first developed by the English students of heredity, who were striving for some numerical statement of the relation of the characteristics of descendants to those of their ancestors. Francis Galton, the leading spirit in this development, in the years from 1875 to 1889 gradually extended his technique from the use of correlation tables to the determination of regression lines by graphic means and to a rough measure of the closeness of correlation. He established the "law of regression," which stated that on the average the characters of descendants of unusual ancestors tended to regress toward mediocrity, the average of the race, more than did the characters of their parents. The term regression coefficient, to designate the slope of the line of relation, still carries the imprint of the biometric interests of the founders of correlation method. Karl Pearson, during the nineties, developed the mathematics of correlation measurement, the basis for all the subsequent developments, and in 1896 enunciated the theory of partial correlation. Weldon, Edgeworth and Yule also made important contributions to the early developments. In the subsequent period "Student" and R. A. Fisher have devised more exact criteria for the dependability of correlation results, particularly for small samples. At the same time A. A. Chuprov and his students in continental Europe have been reexamining the mathematical assumptions on which correlation methods are based and evolving a firmer logical basis for them.

Almost from the beginning the application of the newly developed methods was extended by Yule and R. H. Hooker to economic and sociological problems. Attention was given to the correlation of time series, and both first differences and departures from trend were early used to eliminate secular changes. During the decade 1910 to 1920 much pioneer work was done by such leaders as Henry L. Moore and Warren M. Persons in economic analysis, but it was not until after the World War that correlation began to be widely used in social science investigations. After 1920 new rapid methods for working out multiple correlations were developed, which made feasible their more general use; and the invention of workable methods of treating curvilinear regressions for multiple as well as simple relations markedly extended the usefulness of correlation analysis, especially in economic research. Previously interest was centered on the closeness of the correlation. Now that the nature of the relation can be more precisely determined, interest has shifted to the shape of the regression curve or curves, and the measure of correlation has come to be employed chiefly as an indicator of the significance of the regressions obtained.

Correlation technique is used at present in the analysis of many economic problems. The typical relationships studied are those of demand, supply and price, of various cost ele-

ments used in production and resulting output, of land values and the physical characteristics and location of individual properties, of interest rates and subsequent business activity. Correlation analysis is particularly popular among agricultural economists. It is less widely employed by industrial and commercial statistical organizations, although its use in the study of sales quotas and of internal efficiency is growing. It has occupied only a minor position in the study of business cycles, due to the difficulty of allowing for the change in time lag in dynamic and shifting situations. Of economic correlations in general it must be said that the significance of results obtained is limited in a majority of cases: either the universe studied cannot be expected to remain unchanged, or the data represent not a sample but merely specific and unique facts drawn from an evolving and dynamic situation.

Application of correlation methods to political science and to sociology is just beginning, with studies such as the relation of composition of population to proportion of votes cast for a particular party or the relation of education of individuals to their political preferences. Here, as in economics, the social scientist has to deal with dynamic situations and must guard against the temptation to misuse the keen tool of correlation by interpreting his results too broadly or too uncritically.

Correlation was early applied to the study of psychological and educational problems. Spearman and Truman L. Kelley evolved special new methods in this connection, and later there has been an extensive development of special formulae for judging the confidence which may be placed in the results of psychological tests. In the years following 1910 much pioneer work was done by Thurstone and others in education, and at present the literature of correlation on psychological and educational measurements is more extensive than in any other field of social science. Although here correlation has been used mainly to measure the strength or significance of relationships, its use to forecast subsequent performance from the records of past achievements or from tests of intelligence or ability is growing. Moreover, the validity of correlation results established in this field is generally greater than in economic, political and sociological problems, where the dynamic factor is of supreme importance. For example, the correlation between the number of repetitions of a test situation and speed of reaction to it, once determined for a particular species, might be considered representative of all other samples which might be drawn from that same species under similar conditions. Likewise the correlation between intelligence scores on different tests or between the ability to learn algebra and the ability to learn spelling might be considered as generally representative of the particular universe of individuals from which the sample was drawn.

American scholarship in the past generation has taken the lead in applying correlation to social scientific data on a large scale. A great deal was expected of this new device developed by biometricians for physical measurements, and some valuable results have been achieved. Only recently has it come to be recognized that American workers were altogether too prone to make extensive calculations without sufficient regard to the reliability or adequacy of the data used and to the logical significance of the factors considered or without adequate analysis of the significance of the results obtained. The greatest progress in the future must therefore lie in learning how to use skilfully and logically the methods of correlation analysis which are already available, rather than in devising still more complicated formulae and methods of computation.

MORDECAI EZEKIEL

See: STATISTICS; PROBABILITY; METHOD, SCIENTIFIC; FORECASTING, BUSINESS; FREQUENCY DISTRIBUTION; SECULAR TREND; SEASONAL FLUCTUATIONS; CURVE FITTING; MENTAL TESTS.

Consult: Pearson, Karl, *The Grammar of Science* (3rd ed. London 1911) chs. iv–v; Chuprov, A. A., *Grundbegriffe vnd Grundprobleme der Korrelationstheorie* (Leipsic 1925); Florence, P. Sargant, *The Statistical Method in Economics and Political Science* (London 1929); Yule, G. Udny, *An Introduction to the Theory of Statistics* (6th ed. London 1922) chs. iii–v, ix–xii, xvi; Bowley, A. L., *Elements of Statistics* (5th ed. London 1926) pt. ii, chs. vi–viii; Kelley, Truman L., *Statistical Method* (New York 1923) chs. viii–xii; Ezekiel, Mordecai, *Methods of Correlation Analysis* (New York 1930); Walker, Helen M., *Studies in the History of Statistical Method* (Baltimore 1929) ch. v.

CORRESPONDENCE SCHOOLS are an aspect of the modern movement which is directed toward the provision of formal education for adults. They flourish where belief in the possibility of advancing personal fortunes through increased competence makes vocational training seem desirable to many, or where the lack of personal resources and favorable local environment makes large numbers of people with some

leisure dependent on a distant center for cultural guidance and stimulation. Their existence indicates the insufficiency of ordinary schools for adults to meet the existing or creatable demand.

All correspondence instruction methods are basically similar. A central organization distributes texts and sometimes other material by mail. Texts are supplemented by printed or mimeographed lesson, problem or question sheets. The students work at home, sending written papers to the central organization which, ideally, provides readers to examine and correct them and to answer questions. Students may enrol and begin study at any time. Each progresses as rapidly as his leisure and ability permit. The better schools attempt to encourage regular work by letters of encouragement and in a few cases by sending a field agent to call on the student.

The earliest institutional attempt at instruction by correspondence was made in Berlin by Charles Toussaint and Gustav Langenscheidt in 1856. Although correspondence instruction was also known in England and France before 1900 and has latterly spread to other countries it has never attained great importance except in the United States. Here early attempts at it were made by the Boston Society to Encourage Studies at Home in 1873 and the Correspondence University launched at Ithaca, New York, in 1883. In 1879 Dr. William R. Harper began correspondence instruction of Chautauqua students, and in 1892 as president of the University of Chicago he established a correspondence department in that institution. An independent development was the home study course which in 1891 grew out of the practise of the Shenandoah, Pennsylvania, *Mining Herald* of publishing daily information on mining problems. Its popularity led T. J. Foster, editor of the paper, to offer courses on mining and related industries and to establish the International Correspondence Schools of Scranton, Pennsylvania.

In 1929 more than 150 academic residence institutions had an enrolment of about 150,000 students in their correspondence instruction departments and about 300 privately owned correspondence schools proper an active enrolment of about 1,250,000. The schools ranged in size from those run by one person with half a dozen students to others with staffs of several thousand instructors and other employees and 100,000 or more students. Almost all aimed and few failed to realize a profit from students' fees. Some state universities received state grants in aid for their correspondence departments. The estimated annual income of the non-academic schools was around $70,000,000 in 1926. Several were capitalized at from $5,000,000 to $10,000,000 and paid dividends as high as 10 percent.

Some schools offer only one course, while the University of Chicago lists about 450 and the International Correspondence Schools about 300. On the whole, the academic schools specialize in cultural courses paralleling those given in residence (English, history, languages, mathematics, poetry, economics, theology) and generally credit correspondence study up to one fourth or one half the total required for a bachelor's degree. The non-academic institutions specialize in vocational subjects. They offer both courses of limited scope, such as automobile mechanics, banking law, comic strip cartooning, fruit growing, plumbing and tractor repairing, and sets of courses planned to equip the student with broad training in such fields as electrical engineering, accounting, factory or bank management, or for a general business career. They sometimes grant certificates or even degrees.

Economic advancement through the acquisition of technical training is the object of most vocational correspondence students. Many business corporations cooperate with correspondence schools in providing technical instruction to employees, in some cases sharing costs and basing promotion on successful completion of study. Employers' organizations in several fields have instituted correspondence instruction for employees. Many individuals threatened with technological unemployment resort to correspondence instruction to prepare for a transfer of occupation. The demand for new skill which arises from time to time (e.g. the demand for automobile mechanics twenty years ago and radio mechanics five years ago) has been met partly by individuals trained by correspondence schools. But while correspondence instruction has played a role in industrial and commercial evolution by filling gaps in the vocational instruction system, it is easy to overstress the notion that the growth of such schools reflects the need for trained workers. Their enrolment exceeds the demand for skilled workers in various occupations, and if they have not giutted the market that has perhaps been due to the fact that so many students never complete the

course for which they enrol. One investigator reports that in a leading school only three in every hundred do so. While many abandon courses because they have achieved their object by means of the rudimentary training already acquired, others finding the work too difficult cease their effort at "self-improvement" by correspondence study.

Intellectual cultivation is the object of most non-vocational correspondence students, although in many cases (especially those of school teachers) there is an underlying hope of deriving economic or social benefits from the acquisition of cultural graces, credits or a degree. The average non-vocational correspondence student seems to be a person of some leisure and means. Non-vocational correspondence instruction has flowed into the cultural vacuum of middle class American existence. The culture acquired may be no more than a set of standardized notions about current novels or the latest fad in psychology, or the student may reach out for a genuine liberal education.

The development of the two types of correspondence instruction has been far from spontaneous. Almost all correspondence institutions conduct elaborate promotion campaigns, and no analysis of their growth which overlooks this factor is sound. According to an official of a leading school, rapid growth did not come until after the employment of salesmen. One school spends but three quarters of a cent from every dollar of income for instruction, and the rest of its expenditure goes for promotion. In a hundred schools examined by an investigator the promotion staff was about five times larger than the teaching staff. As much as one third of all income is spent by some schools on direct mail, newspaper and other advertising. Without such promotion correspondence schools would never have achieved their present popularity. Their advertisements strike repeatedly the following notes: they inform the reader that to him who will prepare himself the road to financial or social success is open; they reprove him for not giving his wife and children "the best of everything"; they charge him that if his status is lowly it is because he has no training and that if he will but muster enough ambition to enrol for a course in French, modern drama, plumbing, radio or practical psychology he may achieve social success, middle class security or even great wealth. By means of such advertising the traditional American idea of equality of opportunity—the idea that any bright boy may become president—is refurbished and perpetuated. The energetic or gullible are induced to concentrate on achieving personal success by means of self-improvement; those who fail as well as many who may never enrol for a course are impressed with the arguments of correspondence school advertisements and are led to view their lowly status and dim prospects as the effect of personal shortcomings rather than as aspects of a general social problem.

Until recently there was almost no regulation of correspondence schools by any government body. Such as exists today is largely perfunctory. In such a situation the possibility of large profits encouraged the establishment of many schools despite their inability to give any serious instruction. While instructors and study material provided by some correspondence departments and schools are comparable in quality to those available in reputable residence universities or technical schools, in others the instructors are clearly unfitted for their work and the study materials are plainly shoddy. Intense competition quickly led to questionable practises. Some schools claimed in their advertisements advantages both absolute and relative which were plainly impossible. Specious offers of reduced fees "for a short time only" were made; "added inducements," such as a free camera, were held out, "testimonials" of satisfied customers and enrolment figures were faked, such phrases as "personal instruction" grossly misused. Students were admitted to courses who could not possibly benefit from them because of their lack of qualification. Worthless diplomas and job guaranties were distributed. A few years ago such practises brought correspondence instruction into such disrepute that the older and more responsible institutions undertook to restrain the blatantly fraudulent. As a result of prosecutions and attempts to regulate by local laws and through the Federal Trade Commission many "diploma mills" were closed and some of the worst frauds abolished. In 1926 the National Home Study Council was founded to promote "sound educational standards and ethical business practises within the home study field"; this organization is financed by and gives its endorsement to a number of the most reputable correspondence schools.

The pedagogical potentialities of correspondence are hard to determine. It is plainly possible to teach many, although not all, vocations by correspondence. The almost unanimous view

of academic educators that a so-called liberal education cannot be imparted or fostered by correspondence must not be accepted at its face value. It seems clear that in the academic fields some subjects may be satisfactorily taught in this way and that for those without means or opportunity for anything else correspondence instruction in almost any subject has positive value. This judgment applies with special force to correspondence instruction instituted by government bodies in the United States, Canada, Porto Rico and Australia for members of the army and navy, children of lighthouse keepers, isolated settlers and the like and in Soviet Russia for peasants in remote regions. The correspondence departments of several prominent universities (Chicago, for example) have taken the position, despite the views of many residence course instructors, that correspondence courses are better than residence courses because "personal attention is more nearly realized," but no university has abandoned its residence classes. Until a comparative study of the effects of correspondence and residence education has been made it must remain an open question whether the shortcomings which are attributed to correspondence instruction in non-vocational subjects, such as superficiality and standardization, are peculiar to correspondence or general in the American educational system.

HERBERT SOLOW

See: EDUCATION; ADULT EDUCATION; UNIVERSITY EXTENSION; VOCATIONAL EDUCATION; BUSINESS EDUCATION; CHAUTAUQUA; PUBLIC OPINION.

Consult: United States, Commissioner of Education, *Report*, 1902, 2 vols. (1903) vol. i, p. 1069–94; Bernard, L. L., "Education by Correspondence" in *School and Society*, vol. xii (1920) 31–38; Klein, A. J., *Correspondence Study in Universities and Colleges*, United States, Bureau of Education, Bulletin no. 10 (1920); Scott, George A., "Shrines of Opportunity" in *American Mercury*, vol. v (1925) 442–47; Noffsinger, John S., *Correspondence Schools, Lyceums, Chautauquas* (New York 1926); Hall-Quest, A. L., *The University Afield* (New York 1926); Alderman, L. R., *College and University Extension Helps in Adult Education*, United States, Office of Education, Bulletin no. 10 (1930) p. 18–27; Evenden, E. S., "Correspondence and Extension Work" in American Association of Teachers Colleges, *Yearbook*, vol. ix (1930) 54–60; Flexner, Abraham, *Universities, American, English, German* (New York 1930); Lord, E. W., *The Relation of Education and Income* (Indianapolis 1928) p. 19–21; Orvis, M. B., *The Application of Commercial Advertising Methods to University Extension*, and Klein, A. J., *The Administration of Correspondence Study Departments of Universities and Colleges*, United States, Bureau of Education, Bulletins nos. 51 and 56 (1919); Zeigel, William Henry, *The Relation of Extra-mural Study to Residence Enrollment and Scholastic Standing* (Nashville, Tenn. 1924); Crump, Robert E., *Correspondence and Class Extension Work in Oklahoma* (Durant, Okla. 1928); Robbins, C. L., and Johnson, W., "Iowa Studies Correspondence Students" in *Journal of Adult Education* (American), vol. ii (1930) 413–17.

CORRUPT PRACTISES ACTS. The term corrupt practises acts has come to include not only those laws which aim to prevent bribery, intimidation and fraud at elections but also the so-called publicity laws and the laws which regulate campaign funds in various other ways. Strictly speaking, a publicity law is not a penal statute whereas a corrupt practises act is. But regardless of this technical distinction it is now common usage to include all laws relating to campaign funds under this heading.

Although many American states had constitutional provisions and laws against bribery and intimidation in connection with elections before 1890, the growth of American corrupt practises legislation dates from the passage of the New York law in that year. This law and other state laws which followed were modeled more or less after the English Corrupt and Illegal Practices Act of 1883. By the close of the century seventeen states had passed laws. The revelations concerning the party campaign funds in the presidential election of 1904 focused public attention upon the question and gave an important impetus to the movement for corrective legislation. Democratic charges that corporations were supplying funds for the Republicans in order to buy influence with the administration, coupled with the exposure of corruption in business and politics by the "muckrakers" and the prevalent antitrust sentiment, contributed to the passage of the first federal law in 1907, which forbade contributions by corporations to party campaign funds. Two years later the provisions of the federal law of 1883 regarding the solicitation of funds from federal employees and in federal buildings were reenacted. In 1910 the first federal publicity law was passed; it was supplemented by other federal corrupt practises legislation in 1911, 1912, 1918 and 1925. In addition every state except Illinois, Mississippi and Rhode Island now has some kind of statute or statutes to regulate campaign funds.

The corrupt practises acts in force today sometimes apply only to the nominating process or to elections and sometimes to both. The laws attempt to eliminate corruption by relying upon

certain general principles. Bribery, intimidation and other corrupt election practises, which were crimes at common law, are generally declared statutory crimes. In addition publicity of campaign receipts and expenditures is secured by compelling candidates and political committees to file detailed, itemized reports showing the names of contributors, the size of their contributions, the nature of the expenditures made and the amount expended for each. These accounts are filed with some public officer before or after election or in some cases at both times and are open to public inspection. The federal law of 1925 provides for statements not only before and after elections but also four times in the course of each year, to insure publicity of contributions made to meet deficits incurred in the campaigns.

Another general type of provision in these acts is limitation of the amount of money that can be expended by candidates. A few states also limit total party expenditures. Limitations are sometimes specific in amount, sometimes variable with the salary of the office sought or with the number of electors. The last type of limitation recognizes that there is no absolute limit to legitimate expenditures but that this must vary with the number of voters to be reached. Further refinements allowing for the increased expense of reaching foreign and rural voters have not yet been attempted. The federal law of 1925 combines the specific and variable limitations by permitting election expenditures equivalent to three cents for each vote cast for the office in the last election, with a limit of $5000 for a representative and $25,000 for a senator, certain expenses such as personal traveling expenses not being counted toward this amount. In addition, most corrupt practises acts carefully limit political expenditures to certain specific purposes, such as advertising, headquarters, traveling expenses and telephone and telegraph, and in some cases definitely prohibit expenditures for certain purposes. Lastly, the laws restrict the source of campaign funds by prohibiting the receipt of contributions from corporations and in many cases the solicitation of funds from civil service appointees.

Both state and federal laws are so defective as to be unable to prevent some of the grossest abuses. They are inadequate in several respects: they do not provide sufficient publicity; they do not fix responsibility; they do not make it worth anyone's while to enforce them; and they are full of loopholes. The federal law is particularly weak because it fails to reach primary elections. Apparently the Newberry case caused Congress to avoid extending federal regulation to primaries, even though the decision of the court in that case, by virtue of Justice McKenna's opinion, leaves the question open. The Senate has, however, by using its power to judge of the qualifications of its own members, exercised some control over senatorial primaries, as in the exclusion of Frank L. Smith in 1928 and William S. Vare in 1929 for primary expenditures exceeding a rather vaguely conceived proper limit.

Despite their shortcomings American laws have been of considerable value in raising the whole level of elections. The English laws, however, have been much more effective. The law of 1883 was amended and strengthened in several respects in 1918, 1922 and 1928. The activities of non-party associations were more strictly regulated by the amendments and the necessary changes were made to bring the limits of expenditure to accord with the extensions of the franchise. Although the English law is not without some defects today it has been successful in preventing most of the election abuses. It is safe to say that elections are more cleanly and efficiently conducted in England than in any other country in the world. Party funds, however, are still secret in England.

Germany and France do not possess comprehensive corrupt practises legislation. Bribery is prohibited in these countries, but the word is more narrowly interpreted than in the United States and England. In both countries all electoral funds are secret.

JAMES K. POLLOCK

See: CORRUPTION, POLITICAL; BRIBERY; ELECTIONS; PRIMARIES, POLITICAL; CONTESTED ELECTIONS; CAMPAIGN, POLITICAL; MACHINE, POLITICAL; REGISTRATION OF VOTERS; VOTING; CIVIL SERVICE.

Consult: Pollock, James K., Jr., *Party Campaign Funds* (New York 1926) p. 7–22, 180–289; Sikes, E. R., *State and Federal Corrupt Practices Legislation* (Durham, N. C. 1928); Rocca, Helen M., *Corrupt Practices Legislation* (Washington 1928); Parker, F. R., *The Powers, Duties and Liabilities of an Election Agent* (4th ed. by O. F. Dawson, London 1929).

CORRUPTION, POLITICAL

GENERAL. Political corruption is the misuse of public power for private profit. Not all acts which benefit the officeholder at the expense of the people are corrupt, else the term would include all taxation by an absolute monarch to provide accustomed luxuries for his family and court, all fees and dues paid by serfs to their feudal lords, all sacrifices and gifts given to the

priestly class in theocracies. Acts illegal in themselves and calculated to benefit the officeholder are obviously corrupt. But neither the question of formal legality nor that of the sufferance of the act by the mass of the people is of the essence of the concept. Where the best opinion and political morality of the time, examining the intent and setting of an act, judge it to represent a sacrifice of public for private benefit, it must be held corrupt.

No political group has been entirely free from jobbery, but corruption has not prevailed to an equal degree at all times or under all conditions. It has responded to varying opportunities for the misuse of power created by particular governmental institutions, to psychological drives present in the contemporary cultural milieu, to pressures arising under the existing scheme of economic arrangements. Any analysis of its prevalence must therefore regard corruption as a phenomenon of group psychology, conditioned by the entire cultural setting of the group; and no remedial program can be successful if it limits itself atomistically to prosecution of individual offenders or even to administrative reorganization.

Corruption presupposes the existence of public officials with power to choose between two or more courses of action, and the possession by the government of some power or wealth or source of wealth which can be taken or used to private advantage. Even relatively simple societies contain these prerequisites. What we know of primitive society suggests that on the whole corruption is scarce, primarily because of the dominance of tradition in determining conduct and the immediacy of control which is possible in the usual small unit. Among many African tribes, however, the political unit is large, the government is monarchical, court procedure gives considerable power to the king and his council, and fines are retained in whole or in part by the king, his council or his attendants. The presence of all these prerequisites for certain types of jobbery results in the appearance of corruption, notably among the Ho-Ewe, the Dahomi and the tribes of Yorubaland.

The bribery of judges appears as a problem in the history of the Egyptians, Babylonians and Hebrews. The sons of Eli used their position as priests to extort more than their share of the sacrifices from the people. Among the Greeks corruption was rather slow in developing. Government was on a relatively small scale in the city-state, a professional political group appeared late, and the citizens evidenced an effective interest in their government. But by the fifth century B.C. bribery of Greek officials by foreign powers was common. Extreme corruption came with the increased economic activity and the political apathy of the fourth century B.C. New opportunities for peculation and bribery appeared in the increased wealth of the state, while the interest of the citizens in their government waned and attendance at public meetings had to be stimulated by payment.

In Rome too venality did not appear on a large scale until indemnities, tributes, spoils and colonial revenues increased the wealth of the republic. The policy of considering the dependencies solely as sources of revenue for the republic was copied by the unpaid governors, who exploited the provinces shamelessly for their own profit. Bribery was common in public elections, in the senate, in the courts. Public contracts of various kinds furnished an income to the contractors and to the officials charged with letting the contracts. The sources of public revenue—gold mines, salt mines, forests, customs and taxes—were farmed out to companies who used every available means to obtain the contracts and extorted all they could under them. Under the empire the rapacity of provincial governors and of tax farmers was somewhat restrained, but a new evil was introduced in the open sale of public office on a hereditary, freely transmissible basis. The elements most likely to revolt under the prevailing system of corruption were carefully bribed—the army with money, the populace with "bread and circuses."

In all these forms of jobbery Roman political life was foreshadowing future developments in the political life of the world. Not all the forms continued unchanged in detail in subsequent history, and their relative importance changed in response to peculiar conditions which favored now one form, now another. During mediaeval times the principal forms of corruption were probably the extortion of revenues by central and local administrations and the perversion of justice. The courts of kings and feudal barons tended to become instrumentalities serving the pecuniary interest of their patrons. In England even the common law courts developed corrupt practises, and the charges against Bacon indicate that the institution of the chancellorship was not an adequate remedy for the injustices of the common law courts. In France the fifteenth century witnessed the restoration of the sale of judicial offices.

The age of exploration and colonization re-established the conditions which had produced the exploitation of the provinces under the Roman Republic. Spanish and Portuguese colonial governors enriched themselves through their almost absolute power over colonies far removed from the central governments, which were corrupt and interested in the colonies only for the revenue to be derived from them. The officials of the British East India Company in India amassed fortunes by a variety of venal practises.

Lecky has said that "it is probable that the moral standard of most men is much lower in political judgments than in private matters in which their own interests are concerned" (*History of European Morals*, 2 vols., 3rd ed. London 1877, vol. i, p. 151). It is doubtful whether political morality is worse than average business morality. The increasingly frequent contacts between the two types of morality in the modern state has reproduced and surpassed some of the worst features of Roman political corruption. Attempts to control trade in accordance with the principles of the mercantile system and the continental system produced well developed mechanisms of smuggling, in many cases allied with official corruption. The grant of monopoly rights has frequently come as a result of extensive bribery, as in the cases of the British East India Company and the South Sea Company. In the early nineteenth century corporate charters, especially in the United States, were obtained by notoriously corrupt methods, while the mere right to list the stock of the Snia Viscosa on the Paris bourse was obtained under conditions which led to the downfall of the Tardieu ministry in 1930. In general, attempts to prohibit or control lucrative business activities—the sale of alcoholic liquors and drugs, the formation of trusts, the exploitation of public utility enterprises—have produced jobbery and evasion.

Business and government have also been placed in direct relationship with each other through the various government contracts, which have become increasingly important with the growing scale and scope of governmental activity. Particularly conducive to corruption are contracts for military supplies, especially in time of war. In modern times war has increasingly involved the expenditure of tremendous sums of money under conditions of relaxed public control. Public attention is focused on the battle front and on supplying the soldiers with everything they may need regardless of cost. After the war surplus war materials are disposed of at a trifle of their cost. Recognition by business men of the opportunities for tremendous profits increases the strain upon the honesty of public officials. The fortune which the Duke of Marlborough is alleged to have made out of illicit war contracts while commanding British troops, the wire pulling by members of Parliament in the latter part of the eighteenth century to obtain contracts for themselves, the scandals which followed the Boer War, are examples in point.

Bribery of voters and of legislatures largely disappeared from the Roman Empire with the increasing power of the emperor—"one does not bribe where he can browbeat." It reappeared in Europe with the rise of representative assemblies to power, especially over finances. Charles v bribed the Cortes to vote him finances, William III and George III of England manipulated elections and bought votes to secure financial support in Parliament. Similarly, the manipulation of elections by Magyars in non-Magyar districts of pre-war Hungary was a confession that old methods of oppression could no longer stand in the face of the rising tide of democracy and that new devices were needed to keep down minority groups.

If bribery was sometimes employed to sustain the waning power of a decaying monarchy or aristocracy, it has also been employed as an opening wedge by a new class seeking political power and social prestige commensurate with its economic power. The nabobs of England bought seats in the Commons, partly to protect their fortunes in the East India Company, but primarily because it afforded them an entrance into a select social circle and was a stepping stone to the even more coveted House of Lords. The sale of honors which still forms one of the important sources of party funds in England rests upon the same desire of wealthy industrialists for social recognition. The willingness of millionaires to lavish fortunes upon senatorial campaigns in the United States is reminiscent of similar activities by wealthy Romans under the empire.

Corruption is not restricted to western peoples. In Japan the naval scandals of 1914, the bribery of members of parliament during the second Okuma ministry and the widespread corrupt election practises which the act of 1901 has proved powerless to stop evidence the existence of jobbery. The situation is even worse in China.

Public offices are bought for profit, tenure of office is uncertain because of the constant danger of revolutions, control by the central government is slight. Fortunes are amassed by extortion and embezzlement of funds obtained from taxes and from foreign bankers, ostensibly for public improvements. The multiplicity of generals with their mercenary followings adds a further element of extortion, while brigandage is frequently winked at by public authorities in exchange for proper payment.

Behind the wide variety of penalties for corruption under different governments lie such factors as the influence of tradition, the desire of high officials to eliminate the diversion of funds by subordinates, the consciousness of danger on the part of the dominant class. In England, where a century and a half ago bribery was accepted as a matter of course, mere misuse of a railroad pass resulted in the resignation of a member of Parliament in 1931. In the Egypt of Harmhab judges who accepted bribes were executed; in present day Russia corruptionists of all kinds may still face a firing squad, while in Japan mere demotion from office may be considered sufficient punishment. A private individual involved in bribery generally suffers a less drastic penalty than the public official who has accepted the bribe. The former has acted as an individual, the latter has betrayed a trust reposed in him by the public and has reflected upon the integrity of all members of the public service.

The exposure of corruption may come through individuals or organizations conscientious enough and powerful enough to bring the matter into the open and even to halt it—if only temporarily. More often, especially under the modern party system, exposures result from the desire of the "outs" to obtain power, so that they may themselves enjoy the benefits and perquisites of office. In many Latin American countries, where elections are mere farces, revolution is the only way of accomplishing this change. Revolutions such as those of 1930 are usually announced as attempts to get rid of corrupt officials; ex-presidents may even be convicted of embezzlement, as in the case of Leguia of Peru in 1931. While some improvement in conditions has often resulted from such revolutions, in the past flagrant corruption has generally continued, for the benefit of the new government. The Latin American countries as a whole have never been able to escape from the venal traditions set by the Spanish and Portuguese colonial administrations. The Italy of Mussolini is largely subject to the same problems of jobbery that faced pre-war Italy.

The tremendous improvements in official morality which the Communist government of Russia has achieved indicate that a violent break with the traditions of the past is possible. But the reason for the change is to be sought less in the fact of revolution itself than in the crusading zeal of the Communist party, which leads it to ferret out and punish severely all corrupt officials. Unless some more permanent force, such as a non-pecuniary system of values or a permanently heightened sense of communal service, arises to take the place of this crusading spirit, which is certain to vanish, Russian official morality may degenerate. The histories of Switzerland and England, however, indicate that countries may permanently and without violence escape from traditions of corruption.

No particular type of government presents a guaranty against corruption. The papacy and theocratic states like the Hebrew state contributed to the broad stream of corruption that flowed from secular states of all types. Certain institutions, however, may serve as aids to honest administration. The development of the civil service, with adequate salaries and permanent tenure, has removed an important source of corruption and tended to develop a professional code of ethics among civil servants. Corruption has largely disappeared from the civil service of the more advanced countries. Government bodies set up for the express purpose of detecting inefficiency and corruption, such as the Commissariat for Workers' and Peasants' Inspection (*Rabkrin*) in Russia, may serve some purpose where their activity is spurred on by some group definitely interested in the purification of government and powerful enough to bring it about.

In last analysis venality can be eliminated only where power to do so is linked with the desire to do so. Little progress is to be expected where those in power either benefit from corruption or fail to recognize the necessity for its elimination. Members of a particular class, having appropriated the resources of the government, may, as in England, demand honest government to protect their wealth. But this class must struggle against a new class of corruptionists developed by the new opportunities for jobbery which are constantly arising. Ignorance of the existence of corruption or of its importance in everyday life, diffused responsibility, widespread benefit derived by a large disinherited element in the

voting population from the lavish distribution of spoils, political apathy and indifference, a pecuniarily minded culture which values all things in terms of money—all contribute to fastening the tradition of corruption upon the political life of a nation.

JOSEPH J. SENTURIA

UNITED STATES. Among the great modern nations the United States has had perhaps the least enviable reputation as regards the probity of its political life. For this the American form of government is partially accountable. Separation of powers promotes an irresponsibility which facilitates corruption; by confusing the governmental process it makes impossible that vigilance which is not only the price of liberty but of political purity as well. The virtually uncontrolled power of the president over the national administration places him in a position to grant favors to his personal and political friends. The appointments and bank scandals under Jackson, the Whisky Ring and the Star Route frauds in the Republican administrations following the Civil War, the oil scandals under Harding, are the logical fruits of a powerful and irresponsible executive establishment. Through his power of appointment and removal the president can, if he choose, control for partisan and corrupt purposes the activities of such agencies as the Tariff Commission, the Shipping Board and the Federal Trade Commission. In the administration of tax laws refunds and penalties can be used to reward or punish. "Give me control of the Internal Revenue Bureau," says Senator Couzens of Michigan, "and I will run the politics of the country."

A similar situation exists in American state, city and county government. Favoritism and discrimination in the use of the taxing power, misuse of funds, contract frauds and job patronage are common evils attendant upon the administrative wilderness which is America. The situation in the state governments is aggravated by the existence of plural rather than single executives. The direct election of numerous executive officers diffuses responsibility. The government of the state of New York, for example, prior to reorganization, consisted of "one hundred and sixty-nine departments, bureaus, boards, institutions, commissions and offices" with no centralized control or responsibility; there were sixteen methods of appointment and seven of removal. There have been in the United States governors who trafficked in pardons, who employed the state military forces to break strikes for friendly employers, and who used their veto power to defeat legislation unfavorable to their friends. A recent secretary of state for New York, in making the state census, squandered public moneys upon her relatives and friends. A treasurer of Illinois illegally withheld over $1,000,000 due the state as interest on public funds in his control. Among city governments there are few where the control of taxation and expenditure is lodged in a single responsible head. More than 3000 counties, raising and spending millions of dollars for roads, schools, public health, law enforcement and general welfare, constitute a paradise for peculation. Their government is chaotic, a "dark continent" in American politics. Cook county, Illinois, for example, has thirty-four separate and independent bodies with power to levy and collect taxes.

The complicated nature of the American elective process transfers political control from the voter to the machine. The election of some 50,000 types of officials, varying from president to pound keeper, imposes upon the voter obligations which he cannot fulfil. In Chicago there have been as many as 6000 nominees in a single primary election and a recent ballot in that city carried the names of 257 candidates for fifty-three offices exclusive of presidential electors. Direct legislation creates an additional burden; the San Francisco ballot in 1922 contained fifty-two initiative and referendum proposals. In his bewilderment the voter turns to the only source of guidance he knows—the professional politician. This situation engenders the political boss and his machine, both of which thrive upon political corruption.

The machine fares best in the large cities, whose rapid growth has created a veritable bonanza for corruptionists. Since 1860 the population of Chicago has increased from 109,260 to over 3,000,000, that of New York from 1,174,779 to over 6,000,000 and that of Philadelphia from 565,529 to over 2,000,000. Jefferson, writing to Madison in 1787, said: "I think our governments will remain virtuous for many centuries; as long as they (the people) are chiefly agricultural. . . . When they get piled upon one another in large cities, as in Europe, they will become corrupt as in Europe." James Bryce says of city governments, "they are usually worse when the population exceeds 100,000, and includes a large proportion of recent immigrants." Rising realty values make it possible

for persons "in the know" to make fortunes through judicious speculation, euphemistically called "honest graft." Increasing needs for transportation, water supply, sewage systems, street paving and public buildings create additional opportunities. With annual budgets running into hundreds of millions, with millions in contracts to be awarded and with irresponsibility and confusion in government, corruption is inevitable. The awarding of contracts to friendly contractors, the sale of leases, franchises and other special privileges, even the sale of political and judicial offices, create a well filled party treasury from which the machine can finance its charitable and vote getting enterprises. The great number of foreign born and propertyless citizens in the large cities represent a body of shock troops of the "organization," bound to it by the judicious distribution of favors. Since a large proportion of these regular machine voters pay no direct taxes, they tend to be indifferent to reckless expenditures and feel themselves but remotely affected by corruption in public office.

One of the principal sources of corruption lies in the regulation of public morals. The administration of legislation against prostitution, gambling and the liquor traffic offers an opportunity to the politically controlled police to levy tribute upon the so-called underworld. By overlooking the violations of those who pay and by rigorously enforcing the laws against those who do not, corrupt public servants have a weapon for extorting tribute from those engaged in such activities. The Vice Commission of Chicago in 1911 estimated the annual profit from prostitution at $15,000,000, out of which $3,000,000 went to the police. Since the adoption of the Eighteenth Amendment the illicit liquor business has grown to staggering proportions. At a conservative estimate made before a subcommittee of the Senate Committee on the Judiciary, 13,000,000 gallons of industrial alcohol were illegally diverted in 1926. This would make about 39,000,000 gallons of bootleg liquor which even at four dollars a quart would be worth over $600,000,000. And this does not include profits from brewing, distilling and smuggling. With such profits the bootlegger can afford to be generous in buying protection. Former Mayor Dever of Chicago said in 1926 that when he took office there were between 15,000 and 20,000 places openly selling liquor and that 60 percent of the Chicago police were engaged directly or indirectly in the liquor business. A Philadelphia grand jury in 1928 disclosed that policemen and detectives were becoming fabulously rich from the business of "selling protection." Police and enforcement officers in that city, it was estimated, collected about $2,000,000 annually from bootleggers and their allies.

Control of these sources of graft rests ultimately upon victory at the polls. To insure success the machine frequently scruples at nothing. Fraudulent registration, "colonizing," repeating false counts, even violence, are some of the tactics employed. Money is poured into campaigns; in the single Pennsylvania Republican primary of 1926 over $3,000,000 was spent by the various factions. The bulk of this money comes from business men who in turn expect favors at the hands of the successful candidates.

Natural resources of incalculable value in the possession of the federal and state governments have constituted a standing temptation to corruption. Out of approximately 1,300,000,000 acres of land, including timber, oil and mineral resources, the nation has disposed of all but about 400,000,000. Benjamin Hibbard in his *History of the Public Land Policies* says: "Throughout the history of the public domain, fraud has been prevalent." In the Yazoo land scandal in 1789–95 a whole legislature was bribed and corruption reached even to the national administration. Following the Civil War came the railroad grants under which approximately 190,000,000 acres of public domain were given to railroad corporations. "The immense swamp land grants," says Ise in his *The United States Forest Policy*, "were secured largely by fraud, for the advantage of private individuals having political influence. . . . " Gigantic frauds were committed under the Timber and Stone Act. The Oregon land frauds involved government officials high and low, including a United States senator. The Teapot Dome and Elk Hills oil deals, which were characterized before the United States Supreme Court as having been "consummated by means of conspiracy, fraud and bribery," reached to the very doors of the White House. Most recently the disposal of water power resources by the federal government has involved charges of pressure brought to bear by the power interests.

Beyond the opportunities that the expanding economic life of America has offered to corruption and the defects of American political organization in the control of it, there is the general cultural milieu which has made corruption and

racketeering an integral part of American society. Corruption is in a sense a product of the way of life of an acquisitive society, where "money talks," where that which "works" is justified, and where people are judged by what they have rather than what they are. The growth and consolidation of American business into ever larger units have increased the pressures of private interests upon public servants. But even more important is the fact that they have created a society in which pecuniary values are dominant. In such a society prestige is measured in terms of wealth. Successful grafters and corruptionists become respected, and a million dollars covers a multitude of sins.

For a situation which is the resultant of so complex a set of factors there can be no simple remedy. A good deal can, however, be done through governmental reorganization; certainly without it the power of the machine cannot be broken. A reduction in the number of elective officers with authority concentrated in the hands of a few responsible officials would make the task of the citizen easier and free him somewhat from the domination of the boss. The American belief that any citizen is qualified to perform almost any governmental task throws administration into the hands of amateurs, making "experts" of politicians and politicians of experts. Fortunately this notion is gradually giving way to a recognition of the need for non-political administrative officers. Some little progress has also been made in the adoption of an efficient budget system. The bureau of the budget in the national government is handicapped, however, by the power of Congress over appropriations, and the "pork barrel" remains a familiar institution. Not all "pork" is corrupt. But when a legislator secures governmental favors for his community merely to insure his own continuance in power, he is being politically corrupt. The development of an effective budget bureau, similar to the treasury in England, would be a distinct step forward. To insure greater responsibility it has been proposed that cabinet members be allowed to appear before Congress to answer questions concerning the work of their departments. But such reforms are hardly possible so long as we cling to the fetish of checks and balances. A partial integration is now effected through the appearance, sometimes compulsory, of administrative officers before congressional committees.

Administrative reorganizations are also being effected in many of our state governments. New York has adopted an executive budget and has concentrated control of administration in eighteen departments under the immediate direction of the governor. Similar reforms are being undertaken in other states and some fourteen have thus far been reorganized. But everywhere the reorganization has been the result of compromise with political, official and institutional interests and nowhere has it been as thorough as the situation requires. Over four hundred cities have adopted the city manager form of government. Through home rule provisions local governments are breaking away from the clumsy control of state legislatures and there is a healthy trend in the direction of state administrative control. Thus in twenty-eight states power is given to state officials to order a reassessment of property whenever irregularities appear. Twenty-two states maintain supervision over municipal indebtedness and six exercise considerable control over municipal budget making. The county for the most part remains *terra incognita* to reform.

Beyond the sphere of administrative reorganization little progress has been made. The conservation policy of Roosevelt and Pinchot has saved several large areas of the public domain from ruthless exploitation, but the application of such a policy has been a belated one. In the regulation of elections, especially of primaries, where the greatest corruption lies, Congress has only a limited power. Permanent registration laws centrally administered by permanent civil servants, better policing of elections, more rigorous corrupt practises acts and the ultimate assumption by the government of the burden of campaign expenses are obvious remedies. But it may well be that the entire machinery of reform represents only a palliative unless it is accompanied by a transformation of the pecuniary standards of American society.

PETER H. ODEGARD

See: PUBLIC OFFICE; BRIBERY; EXTORTION; REVENUE FARMING; PUBLIC CONTRACTS; ELECTIONS; PRIMARIES, POLITICAL; COURTS; RACKETEERING; PROSTITUTION; PROHIBITION; SMUGGLING; PUBLIC DOMAIN; EXPENDITURES, PUBLIC; GOVERNMENT; MUNICIPAL GOVERNMENT; POWER, POLITICAL; PARTIES, POLITICAL; MACHINE, POLITICAL; INTERESTS; LOBBY; SPOILS SYSTEM; ORGANIZATION, ADMINISTRATIVE; CIVIL SERVICE; CORRUPT PRACTISES ACTS; INVESTIGATIONS, GOVERNMENTAL.

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CORTES. *See* LEGISLATIVE ASSEMBLIES.

CORTÉS, HERNANDO (1485–1547), Spanish conquistador and colonial administrator in Mexico. In 1504 he sailed for Santo Domingo, and after remaining seven years he accompanied Diego Velázquez to the conquest and settlement of Cuba, where under Velázquez' governorship he was an active and popular member of the colony. In spite of a quarrel with the jealous and domineering governor Cortés was chosen in 1518 to command an expedition to follow up explorations of the previous year along the coasts of Yucatan and Mexico. The story of the conquest of Mexico—of the bold march into the highlands of the interior, of the calculated audacity which overawed Montezuma and his hordes of warriors and of the involved series of events which ended in the capture of the Venice-like citadel of the Aztec in August, 1521—is told most graphically in the five long reports forwarded by Cortés to the Spanish king ("Cartas de relación" in *Biblioteca de autores españoles*, vol. xxii, Madrid 1884, p. 1–153; tr. by J. B. Morris, London 1928). Convinced of the great importance of the newly conquered lands the crown, ignoring Velázquez' charges of insubordination, confirmed Cortés' de facto administration and commissioned him governor and captain general. Of inflexible purpose, never failing resourcefulness and self-control, Cortés exerted over his ill trained and undisciplined soldiers an extraordinary influence. He busied himself with the extension of Spanish settlement in southern Mexico, Guatemala and Honduras and endeavored to save the natives from the unrestrained exploitation which was depopulating the islands. His great administrative ability, combined with the conviction that he was leading a crusade to win heathen souls to the holy faith, transformed the hazardous schemes of a mere adventurer into the matured policies of a constructive statesman. In 1528 he sailed to Spain to face the calumnies of jealous foes. Although he was received with highest honors and made marquis of the valley of Oaxaca with vast estates in the New World, he was deprived of his political prerogatives as governor. Returning to Mexico in 1530 he devoted his attention during the next ten years to the growing of sugar cane, to sheep raising, to silkworm culture and to the establishment of new industries. His scientific and practical interest in the extension of geographical knowledge and in the introduction of European plants and animals, as well as his continuous concern for the preservation of the aborigines, give him a high place in the history of colonial enterprise. He has been called the greatest of the conquistadores, if not the ablest man that Spain produced in that age.

CLARENCE H. HARING

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CORVÉE. In its general sense corvée designates a service in labor furnished by one man to another or to a sovereign. In primitive economy

the lack or insufficient supply of money made this a normal form of payment along with the exchange of goods. In more advanced societies it was long retained among slaves and among the poorer classes. Among the Romans the enfranchised slave was still bound to perform certain services for his master; the state also demanded labor from the people of the provinces for the construction of roads, military transport and other public works. In the feudal system the corvée was the charge which the seigniors most commonly imposed upon their vassals. The personal corvée rested upon personal obligation and often represented the price of a serf's freedom. The real corvée was an obligation running with the tenancy of land. There was also the obligation, common to all the vassals of a lord, to assure the maintenance and defense of his castle and to perform in general all work of a public nature. The corvée consisted of a certain number of days of work with or without draft animals. At first and for men of the lowest class the number of days required was left to the discretion of the seignior; gradually it became fixed by contract. The increasing liberty of the peasantry and the growing security of existence tended to reduce these burdens, and in France from the fifteenth century on they gradually dwindled to insignificance. They were not, however, entirely abolished until the revolution, when they were suppressed by the decrees of August, 1789, and later by article 686 of the civil code.

Kings as feudal lords naturally imposed corvées on the peasants of their own domains, but from early times they claimed the additional right of exacting them from the commoners outside of the royal domain for works of a public character. This was notably the case when the rulers assumed responsibility for public security. These royal corvées increased with the diminution of the seigniorial corvées. In the sixteenth century we find them employed for military defense, for the forts and for the construction of roads. But up to the beginning of the eighteenth century they were used only temporarily and casually and were a real burden solely in the frontier regions.

It was only when the government from 1726 on undertook the construction of the great royal roads on a large scale that the corvée was systematically employed and that it became a normal and very heavy charge upon the peasants. The government saw in it an economical means of carrying out its great work, and this procedure appeared so consistent with precedent and royal privilege that no legislative act was invoked to impose it. The requisitions were regulated solely by ministerial circular letters addressed to the intendants. The principal one, that of May, 1737, affected all peasants over twelve years of age and domiciled less than four leagues from the road under construction and fixed a maximum of thirty days a year per man. Any satisfaction of the corvée by a money payment was forbidden. In practise there were numerous modifications of this general regulation: the intendants were free to reduce the obligations of individuals in their provinces, and the *pays d'états*, or royal provinces, which enjoyed a certain degree of financial autonomy, notably Languedoc, Burgundy, Brittany and Provence, were allowed to use paid labor instead of the corvée on their roads. In the district of Paris, where the great lords and members of *parlement* had their lands, a money tax was substituted for the corvée. But it is certain that wherever it was employed the corvée constituted a very heavy burden for those subjected to it. There were local uprisings, mass desertions of peasants and imprisonments. Economists and *philosophes*, such as Argenson, the Marquis de Mirabeau, Duclos and Voltaire, in their writings frequently advocated the abolition of the corvée on the highways. Certain intendants even took the initiative of suppressing it in their provinces. When one of them, Turgot, became a cabinet minister he decreed its general abolition by an edict of February, 1776, the preamble of which sets forth at length the disadvantages of the system. Thereafter the roads were to be constructed by free laborers paid by the king. In order to insure the necessary funds a supplementary tax based on the land tax was instituted.

But this reform aroused the protests of the privileged classes, who were thereby subjected to a new impost, and was the king's chief motive in dismissing Turgot. The edict was revoked by the declaration of August 11, 1776. Nevertheless, the previous system was not entirely reestablished: each parish was permitted to substitute a money tax for the corvée, and whole provinces, notably Berry, took advantage of this privilege. Gradually the harshness of the system diminished, and at the approach of the revolution it seemed likely that it would soon disappear altogether. The royal declaration of June, 1787, established the principle of a money tax proportional to the *taille*,

wherever the provincial assemblies of 1787 did not expressly request continuance of the corvée in kind; and this they did in very few cases. The Constituent Assembly entirely abolished all corporal and special impositions in August, 1789, and the Convention added construction and maintenance of roads to the functions of the state, the departments or the communes.

In the year X of the Republic Napoleon re-established the corvée under a new name, prestation in kind. He retained, however, the principle of substitution of money payment at individual option. This form, which did not possess the grave disadvantages of the old royal corvée, continued in force in France until 1903.

In other countries the breakdown of the feudal system led to the abolition of the feudal corvée. In England statute labor on the highways, which never constituted a serious burden, was abolished in 1837; in Scotland it was done away with in 1883. The corvée system was employed extensively in modern Egypt, particularly in the building of the Suez Canal, but since 1891 its use has been practically abandoned.

In the American colonies the inadequacy of the volunteer system of road building soon led to the adoption of the labor tax, instituted at first by town ordinance and later by state law in most of the states. It remained the recognized system of road building and repair in newly developed territory but was abolished with the era of good roads.

ED. ESMONIN

See: FORCED LABOR; FEUDALISM; ROADS; TAXATION.

Consult: Fustel de Coulanges, N. D., *Histoire des institutions politiques de l'ancienne France*, 6 vols. (Paris 1888–92) vol. iv, p. 76–77, 381–87, 408–14; Hyenne, S. E., *De la corvée en France et en particulier dans l'ancienne province de Franche-Comté* (Paris 1863); Vignon, E. J. M., *Études historiques sur l'administration des voies publiques en France aux dix-septième et dix-huitième siècles*, 4 vols. (Paris 1862–80); Habault, Gabriel, *La corvée royale au XVIII^e siècle* (Paris 1903); Clément, F. P., *La corvée des chemins en France et spécialement en Poitou . . . 1751–1790* (Poitiers 1899); Letaconnoux, J., *Le régime de la corvée en Bretagne au XVIII^e siècle* (Rennes 1905); Roy, Georges, *Corvée, prestations, taxe vicinale* (Paris 1911); Lesort, A., "La question de la corvée des grands chemins . . . (1776–1786)" in France, Comité des travaux historiques et scientifiques, Section d'histoire moderne (depuis 1715) et . . . contemporaine, *Notices, inventaires et documents*, no. vii (Paris 1922) p. 49–95.

COSMOPOLITANISM signifies a mental attitude prompting the individual to substitute for his attachments to his more immediate homeland an analogous relationship toward the whole world, which he comes to regard as a greater and higher fatherland. In distinguishing cosmopolitanism from the kindred concepts, internationalism and universalism, it is essential to recall that the word received its definitive meaning in late antiquity, and that its currency in the modern languages, into which it passed as a Greek loan word, was most extensive during the Enlightenment. It is thus inextricably associated with the history of these two epochs. To remove it from its historical setting, to apply it, as is sometimes done, to phenomena of a pre-Hellenistic period or outside the stream of western culture, involves a transfer of terminology which lacks precision and is at best only conditionally valid. Likewise caution is necessary when a common term is applied to the cosmopolitanism of late antiquity and that of early modern times.

The nature of cosmopolitanism is fundamentally affected by the ideal of citizenship which the potential cosmopolitan derives from his small social group and transfers to a broader solidarity. For the Greeks, whose conception of polity was based on the democratic city-state, or *polis*, this ideal can be clearly interpreted in terms of a highly developed social and political individualism, confined by no other bonds than a still unbroken religious traditionalism. But the exact meaning which antiquity assigned to the concept of the cosmos, by which it denoted the broader solidarity, is at the present time difficult to determine. If it be assumed that the Greeks had in mind something more specific than a vague and negative reaction against the petty Philistinism of the city-state or than an equally hazy generalization akin to a formal universalism, the answer to the problem must be sought in the general intellectual horizon envisaged by the cultured Greek of the time. Nor can the cosmopolitanism of any region or age be comprehended without reference to a similar standard. Thus it can be discovered to what extent, if at all, the varying conceptions of cosmopolitanism have been subject to the psychological law that every hypothesis of a solidarity transcending local or national boundaries conceals a certain consciousness of superiority which individuals attach to their local group, nationality, religious faith, race or culture. The modern Marxian who theoretically looks forward to uniting the proletariat of the entire world is actually concerned only with the narrow sphere of the relatively homogeneous and highly developed nations. Similarly a

penetrating analysis of cosmopolitanism reveals an unconscious limitation of the concept through such distinctions as those between Greeks and barbarians in antiquity and between civilized and primitive peoples in modern times. In order to grasp the real spirit of cosmopolitanism in each case, it is necessary to examine the conception of the cosmos which consciously or unconsciously underlies it. In this connection it may be observed that all varieties of pre-Christian and non-Christian cosmopolitanism lack the concrete idea of a divine plan of salvation extending to all mankind; this idea is present in all forms of cosmopolitanism developed within the cultural sphere of Christendom, even though such cosmopolitanism may not have accepted the Christian dogma or may explicitly have disavowed it.

The general psychological disposition for the advent of cosmopolitanism inheres in individualism. Before the solidarity of older and more primitive social groups can pass into a solidarity embracing all mankind, an intermediate or individualistic stage must be traversed, in which the grip of traditional ties is loosened. Once the primacy of the individual over his community becomes exalted into a thesis the way is paved for cosmopolitanism to appear as the principle of a universal rather than particularistic solidarity. Establishing through the symbol of citizenship an immediate union between the individual and mankind, cosmopolitanism manifests itself in this stage of its evolution as an abstract universalism. The latter is to be distinguished from the concrete type of universalism which was common among the romantic philosophers and which finds in intermediate entities—the family, state, race or league of nations—agents of union between the individual and humanity. Where the state as intermediate power is of dominant significance, concrete universalism is usually termed not cosmopolitanism but internationalism. Internationalism by no means implies that indifference to nationality which necessarily characterizes cosmopolitanism as a consequence of its individualistic basis.

The continued development of individualism into cosmopolitanism depends upon the presence of certain sociological conditions. To a large extent these are the same as have already determined the rise of individualism: deracination from the native soil, loss of permanent domicile, migration, urbanization, travel and such intercourse with foreign peoples and races as may result from military expeditions, commercial relations, congresses of scientists and artists, relations with kindred in other lands and the knowledge of foreign tongues. Any influence, external or internal, which operates independently of the individual's choice to dissolve the organic bonds between him and his native group and to undermine his feeling of solidarity may create the a priori conditions for cosmopolitanism, inasmuch as cosmopolitanism itself provides an escape from specific social authority. That is, by standing, or aiming to stand, in immediate communion with all men, an individual easily avoids the risks and sacrifices which in view of the perpetual conflicts between all particularistic groups beset a social life based on narrower solidarities. The profession of cosmopolitanism may, it is true, bring with it new decisions and trials, for instance in time of war or in a conservative environment. But on the whole the actual obligations which cosmopolitanism lays upon its adherents are comparatively negligible—the more so because in practise it seldom goes beyond demonstration, sentimentality, propaganda and sectarian fanaticism. Hence it often exists among persons whom fortune has relieved from the immediate struggle for existence and from pressing social responsibility and who can afford to indulge their fads and enthusiasms.

The form which cosmopolitanism assumes is in general conditioned by the particular social entity or group ideal from which it represents a reaction. In antiquity the dominant social entity was usually the *polis*, in the Roman Empire the province, in the Enlightenment the religious faith, class and state; at present it is mainly the state, nation and race. The cosmopolitanism of international finance and of export trade develops as a protest against a merely national economy and begets the conception of world wide economic interdependence. Moreover all business magnates, in order to escape the strictures with which narrow solidarity binds the passion for gain, have a tendency to embrace cosmopolitanism and to wrest from it an ethical sanction for all their activity. The Marxian doctrine that economic interests take precedence over political and ethnical attachments finds its moral basis in the same source. The sportsman and the virtuoso, who in their desire to establish records or to win unique fame roam homelessly from place to place, express a form of cosmopolitanism. The praetorians in late Rome represented a military cosmopolitanism analogous to the indifference

to nationality characteristic of the mercenary soldiers of early modern times and of the military adventurers who are to be found today in the foreign legions or wandering from service to service. In the prevalent conceptions of the internationalism of science and of art, other types of cosmopolitanism are implicit. In all these cases it is apparent that cosmopolitanism takes form as a cosmic principle through an essentially uncritical generalization from the vocational ethic and that its guise of universality conceals either an unconscious recognition of the particularistic solidarity or even a very one-sided individual interest. If, therefore, in time of crisis or upheaval, such as might be occasioned by war, revolution or personal strife, an imperative appeal is made to the traditional social impulses which have been crowded into the background by cosmopolitanism, the latter may suddenly lapse into its extreme antithesis, a fanatical devotion to a narrow allegiance. Even while his basic individualism remains untouched by such fluctuations of solidarity consciousness, the former cosmopolitan may, in these circumstances, become an impassioned spokesman of chauvinism, class hatred or confessionalism.

When the corporate spirit engendered by the individual's organic relationship to his traditional group is transferred to whatever sphere he visualizes as a cosmos, it tends to become dissipated in the subtleties of symbolism or in loudly voiced but tenuous analogy. This is equally true of Greek cosmopolitanism, where the symbol of citizenship was carried over from the *polis* to the world at large, and of the vague attempts of deism in the Enlightenment to replace Christianity with its firm social organization by a more comprehensive faith. Frequently the consciousness of membership in an élite group or some merely personal associations with people abroad mold the individual's conception of the cosmos. Thus the distinguished scholar who ordinarily comes into touch with foreign colleagues as exchange professor, member of an international society or participant in a congress is transformed into a *magister mundi*, and from the elements of cosmopolitanism so created may make illogical generalizations in the sphere of politics. In the case of international orders like the rotary club and freemasonry, the basis for a cosmopolitan attitude is provided by a definite sociological medium, which appears to its constituents as *pars pro toto*. The Catholic hierarchy and religious orders exercise a similar influence upon their members. Such cosmopolitanism is, to be sure, only intermediate; but because its adherents are equipped with a sociological apparatus and form an organic part of an actual, rather than merely symbolic, international relationship, they may develop a notable cosmopolitan tradition.

Cosmopolitanism which has become integrated into a doctrine and which envisages a more or less positive polity of mankind may be either static or dynamic. The former starts with the assumption that human solidarity can and must be accomplished without delay and in all regions of the globe; whereas the latter views it as the end goal of a gradual evolution toward world betterment. As a doctrine cosmopolitanism is allied with pacifism and with the conception of human equality, an equality which may be considered natural and real or abstract and hypothetical. In appreciable degree the propagation of cosmopolitanism depends upon the extent to which these allied doctrines are accepted. It therefore comes into conflict with all world views which presuppose an intrinsic inequality among peoples and races and justify with this premise the domination of an "inferior" by a "superior" political or ethnical group. Imperialism, which from one point of view facilitates the development of cosmopolitanism since it creates new and varied networks of intercourse, is fundamentally at odds with cosmopolitanism when racial and group privileges form the basis of colonial dominion. Modern internationalism, on the other hand, allows the individual to identify himself with a definite sociological cosmos by means of its concrete forms of international organization.

Even as an idea complete cosmopolitanism exists only in doctrinal form. The ambivalence obvious in the case of persons whose cosmopolitanism is associated with freemasonry, Catholicism or high finance, and even more obvious among the higher nobility, whose international sympathies aroused by family ties in other lands are offset by caste exclusiveness, is present in some degree in all adherents of cosmopolitanism. In the mind of any individual the concept of cosmopolitanism represents only one extreme in a bipolar system, not merely because it takes form as a reaction against a particularistic social entity, but because the psychic power of manifold narrower solidarities persists and cannot be effaced. Although these opposing drives vary in nature and strength according to time, environment and individual they are

the components of an inevitable parallelogram of forces. In consequence cosmopolitanism as a mental attitude always manifests itself in the form of a compromise with nationalism, race consciousness, professional interests, caste feeling, family pride and even with egotism.

The history of cosmopolitanism is embedded, as has been said, in western culture and began in Greece. While Cicero may have been incorrect in tracing the origins of cosmopolitanism to Socrates, it is expressly recorded that Socrates' pupil Antisthenes (*c.* 450–366 B.C.) employed the term. Alexander the Great's infusion of the cultural and political ideals of the *polis* into the oriental conception of universal empire provided cosmopolitanism with the environment it needed for development and the Hellenistic period became rife with cosmopolitan tendencies and theories. The tradition begun by Antisthenes and his fellow cynic Diogenes and by Aristippus of the Cyrenaics was taken over by certain of the Epicureans, Theodorus and Diogenes of Oenoanda, and reached its efflorescence among the stoics, beginning with Zeno. Along with the rest of Hellenistic culture the theory of cosmopolitanism thus developed passed to Rome, where it was continued by the later stoics Cicero, Seneca, Epictetus and Marcus Aurelius. Throughout the entire span of the Hellenistic-Roman period it suffered no essential change. The concept of the cosmos continued to be a reaction against constant conditioning forces—nationally conceived polytheism and local patriotism. Favored by political and social conditions, receiving first from Hellenistic and then from Roman imperialism scope for development and protection from the disquieting influence of great political conflicts, cosmopolitanism was enabled to become a sentiment uniting cultured minds. For the rest, it had arrayed against it, just as it had in the modern Enlightenment, particularistic political and military forces strong enough to prevent it from seriously crippling the historical energies operative at the time.

From early Christianity with its claim to universality and its insistence upon social equalitarianism, cosmopolitanism seems to have received a strong impetus. Judaism, likewise, from now on became an important carrier of cosmopolitanism. But whatever the universalistic implications of its metaphysical postulates, for example the doctrine that all men are equal before one God, the Christian church, as it grew into an institution and exhibited itself as a historical force, developed strong anticosmopolitan tendencies. Thus the schism between western and eastern Catholicism, the division into churches and sects, the confessional antagonisms to the heathen, Jew and Mohammedan, and the gradual stratification into a hierarchy of officials, all operated to stimulate a merely particularistic solidarity. The separatistic trend was augmented by the downfall of the Roman Empire and the transformation of Europe into a mosaic of German-Romanic states. In the so-called universalism of the Middle Ages, there are of course certain elements suggestive of cosmopolitanism, the clearest instances being the theocratic universalism of Augustine, Dante's conception of world empire and, during the period of transition to modern times, Campanella's utopianism. Moreover, the persistence of cosmopolitanism as a mental attitude of single groups and classes was insured by religious orders, the knightly orders of the crusades, the universities and the journeyings of artisans and artists. But because the necessary psychological basis, individualism, was lacking, the Middle Ages never developed a real cosmopolitanism.

This basis was provided by the Renaissance. The Enlightenment, continuing the traditions of the Renaissance, reabsorbed stoic philosophy into western culture and in this way cosmopolitanism entered into a new epoch of significance. Princes, diplomats, poets, scholars and other intellectuals became its spokesmen. The barriers which in the religious wars of the seventeenth century had seemed indestructible disappeared in the eighteenth before the onslaught of deism, pantheism and rationalism. From secular orders and secret societies cosmopolitanism received both a dogma in the form of an ideal of humanity and a social ritual. While cabinets continued to wage war, intellectuals posted up constructive theories of peace and the foremost of the pacifists, Kant, called cosmopolitanism a "regulative principle." Then came the rise of nineteenth and twentieth century nationalism, a force so compelling and pervasive that it swept even the intellectuals before it. The change, marked by the Napoleonic wars and the development of romanticism, became cemented as with the rise of democracy a close bond was forged between nationality and state, both of which, starting from the precise individualistic premise which the Enlightenment had given them, exercised a notable influence in the direction of a strong particularistic solidarity. Thereafter cosmopoli-

tanism lost its hold upon the educated classes and the nobility and to a certain extent also upon the clergy. But it made corresponding headway among the Marxists, who have exalted it into an equalitarian program, and among the representatives of large financial interests, who, however, often conceal it beneath authoritarian and nationalistic pretenses. Before and since the World War cosmopolitanism has also found an outlet in the efforts to organize the newly awakened spirit of internationalism. As a basic psychological factor it has been of undoubted importance in whatever success has been attained by the Hague conferences, courts of arbitration, the League of Nations and the World Court.

The absolute denial of those distinctions between races and peoples and of the traditional class divisions which form the basis of imperialism and of social organization during the period of full capitalism has been the contribution to cosmopolitanism made by Bolshevism. Through the universal leveling of civilizations to which the World War has given such tremendous impetus and through the ever increasing networks of communication among the peoples of the whole earth, all sections of humanity have gradually been brought face to face with the problems of cosmopolitanism, irrespective of their historical detachment from its development in western civilization.

Modern social biology and in particular the doctrine of cultural stages suggests that cosmopolitanism is to be conceived as belonging typically to the closing periods in the lives of civilizations. While as yet sociology remains skeptical of comparisons between western cosmopolitanism and analogous phenomena evolved in other historical periods, it will not be able permanently to ignore the parallelisms offered by the pre-Grecian Asiatic culture which influenced Hellenism; by the civilization of the Near East, which may very well have contributed certain elements to the recent irruption of cosmopolitanism in that region following upon its westernization; and perhaps by America prior to its colonization by Europeans. Only thus can a complete analysis of cosmopolitanism be made.

MAX HILDEBERT BOEHM

See: INTERNATIONALISM; CIVILIZATION; EQUALITY; INDIVIDUALISM; EPICUREANISM; STOICISM; RENAISSANCE; ENLIGHTENMENT; PACIFISM; COMMUNISM; BOLSHEVISM; CONQUEST; MIGRATION; URBANIZATION; INDUSTRIALISM; NATIONALISM; IMPERIALISM; ETHNOCENTRISM; CITIZENSHIP.

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COSSA, EMILIO (1863–1908), Italian economist. Cossa was educated in economics by his eminent father, Luigi Cossa, and published a

long series of works on varied subjects. He began his career with a pamphlet, *Concetto e forme della impresa industriale* (Milan 1888), in which he discusses the productive efficiency of various forms of enterprise and attempts to determine the limits of their extension. Two years later he began a series of works which appeared with almost mechanical regularity: *Primi elementi di economia agraria* (Milan 1890), in which the technical-agricultural principles are distinctly separated from the economic; *I fenomeni della finanza pubblica e i loro rapporti con l'economia sociale* (Milan 1892), in which he presents marked advances analogous to the theory of Sax on financial phenomena; *Il metodo degli economisti classici* (Bologna 1895), which was intended to demonstrate that in spite of the prevalence of the deductive method the classical economists were able at times to make use of the inductive method also; *Il principio di popolazione di Tomaso Roberto Malthus* (Bologna 1895); *Del consumo delle ricchezze* (2 vols., Bologna 1898), a critical and explanatory monograph on the subject of consumption, which had usually been fragmentarily treated or neglected; *Principii elementari per la teoria dell' interesse* (Milan 1900), in a sense borrowed from the doctrine of Böhm-Bawerk; an important study of trusts, *I sindacati industriali* (Milan 1901); the much more noteworthy although too optimistic work, *Conflitti e alleanze di capitale e lavoro* (Milan 1903); and *La teoria dell' imposta* (Milan 1902), a general study on the origin of taxes and the historical development of tax systems. Among his minor works are "L'inesistenza di plus-valore nel lavoro e la fonte del profitto" (in *Giornale degli economisti*, 2nd ser., vol. xxxiv, 1907, p. 48–61); *Il pensiero di Adamo Smith nella teoria quantitativa del lavoro* (Messina 1907); *L'interpretazione scientifica del mercantilismo* (Messina 1907); "Il mercantilismo e l'economia politica" (in *Giornale degli economisti*, 2nd ser., vol. xxxvi, 1908, p. 323–52).

All these works reveal great power of objectivity, broad and profound knowledge of international literature and clarity of analysis. They assisted in the diffusion of economic knowledge and in securing an evaluation of the truth contained in contradictory opinions.

AUGUSTO GRAZIANI

COSSA, LUIGI (1831–96), Italian economist. Cossa studied first at the University of Pavia, then at Vienna under Lorenz von Stein and at Leipsic under Wilhelm von Roscher. From 1858 until his death he was professor of political economy at the University of Pavia. The influence of his German training is reflected in his bibliographical and historical studies, especially the *Guida allo studio dell' economia politica* (Milan 1876, 3rd ed. with title *Introduzione . . . dell' economia politica*, 1892; tr. by L. Dyer, London 1893). The book, divided into a systematic and a historical part, is the fruit of an exact and critical investigation of the sources and is most useful for the orientation of the student in the vast literature of the social sciences. His works are highly didactic, rich in suggestions and outlines for more detailed investigations. In the *Saggi di economia politica* (Milan 1878) the essays concerning capital, industrial enterprise and the limits of production are particularly noteworthy and still valuable. *Primi elementi di economia politica* (Milan 1875), which ran through many editions and translations, is precise in thought and elegant in diction. Some practical applications are also discussed in the *Primi elementi di scienza delle finanze* (Milan 1876, 12th ed. 1923; English translation New York 1888), which presents under an appearance of elementary treatment profound generalizations valuable for the advanced student as well as for the beginner.

Under Cossa's influence Pavia became the center of the study of economics in Italy. He founded no school of his own in the strict sense of the word, for he was hospitable to every doctrinal tendency. He aided his students generously and stimulated them to valuable work in theoretical and historical economics and in finance and statistics. In his *Introduzione* he was able to avail himself of monographs by his pupils on various phases in the history of Italian economic theory. He transmitted to his students an interest in the economic thought of other countries, especially Germany and England. The university chairs were for the most part filled by his students and by their students in turn. Cossa did more than anyone else in Italy during the last thirty years of the nineteenth century to promote the revival of the scientific study of economics.

AUGUSTO GRAZIANI

Consult: Ricca Salerno, G., in Institut International de Statistique, *Bulletin*, vol. viii (1895–96) bk. ii, 342–44; Simoncelli, V., "Commemorazione del M. E. prof. Luigi Cossa" in R. Istituto Lombardo di Scienze e Lettere, *Rendiconti*, 2nd ser., vol. xxxiii (1900) 89–107; Schullern-Schrattenhofen, H. von, *Die theoretische Nationalökonomie Italiens in neuester Zeit* (Leipsic 1891); Graziani, A., in *Studi senesi nel circolo giuridico della R. Università*, vol. xiii (1896) 181–96.

COSSACKS. The term Cossack is of Tartar origin. Mention is frequently found in fifteenth century sources of Tartar Cossacks, lightly armed horsemen who sometimes banded into companies and engaged in military operations on their own authority. In the same century Cossacks appeared as a separate Russian group. At that time territories settled by Russians and forming a part of Russia and of the Polish-Lithuanian state were bounded on the south and southeast by a wild unsettled steppe, beyond which was the territory of the Tartars. Neither of these states commanded sufficient armed forces to protect its borders adequately, so that the population of the frontier provinces was in large measure left to its own resources in coping with the frequent and devastating raids carried out by the Tartar horsemen. This led to the formation of bands of volunteers, who were always prepared to repulse the Tartars and who adopted from the latter the name of Cossacks as well as the tactics of brigand raids. Beginning with the close of the fifteenth century the steppe, teeming with game and abounding in natural resources, became increasingly attractive to these Cossack groups, which made frequent and ever more extensive expeditions for the purpose of hunting and fishing. When they returned home or settled in the northern sections of the steppe they retained the type of organization developed during these expeditions, scarcely recognized the authority of the government and endeavored to remain free or, as the Polish records state, "disobedient."

Both Russia and Poland soon realized how useful the Cossacks might prove for border defense. In the sixteenth century the Moscow government began to organize in its southern provinces a special group of so-called Settlement Cossacks, whom it attached to frontier forts and to whom it granted some land and paid salaries in consideration of their services as a frontier guard. Similar measures were taken by the Polish-Lithuanian government, which made several unsuccessful attempts to form special Cossack companies for border defense and to subordinate the rest of the Cossacks to the local administrators.

Along with the comparatively small number of Cossacks in government service there appeared in the sixteenth and seventeenth centuries considerably stronger organizations of free Cossacks. Their growth was helped in no small degree by the gradual change in the status of the lower classes which was at this time taking place in both Russia and Poland. In Russia the enormous increase of the tax burden imposed upon the lower classes consequent upon growing governmental centralization and the rapid sinking of the free peasantry to a servile status forced the more energetic individuals to leave their old homes and join the ranks of the free Cossacks. In Poland a situation equally unfavorable to the lower classes resulted from the concentration of political power in the hands of the landed nobility, who established serfdom in its most oppressive form. In the Russian provinces of Poland attempts to suppress the Russian nationality and persecution of the communicants of the Greek Orthodox church by the government and the fanatically Catholic Polish nobility made conditions even worse and forced increasing numbers to move south and live as Cossacks. By the second half of the sixteenth century there existed on the river Don and its tributaries a Cossack community consisting largely of immigrants from Russia. At the same time the Ukrainian Cossacks who were settled along the shores of the Dnieper sent their advance groups far into the steppe to form a similar community known as Zaporozhskaya Siech (the camp beyond the rapids on the Dnieper).

The Cossack communities were virtually independent of the states whose sovereignty they formally acknowledged. Their political and social organization, in direct contrast to that which prevailed in these states, was based on principles of absolute equality and unlimited self-government. The supreme authority was lodged in the assembly of all Cossacks (*rada* in the Siech and *krug* on the Don), which legislated, passed on questions of war and peace, sat as a court in major crimes and elected the *ataman*, combining the authority of a military leader and a civil administrator, as well as his assistant and secretary. These functionaries were elected for a limited term and were subject to removal at any time by the decision of the assembly; while their authority was dictatorial during a military campaign, they were accountable to the assembly upon their return. The Cossacks made their living from hunting, fishing and the breeding of cattle; hunting and pasture grounds were held in communal ownership. In their military operations against the neighboring Moslem states the Cossacks were also virtually independent. With an increase in their number they were no longer satisfied merely to repulse Tartar raids or to send expeditions to

the Crimea. Venturing in their boats into the Black and Asov seas they began to raid the shore settlements belonging to Turkey. The Russian and Polish governments, which feared a war with Turkey, ordered that these raids be stopped, but such orders were generally disregarded and sometimes aroused the open hostility of the Cossacks. Eventually an open struggle could not be avoided between these governments and the Cossacks, who practised a primitive democratic egalitarianism and harbored in their midst refugees from the political and social oppression of Russia and Poland. Its outcome was different in Poland and Russia.

The Ukrainian Cossacks, who settled along the middle course of the Dnieper and colonized the steppe to the east, were from the end of the sixteenth century under constant pressure from Poland. The latter country, while unwilling to destroy the settlements essential for border defense, endeavored to subordinate the Cossacks entirely to its authority and to limit their number to a definite authorized figure in order to prevent runaway serfs from settling as Cossacks. The Cossacks bitterly opposed such measures. In the first half of the seventeenth century there occurred in the Ukraine frequent and increasingly ominous Cossack uprisings energetically supported by the peasantry, who were fearful of the increasing degree of servitude. Although these revolts were drastically suppressed, the government could not achieve complete pacification of the Cossacks, who had a practically inaccessible stronghold, the Zaporozhskaya Siech, situated far out in the steppe on the islands in the Dnieper. It was a refuge for the remnants of the insurgents and the center for the organization of new rebellions. In this struggle the Cossacks gradually became the rallying point for the victims not only of social oppression but also of nationalist and religious persecution. The struggle came to an end in the middle of the seventeenth century when the Cossacks, realizing the hopelessness of a single handed struggle with Poland, declared their allegiance to Moscow during an insurrection led by Bogdan Khmelnitsky. Russia was thus able to claim the Ukraine as its possession and after a protracted war with Poland succeeded in retaining the territories on the left shore of the Dnieper and the region of Kiev. In the provinces on the right shore of the river, which remained under Polish rule until the end of the eighteenth century, the Cossacks attempted for some time to retain their autonomy by pledging their allegiance now to Poland and now to Turkey. By the beginning of the eighteenth century, however, the Cossacks had merged with the peasantry and separate Cossack communities had disappeared.

The Cossacks on the left shore of the Dnieper received under the terms agreed upon by Russia a large measure of self-government. The authorized number of Cossacks was greatly increased: it was 60,000 when Russia claimed the whole of the Ukraine and 40,000 when Russia kept only the territories east of the Dnieper. All the lands preempted by the Cossacks were recognized as the property of their community. They were exempt from taxation and were merely under obligation of military service. They were governed by their own laws and customs administered by elected functionaries with an elective *hetman* at the head. In practise these Cossack authorities assumed the general administration of the annexed territory. At first there was no sharp distinction between the Cossacks and other social groups in the Ukraine: peasants and the petty urban bourgeoisie freely claimed the status of Cossacks and vice versa. Gradually, however, a process of differentiation set in, which was aided by the central government. The upper stratum of the Cossacks, which supplied candidates for elective offices and accumulated large private holdings of land granted by the government as reward for its services, came in the course of time to resemble the Russian landed gentry and toward the end of the eighteenth century was given the same civil status by the government of Catherine II. Even before that the office of *hetman* was abolished and the other high functionaries were made appointive rather than elective. At the same time the rank and file of the Cossacks were more stringently separated from the burghers and peasantry and service in the Cossack troops was regulated in greater detail by the central authorities. With the establishment of a standing army early in the eighteenth century and still more with the extension by the end of the century of the Russian frontier to the Black Sea the Cossack troops lost all of their former importance. In 1783 Catherine II disbanded the Ukrainian Cossack regiments. Although they retained personal freedom the Ukrainian Cossacks constituted thereafter merely a special category of state peasants.

The history of the Cossacks in the easternmost province of the Ukraine, which later formed the province of Kharkov, was much the

same. These settlements were established by the Cossacks who fled from Poland at the time of the Khmelnitsky insurrection. The Moscow government gave them lands and formed them into five regiments, which were governed by elected officials under the control of the central government rather than of the *hetman*. In the course of time self-government was curtailed and the status of the Cossack functionaries approached that of the Russian gentry, until by the end of the eighteenth century all differences had disappeared. The substitution at the same time of civil government for the military organization destroyed the distinction between the rank and file of the Cossacks and the general population.

The Cossacks in Zaporozhskaya Siech were always more independent than their brethren to the north. They were more daring and adventurous spirits, who forsook the pleasures of settled family life and formed a community resembling somewhat a military order; it developed an esprit de corps which enforced a most rigid discipline in time of war but brooked no authoritarian interference in time of peace. After the Russian annexation of the Ukraine these Cossacks displayed considerable independence in their relations with the Moscow government, openly resisting its plans for centralization; and in the disturbances subsequent to the death of Khmelnitsky they invariably lent their support to the more democratic elements of the population. In 1709, when Charles I of Sweden invaded the Ukraine and the Cossack *hetman* Mazeppa joined the Swedes against Russia, the Cossacks of the Siech followed Mazeppa. The Siech was destroyed by the victorious Russian troops and the surviving Cossacks fled to Turkey. In 1733 they were permitted to return and rebuild the Siech, but the government continued to regard them with suspicion intensified by the continuous conflicts of the Cossacks with the Polish authorities and the Russian settlers in the region. After the decisive Russian victory in the Crimea the government lost its interest in the Cossacks, and in 1775 the Siech was occupied by Russian troops. Most of the Cossacks fled to Turkey, where they founded a new community, the Transdanubian Siech. Those remaining were reorganized in 1783 into a new Cossack military division, which was after 1792 settled in the Kuban valley in order to protect the frontier against the Caucasian mountaineers.

The history of the Don Cossacks down to the eighteenth century is similar to that of their Ukrainian brethren. In addition to hunting and fishing, plunder of the neighboring Moslem communities and occasionally of Russian merchant caravans was at first an accepted way of earning a livelihood. Cossack detachments would also offer themselves for hire to convoy trading expeditions. One of such detachments, led by Ermak and equipped by a great merchant house, the Stroganovs, penetrated at the end of the sixteenth century into Siberia, claimed it for Russia and established the first settlement of Siberian Cossacks. Early in the seventeenth century the Cossacks from the Don as well as from the Siech and the Yaik (a settlement of a group of Don Cossacks) were active in supporting various self-styled pretenders to the Russian throne in the stormy years that followed the extinction of the Kalita dynasty. Subsequently they aided in driving the Polish forces out of Moscow and in bringing about the enthronement of Mikhail Romanov. Although officially in the service of the Moscow government, which paid them a salary in bread and munitions, the Cossacks displayed open hostility to its centralistic tendencies. In the reign of Mikhail's successor, Alexey, the poorer Cossacks under the leadership of Stepan Razin organized a rebellion which spread to a number of cities on the Volga, where a Cossack form of self-government was set up by the rebels. Razin was defeated after a protracted struggle and was delivered to the Russian government by the Cossack authorities, which remained loyal. Early in the eighteenth century, when Peter I disregarded the traditional Cossack liberties in ordering them to surrender the serfs and religious dissenters who sought refuge in their territory, the Cossacks refused to comply and in 1707 attacked and destroyed the troops sent to enforce the order. The insurrection under Kondraty Bulavin which followed was mercilessly suppressed. Some of the insurgents fled eventually to Turkey, where they remained for a time in the service of the sultan as a separate military unit. After the rebellion the government, relying upon the support of the more prosperous Cossack aristocracy, made the office of the *ataman* appointive rather than elective and later extended the principle of appointment to other high offices. This caused another important revolt in 1773, which was initiated among the Don Cossacks settled on the river Yaik by Emelyan Pugachov, who declared that he was Emperor Peter III, come to

liberate the common people from the oppression of the nobility. The uprising, which was aided by the Mongol settlers in the Ural region and by a considerable portion of the peasant serfs, lasted for several years and caused the government considerable trouble before it was suppressed. The privileges of the Yaik Cossacks were subsequently further curtailed and their very name was changed.

By the beginning of the nineteenth century the incorporation of the remaining Cossacks in the general administrative and social structure of Russia was complete. In the course of the following hundred years several new Cossack troops were organized and stationed on the southern and southeastern frontiers, so that at the close of the century there were eleven Cossack units, which comprised a population of about two and a half million people, including the members of the Cossack families. The home territory of each of these Cossack units was governed by a Cossack administration which was in the main an appointive bureaucracy, the democratic principle having been retained only on the lower levels of the administrative machinery. The population of these territories consisted roughly of three distinct groups. Of these the Cossack rank and file were entitled to a land allotment of thirty *desiatin* (eighty-one acres) per household, a provision which was considerably in excess of the customary norms for peasants in European Russia. In return the male Cossacks were liable to eighteen years of military service and were obliged to provide their own mounts and their own munitions with the exception of firearms. The Cossack aristocracy was composed of the families of officers and officials, who were granted full property rights in extensive landed estates and resembled the landed gentry of other parts of Russia. Finally there were the "outsiders," the settlers not related to the Cossacks and excluded from participation in Cossack communal and social life, who constituted by the end of the century over a half of the population in Cossack territories.

The Cossack troops were in the main a lightly armed cavalry, the significance of which as a fighting force declined with the modernization of warfare after the middle of the nineteenth century. They were of greater importance for internal police duty, in which the government relied upon the fostered aloofness of the Cossacks from the rest of the population. With the development of the revolutionary movement in the last quarter of the nineteenth and early in the twentieth century Cossack troops were used to suppress active manifestations of labor and peasant unrest. The loyalty of the Cossacks was exploited on a large scale during the revolution of 1905, but they refused to be pressed into a similar role in March, 1917. The Bolshevik revolution of October, 1917, however, met with strong opposition from the Cossacks; in the Cossack territories the Soviets were for a considerable time regarded as agencies for establishing the rule of the "outside" population. In the civil war period the White forces found their staunchest supporters among the Cossacks, although the lines of cleavage characteristic of the rest of Russia could be traced also within the Cossack communities. With the victory of the Soviet rule the government altered the civil status of the Cossacks in the direction of merging them with the general population but was careful not to interfere with the cultural peculiarities of Cossack life.

V. MIAKOTIN

See: FRONTIER; NATIONALISM; RUSSIAN REVOLUTION.

Consult: Hrushevsky, M., *Istoriya ukrainskavo kosachestva do soedineniya s moskovskim gosudarstvom* (History of the Ukrainian Cossacks to the union with Moscow), 2 vols. (St. Petersburg 1913–14); Evarnitsky, D. I., *Istoriya zaporozhskikh kazakov* (History of the Zaporozhski Cossacks), 3 vols. (St. Petersburg 1892–97); Bahaly, D. J., *Ocherki iz istorii kolonizatsii stepnoy okraini moskovskavo gosudarstva* (Essays on the history of colonization of the steppe provinces of the Moscow state) (Moscow 1887); Kostomarov, N. I., "Bunt Stenki Razina" (The revolt of Stenka Razin) in his *Istoricheskiya monografii i izsledovaniya*, 13 vols. (St. Petersburg 1863–67) vol. ii. The foreign scientific literature on the Cossacks is extremely meager. Among recent items see Czaplicka, M. A., "The Evolution of the Cossack Communities" in *Journal of the Central Asian Society*, vol. v (1918) 42–56, containing a bibliography; Korduba, M., "Die Anfänge des ukrainischen Kosakentums" in *Zeitschrift für osteuropäische Geschichte*, vol. ii (1912) 367–81, a review of Hrushevsky's work cited above.

COST, in economics, means the surrender or destruction of value or the performance of some irksome activity as a means to the production of commodities or the acquisition of income. In a voluntaristic capitalist society the cost to an individual who contributes in any way to the processes of production may consist of an expenditure of money, of goods for which money could be obtained, of manual or mental effort irksome at the margin; or it may involve the assumption of a physical or financial risk, the

acceptance of a role carrying with it social disesteem, the choice of the less attractive of alternative ways of employing time or resources, although none of the alternatives need be of itself displeasing or irksome.

Maximization of the excess of income over cost is the fundamental economic principle, the essence of rational management of the economic activities of an individual or a community. To the extent that men act in accordance with this principle they choose of two or more alternative methods of obtaining a given objective that involving the smallest cost, they carry their cost activity to the point where marginal cost equals the resulting marginal income, and they apportion their productive resources among the available alternative uses in such a way that each type of resource obtains an equal marginal return in each of its uses. Cost of production thus plays a vital role in the allocation of productive resources among the different industries, in the selection among the various alternatives of the types of production processes to be employed and in the determination of the geographical location of industry.

The interest of economic theorists in cost has until recent years been largely confined to the relationship of cost of production to competitive price. In the writings of the preclassical economists there was little systematic discussion of cost, and even those of the classical school were confused and in disagreement among themselves on some of the most fundamental aspects of the relation of cost to price. However, even before Adam Smith some writers insisted that cost of production could influence price only if and as it influenced output and therefore supply (see particularly *Considerations Relating to the Laying Any Additional Duty on Sugar from the British Plantations*. . . . , London 1747). Some of the classical economists distinguished between market or short run prices, on the one hand, and natural or long run prices, on the other, on the ground that the former were determined by demand and supply and the latter by cost of production. Malthus and Senior first emphasized the indirect nature of the influence of cost on price, but it was not until much later that it was clearly brought out, especially by Marshall, that if the influence of cost on price was more important in the long run than in the short run it was because it took time to adjust supply to changed conditions and that except through its influence on such adjustment cost could not affect price. The suggestion made by some writers that it is cost of reproduction rather than cost of production which determines price was also intended to emphasize the indirect nature of the relationship between cost and price. Since past costs, they argued, could not influence subsequent production they could not therefore influence price.

The classical school presented three rival explanations of the relation of cost to price. These explanations were in terms of psychological or pain costs, of labor day costs and of money costs, or "expenses of production." The psychological and the labor day cost explanations, however, were supported by the same writers and were not often clearly distinguished from each other. The pain cost theorists claimed that the prices of competitive commodities must in the long run be proportional to their psychological costs of production, for otherwise the factors of production involving painful effort would be transferred from the employments in which they were comparatively poorly remunerated to those in which they were better remunerated. The most rigid form of pain cost theory was the famous labor cost theory of value, usually presented in terms of the proportionality of value to cost in labor days but generally with a clear implication that labor days were to be interpreted as representing equal units of irksomeness. Germs of the labor cost theory are to be found in Locke, Petty and other early writers. Adam Smith accepted it for the "rudimentary state," but for advanced society he held that the existence of rent and interest destroyed the relationship of proportionality and that money expenses of production, including wages, interest and rent, regulated value. He accepted "labor command," or purchasing power in terms of labor, as the best measure of the value of a commodity to society at different periods of time. Ricardo in his *Principles of Political Economy and Taxation* (London 1817) presented a rigid labor cost theory of value of reproducible goods, but only as a first approximation which he qualified in several important particulars. In the first edition he conceded that commodities into whose production labor and capital entered in different proportions would not have values proportional to their labor costs alone. Later he made the additional concession that the relative prices of such commodities would change if the wage rate or the interest rate changed, even if their relative labor costs remained unaltered.

As early as 1774 Lord Kames criticized the

failure of the labor cost theory of value to allow for differences in wages in different occupations and in costs of materials. Adam Smith argued that differences of wages between occupations reflected differences in their agreeableness or disagreeableness, so that he would presumably have accepted wages costs as proportional to labor pain costs even if not to labor day costs. Ricardo did not attempt seriously to meet this difficulty in so far as relative costs at any one moment of time are concerned. He claimed, however, that the relative scale of wages in different occupations remained constant for long periods, so that changes in prices of different commodities relative to each other could not be due to differences of wages in different occupations. James Mill adhered to the labor cost theory more strictly than Ricardo, disposing of rent as a differential return as did Ricardo and converting capital costs into labor costs on the ground that payment for capital was payment for the old labor which had made the capital. Nevertheless, he inconsistently followed Ricardo in conceding that a change in the general rate of wages will change relative prices even though relative labor costs remain unaltered. McCulloch appears to be the only other economist of note who accepted the labor cost theory of value without serious qualifications. Germain Garnier, Poulett Scrope and Senior found a basis for interpreting capital costs as pain costs by introducing the concept of abstinence as the pain cost of saving, and Senior presented a pain cost theory of value in terms of labor cost and abstinence cost combined, although with qualifications for the additional influence on price of relative natural scarcities of commodities and without clear explanation of how labor costs and abstinence costs could be equated to each other. Cairnes followed Senior in arguing that relative prices are determined by labor and abstinence in terms of pain cost, but only where free competition prevailed among sellers of commodities and among seekers for employment. For the products of non-competing groups within a country, as for the products of different regions between which there was imperfect mobility of the factors of production, relative values were determined by relative pain costs only within the groups or regions.

The exponents of real cost or pain cost theories did not deny the validity of the money costs of production explanation, but argued that one could explain money costs in terms of more fundamental factors. Malthus, J. B. Say and J. S. Mill followed Adam Smith rather than Ricardo in accepting a money cost of production theory of value as adequate and in rejecting the pain cost theory. Marshall and his followers have taken an intermediate position. Denying the proportionality of prices to pain costs and stressing the incomparability of labor pain and abstinence costs and of the pain costs of different individuals, they insist nevertheless upon the justifiability of going beyond the money cost explanation, and tracing the way in which pain costs by influencing the supplies of the factors influence their rates of remuneration and therefore the relative money costs of production of different commodities. Each laborer tends to work and each capitalist to save until the marginal disutility to him of the labor or the saving equals the marginal utility to him of the price paid for it. Disutility or pain cost curves of individuals thus determine the amounts of labor and of waiting which shall be available at each possible rate of wages or interest and are therefore a factor in determining what shall be the actual market rates of wages and interest.

The classical economists conceded that utility was a necessary condition for the existence of value, but they either tacitly assumed that utility remained constant and attributed changes in value solely to changes in cost or, assuming cost per unit to be constant regardless of output, they argued that in the long run changes in demand could not result in changes in price if cost of production remained unaltered. Jevons, the Austrians and J. B. Clark shifted the emphasis in value theory to the demand side and maintained that utility was the ultimate regulator of value. The prices of the production factors are merely a reflection of the prices of their products, each factor commanding a rate of remuneration per unit corresponding to its marginal value productivity; and the total amount available of each factor is tacitly assumed to be fixed and independent of its rate of remuneration. While the prices of commodities are proportional to their money costs of production, these money costs are themselves wholly dependent on the demands for the products of the factors.

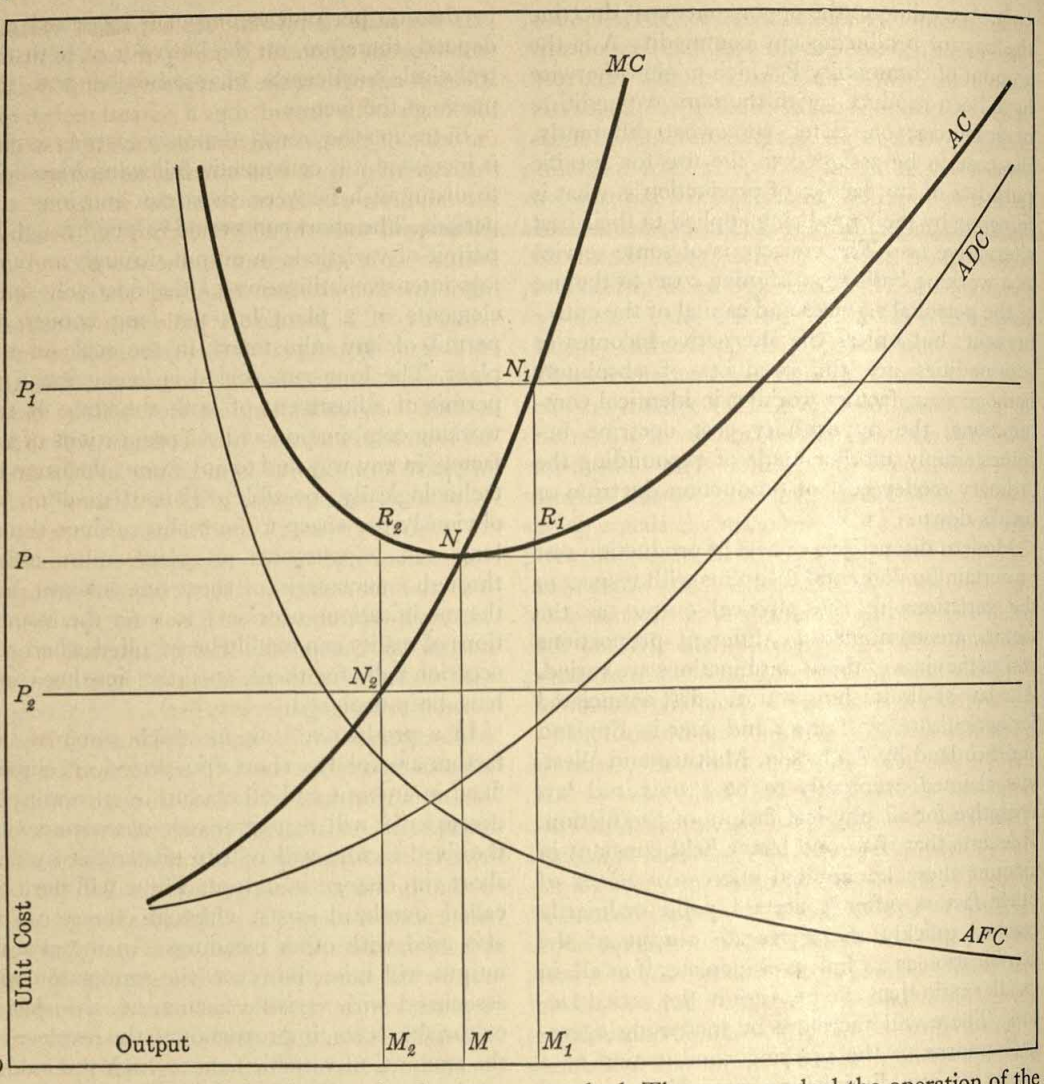
The opportunity cost doctrine, first given that name by David I. Green ("Pain-Cost and Opportunity-Cost" in *Quarterly Journal of Economics*, vol. viii, 1893–94, p. 218–29) and developed with some elaboration by Davenport (*Value and Distribution*, Chicago 1908, ch. vii), is essentially a variant of the Austrian theory of

cost. According to the opportunity cost doctrine the cost of producing any commodity A is the amount of commodity B which might otherwise have been produced with the same expenditure of resources; or, stated somewhat differently, the cost to be assigned to the use for specific purposes of any factors of production is what is foregone by their not being applied to their best alternative use. The concept is of some service as a working basis for assigning costs to the use of the personal services and capital of the entrepreneur; but unless the alternative incomes or commodities are the products of absolutely homogeneous factors working in identical combinations, the opportunity cost doctrine becomes simply another mode of expounding the ordinary money cost of production doctrine or breaks down.

Modern discussions of cost of production rest on certain fundamental theorems with respect to the variations in the physical output as the factors are combined in different proportions and as the sizes of these combinations are varied. The law of diminishing returns, first enunciated for agriculture by Turgot and later in England and Scotland by Anderson, Malthus and West, was claimed eventually to be a universal law operative for all physical factors of production. It asserts that if to one factor held constant in amount there be applied successive doses of other factors, after a certain point ordinarily reached quickly the aggregate output of the combination as a whole will increase, if at all, in smaller ratio than the increase in the varied factors. There will therefore be increasing aggregate returns to the working combination as a whole but at a diminishing rate of increase and diminishing average and marginal returns per unit of the varied factors. The amounts of the respective factors of production necessary for the production of one unit of the product, or in Walras' phrase the "technical coefficients of production," will depend therefore on the way in which the law of diminishing returns operates. The most efficient proportion of the factors is determined, however, not merely by the technological law of diminishing returns but also by the amount of output desired and the prices of the factors. As the output is increased and the size of the combination of factors is enlarged, the proportions in which the factors are combined may either remain fixed or vary so that the optimum proportions for each particular scale under the prevailing prices of the factors are employed. The behavior of money costs of production per unit as output is increased will depend, therefore, on the behavior of both the technical coefficients of production and the prices of the factors.

In tracing the trends of money costs as output is increased it is convenient, following Marshall, to distinguish between short run and long run periods. The short run period is long enough to permit of variations in output through more or less intensive utilization of the relatively fixed elements of a plant but not long enough to permit of any adjustment in the scale of the plant. The long run period is long enough to permit of adjustment of both the scale of the working combination and the proportions of the factors in any way and to any extent that may be technologically possible. This distinction is obviously too sharp to be realistic, since actual long run adjustments of plant must occur through a succession of short run changes, but the modifications necessary to meet the conditions of reality can readily be supplied when the occasion calls for them, once the limiting cases have been analyzed.

In a productive unit in which some of the factors are for the short run period absolutely fixed in amount and others can be increased or decreased at will, aggregate costs associated with the fixed factors will remain unaffected by any short run change in output. These will here be called overhead costs, although the term is also used with other meanings. An increase in output will raise, however, the aggregate costs associated with variable factors, i.e. the direct or variable costs, in proportion to the increase in the amounts of variable factors employed in the productive combination. As output is increased beyond the point where the law of diminishing returns begins to operate, it will take an increase in the amount of the variable factors of $a + x$ percent to bring about an increase of a percent in output, x being a positive quantity itself increasing as output is increased. With an increase in output variable costs per unit will therefore rise at first slowly and later with increasing rapidity, as is indicated by the curve ADC (see graph on the next page). The overhead costs per unit of output will decline, however, rapidly at first and more slowly later, their curve AFC tracing a rectangular hyperbola. The average cost per unit, including both fixed and variable costs, shown by the curve AC will fall at first owing to the rapid decline in the overhead costs per unit but will turn upward at that point where the increase in the average variable



costs begins to exceed the decrease in the average overhead costs. At this point marginal cost, or the variable cost of the last unit added to output, must obviously be equal to the average cost per unit. For this reason the curve MC representing marginal cost will intersect the curve AC at its lowest point, that is, at the point at which a horizontal line would be tangent to it.

Under short run conditions the preceding description and the graph will represent the characteristics of the cost situation for any concern in any type of industry. There will be differences between concerns and between industries in the rate of change of the various curves and in the relative importance of the downward and upward sloping portions of their average cost curves. The greater the overhead costs, the greater will be the output possible before the turning point N in the average cost curve is reached. The more marked the operation of the law of diminishing returns, the sharper will be the upward slope of the ADC and MC curves and of the AC curve beyond the point N.

An individual concern achieves equilibrium at the point at which its marginal cost equals its marginal revenue. Since for a small concern in a great competitive industry marginal revenue will approximate price per unit, it will pay the concern to carry production to the point where marginal cost equals price. In the short run equilibrium will be reached when marginal cost equals price, regardless of whether this marginal cost is greater or smaller than average cost. But in the long run marginal and average cost must be equal to each other and to price. Thus if the price is higher than MN, say M_1N_1, the aggregate returns of the concern on its owned factors will exceed their aggregate cost

by an amount equal to $N_1R_1 \times OM_1$. Unless this condition is due to the fact that the concern is able to utilize the factors more effectively than can others, which would mean that it is failing to charge at cost the full value of its managerial ability, it will not persist for long. Increased output by the rest of the industry on the one hand, and a rise in the price of the factors on the other, will tend in the long run to eliminate the difference between price and average cost per unit.

Once a long run equilibrium for the industry as a whole has been disturbed by an increase in long run demand and at least a temporary rise in price, a new long run equilibrium will involve an increase in output for the industry as a whole, a change in price and changes in costs. The long run expansion in the industry's output will be brought about by a more intensive use of existing plants; or by an increase in scale of plants; or by an increase in the number of plants, the scale remaining on the average unchanged; or by some combination of these methods. To simplify the exposition it will be assumed that these methods are possible only alternatively, although this is of course an unrealistic assumption.

Increase of output by more intensive utilization of existing plants is by hypothesis the only method of short run adjustment of output to an increase in demand. Since no equilibrium is possible before the point of lowest average costs has been reached, such an expansion involves increasing average costs of production. As a long run procedure it will not be adopted unless other methods of expansion of output either are impossible or involve even higher marginal costs, and when adopted it brings about a situation contemplated by the Ricardian rent theory in its most rigid form. This theory assumes that the land capable of a particular type of use is absolutely limited in quantity and already fully devoted to that use and that there are no advantages in combining farms or in breaking them up into smaller farms. Increase of output can then take place only through the more intensive cultivation of the given quantity of available land and will involve an increase in marginal costs along the curve MC with no difference in this respect from the short run situation. It is a condition, however, of long run equilibrium that marginal cost must equal average cost. This equalization will be brought about for each concern by an increase in land rents or in the prices of the factors limited in quantity.

If the scale of plants does not affect average cost of production and if multiplication of plants affects it adversely, the increase in output will in the long run be provided by a general increase in the scale of the existing plants, each operated at that rate of output which makes its average cost a minimum; production for the industry as a whole will be under conditions of constant average cost as output is increased, and for the individual concern marginal cost will equal average cost. If increase of scale means decrease of average cost, i.e. if there are net internal economies of large scale production, for each concern long run marginal cost will be below long run average cost; each concern will therefore have an incentive to indefinite expansion of its scale of operations, price will tend to fall below average cost, conditions of cut-throat competition and of the progressive elimination of all the financially weaker producers will prevail, and equilibrium will not be established until either the possibilities of internal economies of large scale production have been exhausted or monopoly prevails.

If an increase in the scale of plants involves an increase in average cost of production, expansion of output will take place through multiplication of plants without change in their average size. If the number of plants does not affect costs of production, each concern will in the long run produce at a rate at which its average cost is at a minimum and is equal to its marginal cost, and for the industry as a whole production will be under conditions of constant cost as output is increased. If multiplication of plants results in a general lowering of costs throughout the industry, i.e. if there are net external economies of large production, the industry as a whole will be in long run equilibrium when each concern is carrying production to the point where price, marginal cost and average cost are all equal; but the larger the number of plants, the lower will be the level of costs at which these equalities will prevail, i.e. for the industry as a whole production will be under conditions of decreasing cost. If multiplication of plants involves a general increase in costs, i.e. if there are net external diseconomies of large production, similar conditions will prevail under long run equilibrium except that, as the number of plants and output for the industry increase, the level of costs will rise for all producers and the industry as a whole will operate under conditions of increasing cost.

The factors which account for the decrease in

average cost with the increase in the size of the plants or of the industry have been described by Marshall as internal and external economies. If the prices paid for the factors remain unaltered as output is increased, as has been assumed in the foregoing analysis, such internal and external economies as are present would consist of technological economies, i.e. reductions in the technical coefficients of production. Practically all the examples of possible internal technological economies which are given in the literature result from full utilization of expensive items of equipment or personnel, where either the smallest possible unit requires large output for its complete exploitation or where the efficiency of the unit in the engineering sense increases with its size. It is difficult to conceive of cases of technological external economies. Possible instances, however, are the cross fertilization with respect to ideas and techniques and the general stimulus to technological progress which may result from the existence of many competing producers in the same industry, the advantages of a large labor market in facilitating the selection and maintenance of a satisfactory labor force, and the saving of transportation costs resulting from the even distribution of plants with respect to the market.

Probably more widespread and more important to business men are the pecuniary economies, internal and external. Pecuniary internal economies would be the savings on prices of materials purchased and on rates of remuneration for labor and capital employed which accrue to a large scale concern because of its size. Pecuniary external economies would consist of similar savings accruing to a concern because it was a part of a large industry. Pecuniary external economies for one industry would ordinarily, although not necessarily, be the result of internal technological economies in other industries which supply it with its materials and equipment and which can produce at a lower cost when their outputs are large.

The types of cost trends discussed are static and not historical trends. Through historical time inventions in technology, progressive improvement in business organization and changes in the prices of the factors may result in increasing output being accompanied by falling money costs, even though on a static basis the industry may be one of increasing money costs. For example, the predictions by the classical school of a trend of increasing costs for agriculture were based on the static tendency toward increasing cost resulting from the operation of the static law of diminishing returns in an industry in which one of the essential factors of production, land, was definitely limited in supply. The progress of agricultural technique, however, has been so great that in spite of the great increase of agricultural output even in old countries during the last century the real costs per unit of output have probably undergone substantial decrease.

In many of the standard economic treatises an attempt is made to deal directly with the relations of the cost trends for an industry as a whole to price instead of proceeding, as was done above, from the cost trends of the individual concerns to the contributions made by each to the supply of the industry as a whole. With respect to industries subject to internal economies of large scale production Marshall saw the difficulty, resulting from the differences in the behavior of the costs of different concerns, in the presentation of a significant cost curve for an industry as a whole. He proposed a solution in the concept of the "representative firm," a sort of modal concern having its appropriate share of the internal and external economies at each stage of growth of the industry at large, so that the trend of its costs would afford an index of the trend of costs for the industry. However, he gave little information on the vital point as to how the representative firm could be identified for each stage of growth of the industry, beyond the intimation that it was a concern earning neither more nor less than the current rate of return on its investment, i.e. a firm whose cost including normal profit was just equal to price. The obvious circularity of reasoning involved in attempting to explain the determination of price in terms of the behavior of costs of a concern which could be identified only by the equality of its cost to price has been pointed out recently by a number of writers and has tended to destroy faith in the usefulness of the concept of the representative firm for this purpose.

American statistical investigations of costs during and since the war have uniformly disclosed a wide range of variation in the average costs of different concerns within each industry investigated. These statistical cost data, when arranged in a graph from left to right in order of increasing size, form an ascending curve; graphs of this type have been called accountants' cost curves, particular expenses curves (Marshall) and bulk line curves (Taussig). Some students of these curves claim that they find a substantial degree of constancy in their statisti-

cal characteristics and especially in their indications as to percentages of output produced at a cost in excess of price. Examination of such curves of this type as have been published does not give much confirmation to such findings, and no a priori grounds have been given for expecting such regularities. If the nature of the data on which such curves are based is taken into account, neither the wide dispersion of costs nor the indication that a substantial fraction of output, generally from 5 to 15 percent of the total, is produced at an average cost in excess of price presents any problem of reconciliation with traditional price theory. The curves are based on accounting records differing in their methods of construction from concern to concern, never interpreting costs in exact conformity with the definitions of economists and dealing in an especially arbitrary manner with the important item of interest on investment. The concerns whose costs are recorded are often scattered over a wide area, in which substantial regional differences in transportation costs to market and in market prices may be present. The costs recorded, moreover, are as of an actual production period rather than for any particular period of theoretical short or long run equilibrium. But even equilibrium price theory requires for the short run period only that marginal costs shall be equal for all producers in the same market and leaves room for the existence of wide divergences in average cost and of production at average costs in excess of price.

The preceding discussion of the relation of cost to price assumed the determinateness of unit costs, an assumption which causes some difficulty in the case of joint products. Joint products have been sometimes so defined as to make it difficult to distinguish between the problem of joint costs and that of overhead costs. The most serviceable definition designates as joint products commodities which are sufficiently distinguishable from each other to have different markets and to command different prices even under competitive conditions, but which are partly or wholly the outcome of a common process of production. This definition makes the existence of joint products consistent with long run competitive equilibrium, whereas in the long run there are no overhead costs. Under monopoly, however, arbitrary price discriminations between buyers are possible even for homogeneous units of the same commodity and the problem of joint costs merges into that of overhead costs.

Some of the formulae commonly suggested for the apportionment of costs to joint products cannot be defended on grounds either of logic or of expediency. One widely used method of apportionment is to impute as its cost to joint product A the aggregate cost of both joint products minus the market price or the receipts from sale of the other joint product B. This makes the cost of one product depend on the price of another, a price which may often be determined at a moment of time other than that at which the commodity was actually produced. It will give obviously absurd results if the price received from product B should exceed the aggregate cost of both products and is patently unsatisfactory when it is desired to find the separate costs imputable to both products. Equally arbitrary and unsatisfactory are other methods of apportionment sometimes used, which distribute the aggregate costs among the joint products on the basis either of their relative market values or of some physical unit of measurement. Were the nature of the productive process such as to establish fixed and invariable proportions in which the several commodities could be produced, it would be impossible to find any rational basis for apportionment of the aggregate costs or any rational objective which such apportionment could serve. It is always possible, however, to vary in some small degree at least the proportions in which the respective joint products shall be produced. Where these proportions are variable it is possible to find the marginal costs imputable to each by finding in turn what increase in aggregate expenses is necessary to obtain a marginal increment of output of each, the output of the others remaining constant. Such determination of marginal joint costs is essential for rational choice between alternative processes of manufacture where these result in changes in the relative amounts in which the several joint products are produced.

Older economists tended, by implication at least, to minimize the extent or wholly to deny the existence of any discrepancy between costs as reflected in entrepreneurial expenses of production under competitive conditions and costs as burdens on society as a whole. For example, suggestions of this nature are embedded in Adam Smith's theory of the proportionality of wages in different occupations to their agreeableness or disagreeableness, in Ricardo's labor cost theory of value, in Senior's argument that interest was a payment for the disutility of abstinence from immediate consumption and in J. B. Clark's

marginal productivity theory. It later became apparent to most economists, however, that the money costs of production of commodities and services bore no precise or uniform relationship to the subjective costs incurred by those persons directly contributing by their services or capital to their production. A large part of the economic literature which attempts to deal with social cost has consisted of the demonstration that there exist on a priori grounds strong presumptions that entrepreneurs' costs in an individualist economy are an inaccurate measure of the underlying and more fundamental costs of production.

Attempts to devise a satisfactory and usable concept of social cost and to apply it in a positive and objective way to the analysis of economic process have not as yet made much progress. The main source of difficulty lies in the apparent impossibility of finding an objective and homogeneous unit of social cost. A social cost calculus in subjective terms, for instance in terms of disutility, must face the objections that disutility cannot be clearly defined and that it is only in an approximate and unreliable way, if at all, that the disutilities of different persons and periods can be compared. Social cost calculus in terms of consumption of productive resources, or of units of "social energy," requires a scale of relative values on the basis of which units of productive resources of different kinds can be equated with each other, and if their prevailing rates of market value are used for this purpose, the result is simply a money cost of production calculus under a different name.

It is possible to list factors connected with production or with the economic organization of society which will generally be accepted as elements of social cost. Such is essentially the method of J. A. Hobson (*Work and Wealth*, London 1914), who lists as "human costs" such things as the degradation and loss of self-respect of labor which results from menial tasks, the impairment of physical and moral health resulting from the fatigues and strains of industry and the corruption of aesthetic and moral standards —factors which find at best only inadequate expression in the wages cost of labor to the entrepreneur but which society should nevertheless take into consideration. But Hobson fails to disclose by what means these various costs can be objectively equated with each other.

The appraisal of the relative importance of the various social costs as compared with the social income for whose production they may be necessary involves the use of subjective judgment, even if data upon which it is exercised have been obtained by rigorous scientific investigation. The value of such appraisals for certain purposes is, however, scarcely impaired by the impossibility of objective verification. It is often the only method available to the statesman and the social philosopher when conflicting considerations must be weighed against each other. This still leaves the question open as to whether the social scientist *qua* social scientist shall have recourse to such methods or shall refrain from making final judgments with respect to matters affecting social welfare.

In his *Economics of Welfare* (3rd ed. London 1929) Pigou made an elaborate attempt to demonstrate the possibilities of a procedure intermediate between analysis of costs in terms of the pecuniary market valuations and analysis of costs in terms which take into account all the cost elements of significance for society whether exactly measurable or not. The analysis is primarily in terms of "private" and "social" product per unit of cost but can readily be translated into terms of private and social cost per unit of product. The marginal private net cost of a commodity is the increment of pecuniary expense incurred by an entrepreneur in producing its marginal unit. Its marginal social net cost is then calculated by making certain adjustments. From the marginal private net cost is subtracted such part thereof as represents merely an increase in the prices paid for the factors of production in consequence of the marginal increase of output, as such expenses of production from the social point of view reflect not a genuine cost but merely a transfer of income between individuals. To the remainder are added items which are genuine costs to the community, although the individual entrepreneur is not required to give compensation for them. For example, there may be increase in the real costs of production to other producers resulting from his expansion of output, uncompensated damages to his neighbors, such as from smoke or noxious fumes or impairment of the amenities of a neighborhood. Pigou emphasizes the desirability of bringing into equality marginal private net cost and marginal social net cost, whether by legal regulation, subsidies and taxes or in some cases by the establishment of monopoly organization or by moral suasion. Otherwise the entrepreneur may either have an incentive to carry production further than is justified or may not have an incentive to carry it as far as is justified

from the social point of view. Since Pigou adheres with minor exceptions to an objective pecuniary measure of cost and product, he is forced to restrict the range of his analysis to those cost aspects of economic activities which are fully amenable to the pecuniary calculus, and the gain in objectivity which results is inevitably offset to some extent by the loss in comprehensiveness and finality of the conclusions reached.

Any rational system of economic organization of society must of necessity take costs into consideration in allocating resources to different employments and in selecting from among alternative processes of production. In a purely individualistic society costs would govern the allocation of resources only in so far as they manifested themselves in entrepreneurs' expenses of production through the ordinary processes of the market. No modern country, however, leaves this wholly to the uncontrolled operations of the market; every government influences entrepreneurs' costs, directly or indirectly, to make them conform more closely to what it regards as social costs. Four main classes of governmental activity in this connection can be distinguished: (1) regulations intended to force the elimination of practises involving social costs which are not adequately compensated, such as safety legislation, regulation of hours of labor, night labor, child and woman labor, zoning laws; (2) measures requiring entrepreneurs to compensate for social costs which otherwise would remain wholly or partially uncompensated, such as legislation requiring workmen's compensation, contributions for unemployment insurance, compensation for damages or worsements to adjoining property; (3) measures intended to eliminate or reduce the wastes of individualistic competition among producers, such as the suppression of unfair competition, the promotion of standardization of specifications, weights and measures and the establishment of legal monopolies; (4) research and educational activities intended to show entrepreneurs how costs can be reduced through improvements in organization or in technique.

In a socialistic society it would presumably be the policy of the government either directly to administer production and the allocation of resources in such a way as to bring marginal social product and marginal social cost as it sees them into equality in all occupations, or else by reform of the distribution of property and income, the promotion of equality of opportunity and the systematic regulation of production and exchange to secure the elimination of those sources of divergence between marginal social cost and marginal social income which result in an individualistic society from the discrepancies between marginal private and marginal social net costs.

JACOB VINER

See: OVERHEAD COST; INTERNATIONAL TRADE; MONOPOLY; DIMINISHING RETURNS; INCREASING RETURNS; PRICE; VALUE; COST ACCOUNTING; VALUATION; ECONOMICS.

Consult: Whitaker, A. C., *History and Criticism of the Labor Theory of Value in English Political Economy* (New York 1904); Cannan, Edwin, *A Review of Economic Theory* (London 1929) chs. iv and vii; Patten, Simon N., *The Theory of Dynamic Economics* (Philadelphia 1892); Bullock, C. J., "The Variation of Productive Forces" in *Quarterly Journal of Economics*, vol. xvi (1901–02) 473–513; Davenport, H. J., "Proportions of Factors—Advantage and Size" in *Quarterly Journal of Economics*, vol. xxiii (1908–09) 593–617, and "Cost and Its Significance" in *American Economic Review*, vol. i (1911) 724–54; Edgeworth, F. Y., "The Laws of Increasing and Diminishing Returns" in his *Papers Relating to Political Economy*, 3 vols. (London 1925) vol. i, p. 61–99; Fanno, Marco, *Contributo alla teoria economica dei beni succedanei* (Milan 1926); Robertson, D. H., Shove, G. F., and Sraffa, P., "Increasing Returns and the Representative Firm" in *Economic Journal*, vol. xl (1930) 79–116, and articles cited in "Note by Editor"; Schultz, Henry, *Statistical Laws of Demand and Supply* (Chicago 1928) ch. iv, and "Marginal Productivity and the Pricing Process" in *Journal of Political Economy*, vol. xxxvii (1929) 505–51; Taussig, F. W., "Price-Fixing as Seen by a Price-Fixer" in *Quarterly Journal of Economics*, vol. xxxiii (1918–19) 205–41; Kreps, T. J., "Joint Costs in the Chemical Industry" in *Quarterly Journal of Economics*, vol. xliv (1929–30) 416–61; Clark, J. M., *Studies in Economics of Overhead Costs* (Chicago 1923); Knight, F. H., "Some Fallacies in the Interpretation of Social Cost" in *Quarterly Journal of Economics*, vol. xxxviii (1923–24) 582–606.

COST ACCOUNTING. The systems of procedure called cost accounting differ so widely in scope, objective and method that no positive realistic definition of the term is possible. Some systems consist of analyses currently and continuously made, while others are intermittent studies. Some focus upon the unit (average) costs of the several commodities simultaneously produced in an enterprise, while others ignore diversity of product and fix attention upon costs of unit services performed. Many, perhaps most, are intended to assist in maximizing net profits, but others not materially distinguishable from these in scope and method are employed in such non-profit enterprises as, for example, government navy yards.

Cost accounting should be distinguished from financial accounting. The latter is primarily concerned with the net summation of income for successive operating periods and with the valuation of the assets, liabilities and interests in net proprietorship at particular times. No system of cost accounting includes any of these objectives.

Highly developed systems of cost accounting first appeared late in the nineteenth century; they have come into wide use since 1910. This sudden rise is not due to the appearance of new problems. But many old problems have become vastly important with the advent of large scale enterprise accompanied by specialization of production agents and standardization of products. The problem of unused capacity becomes more acute as specialization grows in seasonal industries or in industries especially subject to the perturbations of competition among large concerns. While with the expansion of an establishment its manager is increasingly removed from direct observation of the details of the business, the concomitant increase in the frequency of repetition of many processes makes precise information about them more essential to the success of the establishment.

The first great impetus to cost accounting was given by the work of Frederick W. Taylor and his associates and their followers. Studies by economists, teachers of accounting and engineers, as well as by business men and accountants, have improved method and technique. Instruction in colleges has done much to stimulate the use of new techniques.

Because of the wide variety of problems dealt with by cost accountants, the diversity of the procedures appropriate to these problems and the complexity of individual systems of accounts, discussion of procedure is limited here to that group of procedures that have been invented to analyze manufacturing costs. The objective of cost accounting in manufacturing establishments is to assist the management to maximize profits or to minimize losses. Help toward these ends may be sought in three principal ways. In the first place, unit costs—figures for average cost per unit of each kind of product found by distributing total manufacturing expense among the several products and dividing these commodity totals by quantity produced—may be determined at frequent intervals. Reliable unit costs of this sort are of great help to the management in determining the relative quantity of each type of goods to be produced. Secondly, costs may be reduced through the use of various currently compiled subtotals of the accounts as indices to disclose at once waste of materials, arrearages in scheduled operations, inadequate employment of men and equipment and inefficient operation of any production element. Thirdly, a better statistical basis for budget making may be provided than that which can be offered by financial accounts alone.

Underlying the day to day cost accounts are a series of analyses of cost problems. The most important of these problems are, first, the segregation of those costs to be treated as direct costs, those to be distributed as overhead or burden and those to be disregarded in the manufacturing cost accounts; second, the estimate, in advance of distribution, of the amount of overhead to be incurred during the next operating period; and, third, the allocation of joint costs.

Although no criteria have been agreed upon for segregating costs into direct, overhead and undistributed groups, direct costs usually include the major items of outlay for materials and services that are specially or directly appropriated to the manufacture of some particular product. The purchase price of the principal materials and the wages of laborers working solely upon a particular product are types of direct expense. By means of stores records and job tickets such expenses are charged directly to the product. Some expenses that are not conveniently and directly assignable to specific products may, nevertheless, be either necessary or incidental to manufacturing and may vary directly with volume of operations. These fall in the overhead group and include outlays for fuel, janitor service, repairs and charges allotted to the period for depreciation and obsolescence.

A continuous current accounting for materials actually utilized is often indispensable, and a similar recording of the specific services of men and machines is both desirable and practicable. But a daily distribution of overhead, even if possible, would be too costly a luxury; and thus the second type of preliminary analysis, the forecasting of overhead, is used. Estimates are made of the total of each overhead expense to be incurred during the next period. These totals are divided either by an estimated total of some other cost, such as the cost of direct materials issued from storerooms, or by an estimated total of some service, such as direct labor hours worked, to obtain a unit burden charge. This unit burden charge is employed as a coefficient

of the daily recorded cost or service from which it is derived. By this means charges for overhead cost are distributed in the daily accounting.

Since the estimates upon which burden rates are based are subject to error, it frequently happens that large discrepancies arise between manufacturing expenses incurred during a period, as shown by the financial accounts, and manufacturing expense charged to products during the period. There is another estimating error of different type but of a more serious kind: cost accountants in seeking to reconcile their records with the expense accounts in the financial books have too often been willing to accept and use a depreciation formula merely because a reasonable, year by year, aggregate charge is obtained by its use. In cost accounting appropriate machine by machine estimates of depreciation are requisite to reliable unit costs; erratic distributions of correct totals may cause harm. Even the writers who favor the machine hour methods of distributing overhead, methods in which this type of error is most significant, seem largely to be unaware of this source of unreliability in unit costs.

The third type of analysis underlying the cost accounts is the allocation of joint costs. The problem of distributing the costs of a basic material and of processes prior to separation of material among coproducts or among main product and by-products has long occupied the attention of business men as well as of engineers and cost accountants. Among the proportional bases of distribution of these joint charges may be mentioned: weight, bulk, market prices at which materials in the segregated stage could be bought or sold, sales prices of the several finished products, sales price less separate costs of each product, estimated sales price less estimated separate costs of each product. Often all costs are charged to one product and the sales of the others are treated as deductions from the cost of the main product. Many of these methods may have fantastic results.

A second important class of joint costs is presented by those outlays made to acquire, own, maintain and operate the fixed assets employed in manufacturing. Those expenses special or incidental to unusable capacity of assets fall within this class, although they present special difficulties of their own. These costs are distributed by means of burden rates attached to some direct charge or some function of a direct charge, such as percentage load on materials cost, percentage load on direct labor costs, dollar rates on man hours of direct labor performed on product, dollar rates on machine hours worked by each class of machine used in direct processing, and combinations of two or more of the foregoing systems. Sometimes these rates are calculated for a standard volume of operations per year, even though the expected volume may be far above or below this standard amount.

Costs may be jointly incurred with respect to different successively manufactured goods as well as to different concurrent products. Costs may be joint as between successive periods regardless of whether like or different products are made. Needless to say, the problem of analyzing joint costs is seldom limited in any enterprise to a single one of the types mentioned.

Cost accounting procedure rests upon oversimplified and largely arbitrary fundamental analyses. In assessing the value of cost accounting service the cost accountants' own estimates of the utility of the unit costs which they find must not be taken too seriously. An examination of the procedures, reduced to formulae, whereby the unit costs are found, shows in many systems that the figures produced cannot possibly have the properties attributed to them; in many instances, indeed, it is incorrect to call them costs at all.

The utility of any cost accounting may, however, depend very little upon the theory of cost imputation implied in its unit cost formula. Fundamentally, the statistical data of cost accounting report the yielding of services by productive agents and the absorbing of those services by products. Reports are given for each class of material, the amounts ordered, amounts received, amounts appropriated to specific production orders, amounts issued for processing; for labor hours of work done, work assignments made, pieces processed; for machine assignments, machine hours worked and machine processes completed. These figures, which do not become cost data until they are multiplied by monetary coefficients, are the ones upon which a works manager relies to reveal threatened shortages of necessary materials, arrests or disorders in operating schedules and deviations from standard practises. Major services are thus rendered by the data before they are inserted in the unit cost formula, indeed before they become cost data at all.

It cannot be said definitely that it is now possible, or will shortly become possible, by means of cost accounting greatly to extend the rational-

izing of management or of economic activity, to stabilize competition or to facilitate social control of industry. Such results must await both the invention and widespread use of reliable unit cost formulae. With the exception of a few experiments not as yet fully reported no attempts have been made to obtain costs resembling the economists' "marginal costs" or "differential costs."

Since the name is given to so wide a range of practise it is impossible to describe the extent to which cost accounting is used beyond indicating the prevalence of fairly elaborate systems. In the United States and Canada these will be found in most of the large scale manufacturing and refining plants. Highly developed systems prevail in large mining operations; they are rapidly spreading in construction and in shipbuilding. Certain cost accounting devices have been used for many years by railroad companies and in hotel keeping. The spread of cost accounting to other forms of enterprise, such as farming, merchandising and banking, has been confidently predicted, but many systems which have been tried in these fields have been quickly abandoned. In Great Britain, particularly in Scotland, cost accounting was begun fairly early but made no great headway before the World War. Since that time there has been a considerable increase in the use of cost accounting methods, most of which resemble American practise. Cost accounting was introduced even later into the more industrialized countries of continental Europe and Japan and there it has followed largely American and British procedure.

The National Association of Cost Accountants is the chief society of the practising profession in the United States. Both through its membership of public accountants, engineers and business managers and through active affiliations with other national and local societies a great many avenues for exchange of ideas and of experience have developed. Since cost accountants, as such, do not practise as principals but are, rather, corporate officers and employees in large organizations, little or no statutory control over practise has been proposed.

JOHN B. CANNING

See: ACCOUNTING; SCIENTIFIC MANAGEMENT; BUSINESS ADMINISTRATION; LARGE-SCALE PRODUCTION; STANDARDIZATION; COST; OVERHEAD COSTS; EFFICIENCY; WASTE; RATIONALIZATION.

Consult: Scovell, C. H., *Cost Accounting and Burden Application* (New York 1916); Kimball, D. S., *Cost Finding* (rev. ed. New York 1921); Church, A. H., *Manufacturing Costs and Accounts* (2nd ed. New York 1929), and *Overhead Expense in Relation to Costs, Sales and Profits* (New York 1930); Clark, J. M., *Studies in the Economics of Overhead Costs* (Chicago 1923) chs. iii–xii, xxiii; Bye, R. T., "Interests on Enterprisers' Capital as a Cost in the Light of Economic Theory" in *American Economic Review*, vol. xvi (1926) 266–72; Canning, J. B., *The Economics of Accountancy* (New York 1929) p. 248–310, 337–56; Sanders, T. H., *Industrial Accounting* (New York 1929); Ainsworth, Wilfred, *Cost Accounting* (London 1924); Hooper, W. E., *Railroad Accounting* (New York 1915) p. 86–89, 159–71, 423–51; Castenholz, W. B., *The Control of Distribution Costs and Sales* (New York 1930); Bennett, M. K., *Farm Cost Studies in the United States*, Food Research Institute, Miscellaneous Publications no. 4 (Stanford University 1928); Cole, W. M., *Cost Accounting for Institutions* (New York 1913).

COST OF LIVING. Interest in the cost of living has always been most acute during a period of rising prices. Then the equilibrium of existing social classes is upset; commercial groups thrive while creditors, salaried persons, wage earners, suffer. Thus the minds of the Elizabethan writers were full of the great price revolution of the sixteenth century. The wages rated in the old Statute of Labourers were "not answerable to this time"; the change was "without all conscience or reason." The same complaint reappeared in the course of the Napoleonic wars and again in our own day during the high cost of living period since 1900 and in aggravated form with the World War.

A remedy often proposed is the fixing of prices by government agency. In war time price regulation is of course usually necessary in order to coordinate a nation's resources. During the World War all the combatants had to resort to rationing. Cooperative buying and domestic production were encouraged, advertising was frowned upon, middlemen's profits were scrutinized, competing services were forced temporarily to combine.

The regulation of ordinary retail prices, however, was dropped in most cases as soon as the acute physical scarcity of the war period was over; the feature longest maintained, because of continued shortage of supply, has been the fixing of house rents. The rationalization of distributive machinery—the saving of duplication and waste by uncontrolled competition—ceased, and only some small measure of combined opposition to "profiteering" remains. The point of view of the man of affairs toward any control from above is well expressed by the former chairman of the British Food Commission: "The tendency is for the price to be fixed

at a point which will give the least efficient producer a living."

The other remedy commonly demanded when prices rise is an adjustment of wages. In Elizabethan England this was simple and inevitable, since maximum wages had been set traditionally by statute in any case. Henceforth the scale was to be revised periodically by the justices of the peace—a more flexible instrument than Parliament—in accordance with the price of "corn," so that "both in time of scarcity and plenty" it might "yield the hired person a convenient proportion of wages." This system persisted until the beginning of the industrial revolution.

In wartime Europe and America the problem was more complicated, although American prices rose far less than European: at their height in 1920 they were not above 216 on a pre-war base and from 1922 to 1930 they remained around 170. Nevertheless, with the first sharp rise of prices in the early years of the war workmen in key industries everywhere began to demand war bonuses. In continental Europe the economic strain was such that the demand was only partly met, by granting special bonuses to men with families. Governments took the lead, finding family grants to civilian employees an easy step from separation allowances for the military. When this procedure was adopted it led to discrimination by certain industrial concerns against men with families, and groups of employers in various places formed equalization or clearing funds whereby the costs of the family allowances were prorated among the entire group. The system spread during the post-war inflation and is still in force in one form or another for a total of nearly six million workers in France, Belgium, Germany, Austria and other central and north European countries.

In England and America the family allowance system was never attempted. But here as elsewhere wage increases were imperative during the war, and the government agencies charged with maintaining industrial peace had to furnish some index of living cost changes. In America the United States Bureau of Labor Statistics developed figures which were used by many employers, although many more preferred to compile their own or to rely upon a series presently issued by a research federation of several large employer's associations, the National Industrial Conference Board. Altogether up to 1925 it has been estimated that not less than five or six million American workmen had their wages adjusted with definite regard to some index of living cost changes. Other factors, however, such as the prosperity of the industry or the going rate of wages elsewhere, commonly entered each settlement. In Great Britain as late as 1922 actual sliding scales of wages based on the Ministry of Labour's index were in force for nearly three million workers; however, even here the changes granted were usually somewhat less in either direction than the cost of living change.

While the swing of the business cycle was upward, living cost agreements once made were relatively easy to keep, for employers, bidding against one another for labor in any case, would gain little by refusal to grant increases. But after 1920 with falling prices labor in many cases offered heavy resistance to proportional reductions. Then for the first time labor counsel, in America especially, began to lay great stress, not upon changes in cost of living, but upon the basic cost of living, a minimum budget in commodity rather than price terms. The clothing and the printing trades, as well as certain railroad groups, were quick to make use of this argument for bettering the admittedly inadequate original wage. As a consequence, after much controversy, in many of these trades the wages of the lowest paid employees were not reduced proportionately with the rest; in many others the living cost clauses in their agreements were abrogated. Today with almost stationary or declining prices for seven or eight years labor appears on the whole to have lost interest in the subject, though various employing groups still urge the clauses as a form of future insurance. The habit in labor circles of appeal to a basic budget appears, however, to have come to stay.

In another sphere the question of a basic budget has had a longer history. All minimum wage legislation has had to take living costs into primary consideration. The boards set up under the laws to fix rates may bargain as well as analyze, but at least they bargain upon a "living wage" understanding. In Australia and America the cost of living criterion has been explicit; in England it has been largely overshadowed by consideration of the rates paid by the "better employers" of the district. Everywhere, however, where enforcement has been adequate the result has been to raise wages nearer to a "living wage" level.

In America the laws now languishing because of an unfavorable Supreme Court decision [Adkins *v.* Children's Hospital, 261 U. S. 525, 43 Sup. Ct. 394 (1923)] applied only to women, and

the usual standard was "the necessary cost of living" and "health" for the single woman living away from home. In Australia the application is general and the standards high: the cost of living for families is held to include "frugal comfort."

It is interesting, however, to note upon what slender cost data the awards in the leading earlier Australian cases were based. "Nine housekeeping women," "a landlord as to rents" and "a butcher as to meats" appear to have been the only guides of Justice Higgins in the celebrated Harvester Case (2 Com. Arb. Rep. 1). Frequently careful indices of price changes were then applied to these casual early budgets.

The standard size family allowed for in the Australian awards, the family of five, with three children dependent all at once, has been accepted also in American and English cost of living studies. As a matter of fact, at any given time the average family will not contain so many dependents, although at some time—perhaps a very critical time for young children—it may pass through such a phase. Besides, the very large families are shrinking; in Great Britain, according to Professor Bowley's findings, enough to affect noticeably the incidence of poverty. In France the two-child family is used as the standard in cost studies. Recently the National Industrial Conference Board has advocated a two-child standard in the United States.

For women wage earners the accepted cost standard is the single woman living away from home. Employers have often argued for the cheaper but "more prevalent" cost of living in the family group—a standard itself, however, frequently rendered necessary by the lowness of the wage received. At the other extreme the United States Women's Bureau has argued for a budget to include the cost of dependents. Professor Bowley's study, however, indicated that the incidence of dependency upon women is still very small.

Economic theory has long recognized that wages tend to adjust themselves to, among other things, the worker's standard of living. But in Ricardo's day this meant a bare subsistence. His "natural price of labour," even though he defined it as the price of food, necessaries and *conveniences* become essential to the laborer and his family *from habit*, meant to contemporary readers but an "iron" law. The laborers' habits appeared to be permanently conditioned to something very close to starvation.

Labor students now generally maintain that while marginal productivity may set an upper limit to wages competition is not sufficiently perfect to insure attainment of that limit; and that there is a lower limit set by the standard of living. Between these two limits the actual wage will be set by bargaining.

The collection of basic budgets has been essential to cost of living study. On the intensive side the pioneer work is that of Le Play. Living with one working class family at a time in various countries of Europe during the 1830's and1840's he secured a series of family monographs that for exhaustiveness have never been excelled.

For statistical generalization, however, the more rapid survey method is necessary (*see* FAMILY BUDGETS). Today this is usually undertaken by a corps of special agents who spend but a few hours with each family. Gross error becomes surprisingly infrequent when the schedule is made sufficiently detailed. Sometimes this questionnaire method is supplemented by account books kept for a period of weeks. On the continent of Europe large numbers of such accounts are sometimes kept for a year at a time, but American housewives are not so patient.

The father of the extensive method of surveys was F. M. Eden, who in 1795 set about unaided to determine "the State of the Poor" in rural England. His example inspired the statisticians of the 1850's to have Ducpétiaux commissioned to undertake the first cost of living survey for the government of Belgium. In Prussia Dr. Ernst Engel took up the task (*Der Kostenwerth des Menschen*, Berlin 1883; *Die Lebenskosten belgischer Arbeiter*, Berlin 1895) with an inquiry into the cost of bringing up a man, including amortization of children dying or never reaching self-support. Engel developed an annual cost scale, running from infancy to maturity, for the individual in the family group. The adult man ranked at three and one half times the infant unit (later named the *quet* in honor of Quételet), the adult woman at three times. The scale was arbitrary but proved extremely convenient for comparing the costs of families of different sizes. It is still in use in Belgium, Switzerland and elsewhere.

In America the Atwater food consumption scale, using the adult male as unit, has commonly been employed for the same purpose. A refinement upon it by Sydenstricker and King, the ammain scale, gives weight to the individual consumption of items other than food, such as clothing, recreation and the like. If recalculated for more representative communities

(the Sydenstricker-King communities were poverty stricken) it should prove very valuable.

Pioneer work in extensive cost of living surveys was done in the United States by the Massachusetts Bureau of Labor and later by the United States Bureau of Labor Statistics under Carroll D. Wright. The reports of the Commissioner of Labor for 1890–91 contain data on some 8500 families in certain selected industries, and that for 1903 on no less than 25,000 over the country at large. No attempt was made to set up any derived standard, but the reader is left to see how apportionment of expenditure changes with successive income levels. For food the American proportion was 43 percent as compared with the Belgian 67 percent or Eden's 75 percent. Like Ducpétiaux, Wright selected a portion of his families to contain a "normal" number of children (in his case one to five, all dependent; in Ducpétiaux's four, only two dependent), and it is the expenditures of these "normal" families that have been used as weights for later retail food and living costs indices. Wright, moreover, used an unexplained food consumption scale to measure size of family. This rough scale has been retained by the department.

Among private surveys the most noteworthy have been Booth's and Rowntree's in 1890 and 1901, undertaken to measure the prevalence of poverty in London and York respectively. Both found "poverty" covering nearly a third of the industrial population even under the most rigid definition of the term. The "cost of living" (above poverty) was taken to mean merely adequate animal subsistence.

A similar social interest has guided most of the pre-war surveys in this country. Mrs. More and Chapin in 1907 and 1909 in New York and Kennedy in 1914 in the Chicago stockyards district were all interested in the drawing of the poverty line. The actual standards of living, however, which they set up on the basis of their findings were in every case intended to be higher than bare physical subsistence (*see* STANDARDS OF LIVING). "American," "normal," "fair," were the terms they used. In money terms for a family of five these standards cost from $800 to $900 then, or about $1400 at the end of 1929.

Since the war, with rising consumption habits, there has been a tendency to rate these pre-war standards as "subsistence" levels and to scale up from them to "health and decency" ("subsistence plus") and to "comfort" levels. This was substantially the practise of the National War Labor Board and of the United States Bureau of Labor Statistics in the various theoretical budgets they drew up from 1917 on. Employers represented in the National Industrial Conference Board have been trying to checkmate this tendency. They claim that the true "American" cost of living is still made up of the typical goods and services which labor could command before the war.

This points to a dilemma in all cost of living studies. A theoretical budget for a theoretical family, however closely based upon observed habits, always contains an element of the ideal. On the other hand, an actual budget of an arithmetically average family leads only to a foregone standard. Of course the cost of living of any group will be whatever that group has to spend, be it little or much. The wage level will condition the consumption habits.

The problem becomes peculiarly pressing in studying the cost of living of different parts of a country so extensive as our own. Differences in cost of living between various sections and between urban and rural districts are frequently due far more to variation in content of the budget than to variations in price for an identical commodity budget in the different sections. Between different countries, and especially between Occident and Orient, living standards become too different to admit of ready cost comparison. Statistics here properly give way to description.

Precision in the measurement of living cost changes has become possible only lately with the rise of the science of index numbers. A century ago Joseph Lowe in England, closely followed by Scrope, pleaded in vain for a "tabular" or multiple commodity standard of value for wage payments and indeed for all forms of deferred payment. This proposal was really a forerunner of Professor Irving Fisher's plea of today for the "stabilized dollar," but in Lowe's view the pound sterling should be left alone and the revision applied only to the realm of voluntary contracts. Jevons, a generation later, was more successful in arousing interest in possible price indices, and in 1869 the London *Economist* began the oldest series of wholesale prices which is still current. Since 1900 wholesale indices have become very numerous. In 1902 the United States Bureau of Labor Statistics began its index of wholesale prices. But retail price indices came much later. It was considered too difficult to secure identity of quality in the goods and to strike averages between different local price

quotations. Yet for cost of living purposes the wholesale series were obviously inadequate, since wholesale prices fluctuate more violently than retail. In 1907 the United States Bureau of Labor Statistics made a beginning with its index of retail food prices, using for weights the consumption data furnished by its great 1901 budget survey. By the outbreak of the war the leading European countries had food indices, while Canada and Australia published data on rents and fuel as well. Completed indices, however, had to wait for the pressure of the war itself.

In America the Bureau of Labor Statistics in 1918–19 surveyed the expenditures of some 12,000 families in ninety-two shipbuilding and industrial centers, priced their purchased commodities back to 1914 and so began a series with post-war weights measuring changes from pre-war costs. Food in these new weights had gone down to 38 percent of the budget, while clothing and sundries had gone up. Today the bureau publishes a combined index for the country as a whole, besides separate indices for all the leading cities. The National Industrial Conference Board also publishes a nation wide index, using the bureau's figures for retail food prices but having separate reports on the other items of the budget. It uses pre-war weights, chiefly those of 1901, and for periods of rising prices its figures consistently run a little lower than the bureau's. This difference may be due not only to the weights but to the inclusion of more small towns, a shorter list of articles and dependence upon the questionnaire method of returns from merchants. The bureau uses field agents, maintains very strict identity of articles priced and secures multiple quotations on each.

The British Ministry of Labour index has been carried out much less expensively than the American. Its original survey in 1904 was far smaller though intensive, and its present price list is shorter; for instance, it mentions only fourteen carefully selected food items as compared to forty-three in the American index. Weights are as of 1904, while the base is 1914. Returns, as in most European countries, are secured largely by agents charged with other government duties. Sixty percent of the budget is allotted to food, as compared to Canada's and Australia's 35 percent.

In Germany before 1920 various city offices struggled in vain to keep ahead of the inflation, but since that year the Statistisches Reichsamt has published a national index. Weighting here, as in most indexes on the continent, is post-war with present scarcity very evident; e.g. food and rent, which in America cover half the budget, here cover three fourths.

France has never published a national index based on a complete budget nor indeed made any general cost of living survey. Local indices have been published by a host of joint commissions representing employers, employees and third parties set up by the government during the war, but their basic budgets are for the most part sketchy and vary greatly among themselves. Food usually runs to 60 percent and over in the more complete budgets.

In Italy the Milan index is interesting as showing the effects of the "dilution" of a standard during wartime scarcity. Calorie requirements were cut down 40 percent below the Atwater standard and cheaper foods than the pre-war substituted. The apparent cost of living in Italy would therefore appear moderate.

Continental housing estimates also run low. Most of the German indices, the Austrian and those of the Italian cities assume two rooms and kitchen. In contrast, the Canadian index specifies "6-roomed houses in good condition with good modern conveniences."

Perhaps the most elaborate index in the world is published by the city of Amsterdam. Its food budget alone contains over two hundred items. The original figures were based on full year account books and weighted by the quet system. For a time the city made fresh budget surveys every year, as the content of the living standard changed.

Very thorough indices are published by Belgium and Sweden. Sweden actually succeeded in having account books for over a thousand families kept for a year. Both took the families as they came and reduced them to income classes later on a consumption unit basis. Belgium now publishes its data on that basis, running a multiple, 5-class index "per quet per fortnight." The lowest class expends over 68 percent of its income on food. The differences in variations between the indices are, however, negligible: probably one would serve as well. In contrast, Norway, also very thorough, publishes an index in which the families are selected according to a specified income range. This is nearer the American 1918 procedure, where attention was concentrated upon only the most typical working class groups in each community.

Middle class groups have never been adequately studied anywhere, but especially not in America. In a number of continental and colo-

nial surveys place is made for the living costs of minor government officials. In America in 1919 the United States Bureau of Labor Statistics published a highly detailed minimum comfort budget for the family of a government employee in Washington, but it was theoretical. So too was the standard for the single woman clerical worker. Recently private investigators have made small cost surveys of certain university faculties, and the Bureau of Home Economics is beginning an account book study of professional families. But that is all. No one has yet had the temerity to study the cost of living of the small entrepreneur.

The cost of living of the agricultural classes is also underrepresented. It finds no place in the 1918 survey, and the studies recently published by the Department of Agriculture covering nearly 3000 farm families during 1922–24 lack uniformity. So far as they go, however, they show an unexpectedly close parallelism to the cost allocations of the industrial worker of 1918. Even rent occupies only 1 percent less of the farmer's than of the city dweller's budget, although the content of the housing standard of course is very different.

The International Labour Office brings together index numbers of wages and cost of living published by various countries. The bases vary according to the year in which each country began the collection of statistics but are in general 1913 for wholesale and 1914 for retail prices. The cost of living figures cover food, clothing, heat, light and rent, with all other items grouped under "miscellaneous." However, the variations in methods of gathering statistics and in living standards in the different countries make these indices hardly comparable.

When standards change with time, what shall the student of living costs do? The index he handles is rigid. His answer will necessarily depend upon his object. During the war the British Ministry of Labour refused to "dilute" its index, although current consumption, as shown by an extensive fresh study, had adjusted itself to necessity. Professor Bowley pointed out that this meant a loss to the government of something like 15 percent on its wage awards. But the ministry held that "cost of living" referred to normal not wartime habits. On the continent the tacit assumption was the opposite.

In America standards during and since the war have patently been going up, and there is no sign of their returning to an earlier level. Moreover, their content has changed greatly. Rayon, automobiles, the radio, the telephone, electric lighting, bathtubs, have shown extraordinary increases in consumption. Yet American budget weights are still as of 1918. For a general purpose cost of living index it would seem that weights ought to represent prevailing consumption for the most numerous groups of the population, including agricultural as well as industrial classes; and for this a fresh survey should be made at least every ten years.

DOROTHY W. DOUGLAS

See: CONSUMPTION; STANDARDS OF LIVING; FAMILY BUDGETS; LABOR, METHODS OF REMUNERATION FOR; SALARIES; MINIMUM WAGE; PRICES; PRICE REGULATION; PRICE STABILIZATION; INDEX NUMBERS; FORECASTING, BUSINESS; SOCIAL SURVEYS.

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COSTA, ANDREA (1851–1910), Italian socialist. Costa was one of the most important pioneers in the Italian socialist movement, and his career is to a large extent an epitome of its development during the period from 1870 to 1910. At the age of twenty Costa became secretary to Bakunin and like many of his fellow internationalists was deeply influenced by the anarchistic doctrines and violent revolutionary program which the Russian agitator was attempting, despite the opposition of Mazzinian nationalists, to introduce into Italy. Convinced at first that Bakunin's methods provided the only remedy for the distressingly backward conditions prevalent in Italy, Costa actively co-

operated both as organizer and as journalist and in 1874 took charge of plans for an insurrection at Bologna. But the complete collapse of this attempt, coupled with a similar fiasco at Benevento in 1877—which he had vainly tried to forestall—raised serious doubts in his mind as to the efficacy of violence. During the ensuing period of exile in Switzerland and France, where he had the opportunity of studying a more advanced economic organization as well as the methods of a more experienced labor movement, he became even more conscious of the limitations of his early views. These factors, heightened by the influence of Anna Kuliscioff, alienated him completely from abstract revolutionary theory. On his return to Italy in 1879 he definitely abandoned his former allegiance and became one of the outstanding leaders of the Marxian wing of the party. With a more realistic orientation Costa and the bulk of Italian socialists formulated a new program, which shifted the emphasis of socialism to peaceful organization of the working classes, to participation in the cooperative movement and to a more careful study of the economic and moral needs of the people. In 1881 Costa founded the socialistic journal *Avanti* and in the elections of the following year drew up the platform of the Marxian Socialists. With occasional interruptions due to short terms of imprisonment or exile he was a member of the Chamber of Deputies from 1882 until the year before his death. He became increasingly influential in parliamentary circles and was responsible as much as any other figure for the decisive influence exerted during the first decade of the century by the moderate wing of the Italian Socialist party.

RODOLFO MONDOLFO

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COSTA FERREIRA, ANTÓNIO AURÉLIO DA (1879–1922), Portuguese educationist, administrator and politician. Costa Ferreira was a physician by profession. He early distinguished himself by his investigations in anthropology and experimental psychology applied especially to the treatment of the mentally abnormal. He also held public office connected with the administration of welfare services, and as a reward for his enthusiastic work for the establishment of the republican form of government in his country the cabinet portfolio of *ministro de fomento* (public welfare or public aid) was given him in 1912. The principal interest, however, of his modest and sympathetic nature was the education of unfortunate children; hence in 1913 he resigned his high position in order to apply his pedagogic ideas as director at the Casa Pia of Lisbon, a refuge for fatherless children and for those subjected to a harmful environment. To the education of the mentally retarded he dedicated the Colonia Agricola de San Bernardino in Peniche. Outstanding among his labors with this group are those dealing with disturbances of speech, particularly stuttering, for whose correction he initiated measures of a kind superior to those then in use. He reached the conclusion that stuttering is a phenomenon of mental origin, resulting from a morbid emotional diathesis, whose treatment, like that of the other tics, demands above all that the mental or rather emotional state of the patient be constantly considered.

During the World War he served as a physician and provided for the care of wounded soldiers at his Instituto Medico-pedagogico de Santa Isabel, where he introduced a system of reeducation of the mutilated, their adaptation to various occupations and their professional orientation. He regarded the administration of this service as an economic, juridical, pedagogical and psychological problem resembling that of labor accidents. He deprecated undue philanthropic, military and medical emphasis and advocated the use of the Taylor system of scientific management in determining the economic value of the disabled.

C. BERNALDO DE QUIRÓS

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COSTA Y MARTINEZ, JOAQUIN (1846–1911), Spanish jurist, political theorist and reformer. Costa turned to the study of law after working in the office of an architect for several years, and in 1872 he obtained his degree

and became a notary in Madrid. He was a prolific writer and his works deal with history, geography, economics, sociology and law.

Costa played a prominent part in the movement for regeneration which followed the Spanish colonial disaster of 1898. He believed that Spain in order to survive must give up its imperialistic ambitions and must adapt itself to European standards and methods. In 1900 he published *Reconstitución y europeización de España* (Madrid); in 1901 the *Crisis política de España* (3rd ed. Madrid 1914) and *Oligarquía y caciquismo como la forma actual de gobierno en España* (Madrid), a notable study of the evils of Spanish public life. His writings stirred Spain more profoundly than those of any other thinker of the period and his work has been compared to that of Fichte. His books, articles and speeches were widely read while his slogans "School and larder" and "Reorganization of production, reorganization of education" became bywords. For the realization of his policy he organized the National League of Producers in 1899, which was a union of agricultural, industrial and commercial councils. He had hoped that the state would carry out his program, which included the building of canals and roads, drainage, home colonization, educational reform, social insurance, reduction of the army and navy budgets, simplification of justice and reduction of its cost and municipal decentralization. When the monarchy refused to adopt it, Costa espoused the republican cause, with which he was allied until his death. His ideas, however, influenced all the other political parties and even governmental policy.

Costa was also prominent as a jurist. A firm believer in the comparative method in legal history, he was the first to apply it to Spanish law. His works are distinguished by a remarkable knowledge of sources and by excellent methodology. The *Derecho consuetudinario del Alto Aragón* (Madrid 1880) stands as a model study of customary law. His other important legal works are *Teoría del hecho jurídico individual y social* (Madrid 1880, 2nd ed. 1914) and *El problema de la ignorancia del derecho* (Madrid 1901). *El colectivismo agrario en España* (Madrid 1898, 2nd ed. 1915) is a very complete discussion of the customary organization of real property in Spain and of the leading theories on this problem from the sixteenth to the end of the nineteenth century.

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COSTE, ADOLPHE (1842–1901), French sociologist and president of the Société de Sociologie. He differentiated decisively between "social facts" (belief, solidarity, politics and economics) and "ideological facts" (non-practical arts such as poetry, philosophy and theoretical science), insisting that there was no correlation between them and that only the study of the former was the province of sociology. Following the fashion of the sociologists of his day he considered social facts as following a definite linear sequence of evolutionary stages. These, he held, were primarily determined by the increase of population and its density, and he therefore stressed the importance of demography for sociological research. As population grows and becomes more concentrated, social differentiation and coordination increase and there come about progressive division of social functions and equalization of social conditions, political evolution developing from absolutism to the separation of powers, economic evolution from neuromuscular effort to the methodological organization of mechanical production, and the evolution of beliefs from polytheistic religion to rational science. Social progress is achieved by the subordination of ancient social institutions or of their survivals in new modes; thus the family, religion and property persist while losing their former significance.

G. L. DUPRAT

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COTTA, JOHANN FRIEDRICH, BARON VON (1764–1832), German publisher. With tenacious zeal and quiet determination Cotta built up one of the greatest German publishing houses, issuing besides newspapers and works of belles lettres scientific literature and periodicals. In 1811 he started a printing establishment in Stuttgart. A branch was formed in Augsburg, and in 1827 a lithographic and copperplate establishment in Munich was annexed. Cotta's son, Johann Georg, further expanded the enterprise. By the publication at popular prices of almost all the German classics and

by the payment of royalties to authors on a scale hitherto unknown the Cotta publishing house contributed significantly to German cultural development.

Cotta was one of the first in Germany to own, publish and edit a periodical, thus introducing a new system of journalism which later became general. Two of the journals and newspapers published by him attained special fame and exerted a lasting political and literary influence. The literary journal *Horen* (Tübingen 1795–97) was edited by Friedrich von Schiller with the cooperation of Goethe and Herder. The *Neueste Weltkunde* of Tübingen, founded in 1798, later the *Allgemeine Zeitung* of Stuttgart, was one of the earliest popular literary-political papers and had great political influence, with a considerable circulation in all the German states as well as abroad. It was from the outset markedly liberal and pro-French and espoused the Austrian cause in the struggle for German unification. Owing to censorship difficulties, which frequently confronted Cotta, its place of publication was changed several times. Since the founding of the German Empire the paper has been slowly fading in importance; in 1895 it was sold by the Cotta firm and in 1929, when it was known as the *Allgemeine Zeitung am Abend*, it ceased publication. Other important Cotta periodicals have been: *Europäische Annalen* (1795–1820), continued as *Allgemeine politische Annalen* (1821–32); *Das Staatsarchiv* (Häberlin, 1801–06); *Polizeifama* (Hartleben, 1802–36); *Jahrbücher der Medizin als Wissenschaft* (1804–09); *Archives littéraires de l'Europe* (1804–09); *Morgenblatt* (1807–65); and *Das Ausland* (1828–93).

In 1815 Cotta was a member of the Württemberg Diet. He was interested in the development of steamship traffic on inland waters, conducted several foreign political missions and aided in the creation of the Zollverein. At the Congress of Vienna he was a member of a committee on the freedom of the press.

HANS TRAUB

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COTTON. The origin of cotton is not known. Although species of the plant are native to all tropical or semitropical countries, modern commerce in cotton had its beginnings in India. The *Rigveda*, written before 1500 B.C., indicates that cotton was grown and manufactured at that time. The laws of Manu, probably compiled before 400 B.C., specified the use of the threads of cotton in certain sacrificial rites. Herodotus during the fifth century B.C. was the first to bring a description of cotton and its uses as far west as the Mediterranean. From that time onward the knowledge of cotton as well as its cultivation and uses spread westward into Persia and Sicily, from Persia into Turkey and Greece and from Sicily into Spain about 900 A.D.

The crusades introduced cotton and cotton goods to western Europe, and the light, highly colored fabrics from India were eagerly sought. Cotton thus became important in the commercial development of the Italian cities and in the establishment of trade routes across Europe and later was one of the prizes for the discovery of an all water route to India. It met determined opposition from wool in western Europe, especially during the seventeenth and eighteenth centuries, and high tariffs and embargoes were used to prevent importations. The results were wholesale smuggling and the manufacture of imitations. During the seventeenth and eighteenth centuries the introduction of raw cotton was greatly aided by the predominance of mercantilistic ideas, which advocated among other things free importation of raw materials. But the new cotton industry was comparatively unorganized and unrestricted and the demand for its products was in excess of manufacturing ability. These conditions greatly facilitated the industrial revolution in cotton manufacture of the last half of the eighteenth century. From 1764 to 1800 the consumption of cotton more than doubled every ten years in England. The price of yarn graded at 40 was quoted at 16 shillings per pound in Manchester in 1779, whereas in 1799 it was only 7 shillings and 6 pence. The effect on the price of raw cotton was the opposite. West Indian cotton was quoted at from 19 cents to 28 cents in 1771, whereas in the early nineties it averaged 50 cents. The lower price of yarn and cloth due to improved processes of manufacture expanded the demand for it enormously. The phenomenal growth in demand continued from 1801 to 1860. In 1801 the United States consumed 30,000 bales of 400 pounds each and in 1860 over a million. In

1801 England consumed 120,000 bales; in 1860, 2,614,000. Continental Europe consumed 75,000 bales in 1801 and 1,723,000 bales in 1860.

The higher prices of cotton at the close of the eighteenth century stimulated production in many countries but particularly in the United States and in Egypt. Lower production costs resulting from the introduction of Whitney's saw gin and the further development of the slave plantation system were also leading causes of the rapid increase in size of the American crop. Until almost the close of the century cotton cultivation in the south Atlantic states was a relatively unimportant activity of but local significance and the West Indies were a much more important cotton producing and exporting area. In 1784 only about fourteen bales of cotton were sent from the United States to England, but by 1852 the United States produced over three million bales a year, far more than any other country. During the years just preceding the Civil War over two thirds of the entire crop was exported; the majority of it went to England. Starting in South Carolina and Georgia this cotton kingdom spread north to Virginia and constantly westward into new country. There was a mania for acquiring new fertile land west of the Alleghenies, and many planters moved with their slaves and other property into the land of promise. By 1830 the new western country surpassed the Atlantic states in cotton production, and by 1860 the cotton belt had been extended into eastern Texas.

About 1820 Mohammed Ali, pasha of Egypt, became personally interested in improving and expanding the cotton growing industry of his country. The production was raised from 900 cantars of ninety-nine pounds in 1821 to 596,000 cantars in 1861, and by the end of the Civil War in the United States this figure had increased to 2,140,000. India was also a major source of raw cotton during the first half of the nineteenth century, and the volume of its production steadily increased.

Cotton production in the United States was severely set back by the disorganization following the Civil War. Many sections of the southeast never entirely recovered. Before the close of the century, however, great areas were opened in Texas and Oklahoma and the total production rapidly increased. Since about 1910 the cotton belt has been extended further into the southwest by means of irrigation. The most important of these newer regions are in southwestern Texas, the Salt River valley and the Pima region of Arizona, and the Imperial and San Joaquin valleys of California. An impetus was given to this movement by the development of the long staple American-Egyptian cotton by the Department of Agriculture. It was hoped that this crop would partly replace the long staple sea island cotton which had in large part been destroyed by the boll weevil. Cotton production is definitely moving to the southwest. In the years from 1909 to 1913 states west of the Mississippi had 16,969,000 acres in cotton, or 49 percent of the total; in 1929 they had 28,760,000 acres, or 62 percent of the total. In the season 1928–29 the United States had about 53 percent of the 85 million acres of the world devoted to cotton cultivation and grew about 56 percent of the total production of the world.

To free themselves from dependence on the United States and as part of the movement for national economic self-sufficiency each of the great cotton textile manufacturing countries attempted to secure its own source of raw cotton. England has made the most far reaching efforts in this direction. Much of its success has been due to the British Cotton Growing Association founded in 1902. The quality of cotton in India has been improved. New growing areas have been started or primitive ones stimulated in many parts of the empire, the most important of which are Uganda, Anglo-Egyptian Sudan, Tanganyika, the Lake Chad region, Queensland and Irak. Excluding India, the cotton crops of the British Empire more than quadrupled between 1918–19 and 1927–28. The association has aided cotton planters by supplying selected seed, often without charge, obtaining machinery and equipment for them, acting as their selling agents in England and financing ginneries in new districts. In some instances it has also given price guaranties to empire cotton grown under specified conditions. The Empire Cotton Growing Corporation, which has published in London since 1924 the *Empire Cotton Growing Review*, has through its research work and information service since its establishment in 1921 also helped enlarge and improve the cotton crops of the empire. Local agricultural departments have also aided in this work in recent years.

Between 1900 and the World War Germany made considerable headway in developing cotton production in its African colonies. Similar efforts by France in her colonial possessions with the aid of the Association Cotonnière Coloniale, and by Italy in Eritrea and Italian Somaliland

have been much less successful. Japan since its war with Russia has made considerable progress in developing cotton culture in Chosen. Of much greater significance are the increases in production and plans for further expansion in Transcaucasia and Turkestan in Soviet Russia. Here machine production is being introduced and transportation facilities are being developed under government supervision. Although production had diminished by 1920 to about one thirty-fifth of the pre-war level, by 1928–29 it was already 27 percent greater than in the period preceding the war. Production is also increasing appreciably in Egypt, which has for years been noted for its long staple cotton, and is expanding very greatly in India. In this latter country the area devoted to cotton growing has more than doubled since 1900, while production has trebled. Many new regions have been opened, several with the aid of irrigation. There has also been marked improvement in the quality of Indian cotton.

The world distribution of cotton acreage and of production is presented in some detail in the accompanying table. Cotton is by far the leading textile raw material of the world, constituting about 80 percent of all textile raw materials. The world's supplies of raw cotton are continuing to expand rapidly with the aid or encouragement of most of the great competing nations; but there is no general plan and no international control.

Except for a negligible amount all cotton must be manufactured before it is consumed. With the exception of the southern United States and Bombay, India, no important cotton producing area is also an important cotton manufacturing area. Europe is the area of greatest concentration in manufacturing. Its annual consumption of cotton of all growths amounts to more than 10,000,000 bales; that of Asia is 7,300,000 bales; North America, 7,300,000 bales; and South America, 500,000 bales. Of the great raw cotton consuming countries the United States, India and China use mostly home grown cotton; the great textile manufacturing nations of Europe receive the majority of their supplies from the United States, India and Egypt; while Japan secures over 95 percent of its supply from India, the United States and China.

Transportation costs are a minor item in locating the world's cotton manufacturing industry. Those countries with water transportation have some advantage. For example, the railway

THE WORLD'S COTTON CROPS 1909–14 AND 1928–29*

COUNTRY	AREA SOWN (IN THOUSANDS OF ACRES)		PRODUCTION (IN THOUSANDS OF BALES)	
	AVERAGE FOR 1909–10 TO 1913–14	1928–29	AVERAGE FOR 1909–10 TO 1913–14	1928–29
America				
United States	34,152	45,341	13,033	14,478
Mexico	253	523	187	269
Brazil	887	1,284	387	507
Peru	163	284	110	200
Argentina			2	180
Other countries				63
Asia				
India	22,503	26,484	3,585	4,718
Asiatic Russia	1,569	2,270	905	1,232
China		4,265	695	1,844
Korea	146	503	20	150
Persia			136	121
Other countries				18
Africa				
Egypt	1,743	1,805	1,453	1,628
Anglo-Egyptian Sudan	44	285	14	142
Uganda	58	699	20	164
Other countries				97
Europe				23
Oceania				8
Total for the world			20,900	25,900

* Wherever blanks appear in the table data are not available. Acreage for Brazil in the first column is an average for three years and for Peru an average for the period 1914–15 to 1918–19. Production figures are given in bales of 478 lbs. net. Production figures for China are estimated by the United States Bureau of the Census, and those for Persia come from an unofficial source and are based on exports. The total production figures for the world are also estimates. The production figures for 1928–29 for Brazil, Peru and Argentina are unofficial.

Source: Adapted from United States, Department of Agriculture, *Yearbook* for 1930, tables 129 and 130.

freight rate from Dallas, Texas, to Houston is 81 cents per 100 pounds, and yet the same cotton is sent from Houston to Europe for 40 cents per 100 pounds. Lack of good transportation facilities in some of the newer cotton growing areas, such as those in central Africa and South America, has, however, been an important factor in limiting expansion.

The cotton plant deteriorates rapidly on poor soil and under bad cultural methods. Varieties mix readily and frequently produce sports. The result is a widespread activity on the part of private firms and governmental agencies in cotton improvement by selection and breeding. In the United States the government participates through federal and state experiment

stations which breed new varieties and test old ones. The business of commercial seed production and distribution is in the hands of private firms. In Egypt the government is taking the initiative in improving the quality of seed planted by operating very large farms. The seed thus grown is distributed to certain large farmers who in turn distribute to the small farmers. The seed is all controlled by the government. Through the efforts of the British Cotton Growing Association the Indian government is compelling the planting of particular varieties in certain areas and is making provision for supplying the seed. Russia likewise attempts to regulate the variety and quality of seed planted.

Cotton production has required a great deal of unskilled hand labor. Some phases of the work may be carried on in each month of the year. It is well adapted to production with forced labor on a large scale; it is also adapted to cultivation in small holdings, even by cultivators whose poverty and ignorance keep them in a position of virtual serfdom. The vast majority of the cotton growing area of the United States prior to 1861 was developed with slave labor. Cotton plantations, although varying in size, averaged 273 acres in 1850. They were typically owned by a resident landowner whose overseer managed the work of the plantation and directed and disciplined a number of Negro slave laborers. Agricultural efficiency was low; methods were relatively primitive. Profits instead of being used to improve the land were generally spent for new fields and slaves. Most of the crop was sold to factors who shipped it to Europe or the North. Cotton growing dominated the economic, social and political life of the southern states. It was the basis of a civilization which only fell before the rival industrial system of the North in 1865.

The freeing of the slaves broke up a number of plantations, but in many instances the slave became a tenant or share cropper under the supervision of the landowner. The census counts these as farmers and the few acres they cultivate as farms. In 1910, for example, 65 percent of the farms in Mississippi were under fifty acres, with 41 percent from twenty to forty-nine acres. In Egypt the average holding of the cotton cultivator is much less than in the United States; in 1920 the average holding of cultivated land was three acres and 65 percent of the holders were proprietors of less than one acre. Likewise in India the holdings are very small; they average from about eight acres in some provinces to less than half an acre in others.

Most of the cotton farms in the United States are operated by tenants or share croppers. The latter are generally supplied with land, house, tools, a draft animal and seed by the owner and in return must give him a large proportion of the crop. The standard of living of both groups is as a whole extremely low. Many croppers and tenants cultivate cotton almost exclusively; many do not have chickens, a garden or a cow. A study of almost a thousand families of cotton growers in Texas in 1925, for example, indicated that housing was poor and congested, the quality of diet low, mortality and morbidity rates high, that more than half of the mothers worked in the fields and that children became workers when very young. Three quarters of the children between the ages of six and sixteen in the families studied were working; over a third of them started to work when they were six or seven. The meagerness of the living which cotton growing affords the vast majority of its small farmers and laborers in the United States as well as in the rest of the world is notorious.

There are two peak labor loads in the producing of cotton. One comes in the spring when cotton must be thinned. The other peak load comes in the fall at harvest and is the more prolonged and intense. Picking is done by hand. In the cotton growing states of the United States thousands of laborers go out from the towns and cities to work through these periods along with the farmers and their families. In the southwest, particularly in Texas and Oklahoma, this seasonal labor supply is supplemented by thousands of itinerant laborers from Mexico.

Although cotton culture in the United States is undertaken primarily on a small scale by unskilled labor with the aid of mules and relatively simple implements, modern agricultural methods and machinery are beginning to appear. Planting and tillage machinery is being rapidly introduced west of the Mississippi. As a rule this means much larger farms, lower costs, more operating capital and more intelligent management and labor. More intelligent operation is likewise required, if a profit is to be secured, where the decline in yield is due to soil erosion and depletion and insects. The size of cotton farms is increasing more rapidly in the United States than in any other part of the world.

In addition to the development of modern planting and tillage machinery much money and effort have been expended in order to devise a mechanical harvester. At present cotton is harvested almost entirely by hand. The amount

picked in a day depends on the skill of the individual workers, the yield per acre and the variety of cotton. In the United States a fair picker gets from 150 to 200 pounds a day. In India he picks less than 50 pounds a day. None of the experimental mechanical harvesters can be called a success, although substantial progress has been made in Texas and Oklahoma, where conditions are most favorable. If these machines become established successes, as many expect will soon be the case, they will undoubtedly become the basis of vast changes in the social and economic organization of the cotton growing world.

Cotton requires a long growing season, hot weather, considerable moisture, a rich soil and clean cultivation. The stalk has a small root system and the cotton plant takes relatively little fertility out of the soil. On the other hand, the heavy rains make erosion a serious menace in most cotton growing countries, which depend on rains for moisture. The trend in the yield per acre of lint cotton in the United States since 1900 is downward at the rate of about a half pound per year, and in Texas and Oklahoma it is declining faster, chiefly because of erosion. Yield per acre is also greatly affected by insect pests and fungus diseases. The insects which do the most damage are the Mexican boll weevil in the United States and Mexico and the pink boll worm in India, Africa, South America and Mexico. In addition to these there are a large number of insects which do more or less damage to the cotton crop, such as the cotton leaf worm, cotton red spider, cotton stainer and the cotton flea hopper. The fungus and bacterial diseases are not as destructive as insects, yet they take a considerable toll. Important among these are cotton wilt, cotton anthracnose and the Texas root rot. Climatic factors cause even more damage than insects and plant diseases. The boll weevil entered Texas from Mexico in 1892 and from there steadily marched across the country, invading Louisiana in 1903, Alabama in 1909, Georgia in 1915 and North Carolina in 1918. It caused tremendous damage and virtually ruined hundreds of farmers. Varieties of late maturing cotton, such as sea island, were practically obliterated. Methods were gradually developed to combat the pest. The most successful have been: dusting the plants with calcium arsenate, early planting of rapidly maturing cotton which ripens before too many boll weevils have had time to breed, destroying the plants in the fall by fire and plowing, and accelerating the rate of growth of the cotton through careful cultivation. The damage caused by the boll weevil reached a high point around 1920. Since then it has considerably diminished, although it is estimated that the weevil still destroys over $200,000,000 worth of cotton a year.

The cotton farmers receive their income once a year. The portion of the year during which the farmers are on a cash basis depends on the size of their crops and the prices received. Ordinarily they make their arrangements for credit in January, February and March. In a large percentage of the instances the volume of the loans is such that the creditor practically controls the sale of the cotton. The loans are secured either by a chattel mortgage on the crop or an endorsed note. In a large part of the cotton belt of the United States the credit is supplied by the local store from which the farmer buys his supplies. This generally means high interest rates and high prices for supplies. It also practically forces the debtor farmer to continue growing cotton because it is the easiest crop for the creditor storekeeper to turn into cash. In its extreme form this credit system is peonage. In certain places part of the financing is done by banks, especially in the western part of the belt. The situation has also been improved by cooperatives in some instances. Some progress has been made in India toward the establishment of cooperative credit for crop production, but the bulk of credit is furnished by the local money lender.

As soon as the cotton is picked it is hauled to the gin where the lint is separated from the seed. The lint is put into bales protected by jute canvas and held together by steel bands. The average weight of bales differs in different countries. In the United States the average weight of the square bale is about 500 pounds gross, in Egypt about 750 pounds and in India 400 pounds gross. There were 14,974 active ginneries in the United States during 1928. Most of them are operated for profit by small local ginners scattered over the cotton belt. Others are operated by cottonseed oil mills; some by large planters. In recent years cooperative ginneries have appeared. Prior to the Civil War the ginnery was a part of the plantation equipment; power was supplied by horses and mules. This primitive equipment has been replaced by steam and electric driven ginneries, many of which are largely automatic. Many ginners, instead of returning the seed as well as the lint to the farmer after ginning, purchase it

and sell it to the oil mills. Some states have legislated against this practise because selling to the ginner was believed to lower the price the farmer receives for his seed. Cotton is baled loosely at the ginneries to permit sampling by buyers. The bales are later compressed at plants which are generally connected with warehouses in the more important country towns. In India there were 1940 ginning and pressing factories in 1919, and in most districts these factories have formed pools which resulted in forcing up the rates charged the grower. A considerable amount of cotton is still ginned by hand in India. Ginning and baling in Egypt are practically all concentrated along with merchanting and exporting in a few large commercial houses.

The derivatives of the cotton seed have become important by-products of cotton growing. At the beginning of the Civil War the seed was generally considered practically worthless. Thrifty farmers plowed it down as fertilizer. The commercial value of crude cottonseed products has increased from $2,530,000 in 1875 to $265,247,000 in 1929. During the years from 1925 to 1928 the financial returns which farmers received for their seed equaled on an average about 15 percent of their income from cotton lint. There were only seven cottonseed oil mills in the United States in 1861; there were 547 such establishments, employing 18,434 men, in 1927. The United States produces over two fifths of the world's cottonseed.

The principal cottonseed by-products are oil, cake and meal, hulls and linters. The most important uses of the oil are for lard substitutes, other food products and soap. The cake, meal and hulls are used mostly for animal feed, although the meal was formerly used as fertilizer.

Linters are the fuzz and short stubby fibers that cling to the seed after the lint has been removed. They are used primarily for absorbent cotton, stuffing and cellulose products.

The value of cotton (lint) is determined by its class. The class is determined by grade (the amount of foreign material in it), its staple length (length of the bulk of the fibers composing the sample), its color and its character (including such things as uniformity in length and strength of fiber). There are standard types to represent the grades and colors of all the important growths of the world. In the case of American upland cotton these standards are uniform by international agreement. Types representing standards for staple length are available for American cotton only.

Staple length is the most significant factor governing the value of cotton. The world's cotton crops are usually divided into three groups: short cotton, equal to about 30 percent of the crop, grown chiefly in India, China and the United States; medium staple, which equals about 60 percent of the crop and is grown mostly in the United States, Mexico, Brazil, India and Russia; and long staple, which equals 10 percent and is grown in Egypt, the United States, Brazil, Sudan, Peru and the West Indies.

The gap between the spinner and the cotton grower is spanned by a highly organized system of marketing. Although the physical movement of cotton must necessarily proceed from the farm, the marketing process is initiated with the spinners, and the farmer is the last link in the chain in so far as market transactions are concerned. Cotton is customarily sold to spinners by cotton merchants on call for forward delivery. Often a considerable amount of cotton is sold by merchants to the spinners on call before it is planted. Some of the large cotton merchant firms sell direct to spinners, although in most instances they sell to spinners' buying brokers.

When grouped according to services performed cotton markets may be classed as spinners' markets, futures markets, centralizing spot markets and local markets. A spinners' market is one in which the merchants or their representatives meet and trade with the spinners or their representatives. These markets are located in centers of cotton manufacture, such as Boston and Charlotte in the United States and Manchester in England. They may be formally organized, although often they are not. In the latter case they adopt the rules of some other market, such as New Orleans, Bremen or Liverpool, for settling disputes. Futures markets trade in a basis contract, which calls for a specific grade of cotton but which gives the seller the option of delivering other specified grades at the maturity of the contract at differences determined according to the rules. They are the most highly organized of all the cotton markets. There are nine cotton futures markets in the world: New York, New Orleans, Chicago, Liverpool, Havre, Bremen, Alexandria, Bombay and Osaka. The contracts of the first six are based on American upland cotton. The futures markets establish the price level for cotton and make hedging possible. The centralizing spot markets are the great cotton reservoirs. The big spot cotton merchants make these markets and their major activities are carried on in them. The

cotton they sell to spinners is accumulated and classed for delivery in them. The cotton the merchants buy in the local markets is sent into these markets to be classed, stored and financed. Markets like Dallas, Houston, Memphis and Savannah are typical.

The local or country market is one in which the cotton merchant's representative meets and trades with the farmers for the cotton. There is such a market in the United States at almost every gin and small town in the cotton belt. Here the individual farmer, particularly if he is in debt and cannot hold his crop, is at a decided disadvantage in bargaining with the buyer. The local market is the weak point in the American cotton marketing system. Cotton classing is the work of an expert. The small volume of business in local markets does not make it profitable for the cotton merchant to put a skilled classer there and so he resorts to what is known as "point buying." This means that he pays a uniform price for all cotton in a particular local market. Thus the man who grows the best cotton is penalized and the ones who grow the poor cotton are given more than its real value. This tends to cause deterioration in the quality of the cotton.

The local market in India is even less efficient. There the grower sells to the local money lender before the cotton is ginned and sometimes before it is picked. The local buyers mix the various growths or they may even import cotton waste to mix with the cotton before it is ginned. The local buyers sell chiefly to merchants in Bombay, which is perhaps the largest spot cotton market in the world.

In Egypt the local markets are similar to those in India. The farmer usually sells his cotton in the seed to the local money lender or the ginner. He is in no position to bargain for the sale of his cotton on its merits. The local buyers sell to representatives of merchants in Alexandria. There are over fifty shippers of Egyptian cotton but only five firms which ship more than 40,000 bales each.

Cooperative marketing has been slow in making headway among cotton farmers. More has been done in the United States than elsewhere. The first efforts of significance were made by the National Grange in 1873. In 1908 the Farmers' Educational and Cooperative Union of America in the South adopted cooperative marketing as a major activity. It was interested primarily in local markets and built many local cooperative warehouses. After the World War a new movement was started with a much more ambitious program. While it had a number of purposes, the predominant idea was to control a sufficient volume of cotton to influence price. It was proposed to market the cotton in central markets and to spinners. Twelve state wide associations were established, and these formed an overhead organization, the American Cotton Growers' Exchange, to secure united action. These organizations showed little tendency to increase cotton values after 1925, and the severe price declines of 1929–30 caught most of the associations with large holdings of cotton. The Federal Farm Board in 1930 devoted a large part of its time and money to the reorganization and strengthening of the cooperatives.

The price of cotton is made in two parts. The most important is the price of futures, which represents the price level or the approximate value of the standard grade of cotton. It is made in the futures market, into which hedging operations send all purchases and sales of spot cotton. The second part of the price is added to or subtracted from the price of the futures and is known as the "basis." It is made up of the difference between the value of a specified quality of spot cotton to be delivered and the value of the futures, plus transportation costs and the merchant's business expenses and profits. It is greatly affected by crop, manufacturing and market conditions. It is quoted in terms of points "on" or "off" specified active month futures in a named futures market for a named class of cotton delivered at a specific place. A merchant, for example, may quote strict middling inch cotton f.o.b. Boston to a spinner in July for September shipment at, for example, 250 points on October futures in the New York Cotton Exchange. In this case the "basis" or second part of the price is fixed at 250 "on" and the spinner has the right to name the time when the first or futures part of the price is to be fixed. Suppose he elects to fix it on August 15. In that case he wires the merchant to fix the price. If the merchant does not have the spot cotton with which to fill the contract he buys a futures contract and reports the price to the spinner. If it costs 14 cents, then the total price to the spinner is 16.50 cents, a point being one hundredth of a cent. If the merchant already had the cotton bought and hedged he would fix the price by the sale of a futures contract, and the price would be the same.

The price of the basis is made in the spot markets. Since the conservative merchant keeps completely hedged he makes his profit or loss

not in the rise or fall of the price level of cotton but in trading in the basis, which is his chief business.

The price of cotton varies widely from year to year, depending on the volume of supply and the world's business conditions. In 1923 the price of middling spot cotton in New Orleans reached 36 cents with an American crop of 10,140,000 bales. In 1926 the production was 17,977,000 bales and the low point in the price was 11.68 cents. In 1927 the crop was 12,955,000 bales and the price reached a high of 23.5 cents. The widely fluctuating yields, especially from farm to farm, render cotton growing an extremely hazardous business.

The cotton business is done in terms of time. This entails great risks, which stimulate efforts at price forecasting and estimating. The most important causes of price changes are changes in supply, changes in the general price level and changing demand. The market supply is made up of carryover plus forecasted crop within the range of futures. The wholesale price index gives the price level, and the ratio of the price of cotton to cotton yarn is a good index of the strength of demand. There are a number of statistical services which make cotton price estimates and forecasts.

Since the volume of American cotton is so large in comparison with that of other countries the price of it is a very important factor in determining the price of other growths. The production of cotton in the countries growing the minor crops is even more hazardous than that in the United States. A low price in the United States is a result of large yields which partly compensate for low price; but if India, Russia or some other country has a short crop at the time the United States has a large one, the former countries will have both a low yield and a low price.

A. B. Cox

See: Textile Industry; Industrial Revolution; Imperialism; Plantation; Slavery; Farm Tenancy; Agricultural Credit; Cooperation; Commodity Exchanges; Marketing.

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COTTON, JOHN (1585–1652), Puritan clergyman and theologian. As an undergraduate at Trinity College, Cambridge, and later as fellow of Emmanuel College, which at that time was the stronghold of Puritanism, Cotton was deeply influenced by the Puritan movement and the doctrines of Calvinism. His introduction of Puritan reforms into the ritual of St. Botolph's Church, Boston, England, of which he was vicar from 1612 to 1633, finally brought upon him such extreme interference from the religious authorities of England that he was forced to flee to the Massachusetts Bay Colony. His renown as a Biblical scholar and eloquent interpreter of the Scriptures led to his immediate appointment as "teacher" in John Wilson's church in Boston, where during the next twenty years he was

one of the most influential preachers and statesmen among the pioneers, taking an active part in all the major ecclesiastical and political conflicts in the colony.

Being a Puritan, not a Separatist, he maintained the doctrine that the Congregational churches, having purified themselves of "the inventions of men," should continue to be established by law and should constitute a theocracy. By insisting with Anne Hutchinson on an explicit regeneration (called the Covenant of Grace) as a basis for church membership and confining political privileges to church members he attempted a more rigorous version of theocracy than did the majority of his fellow ministers and freemen. He attempted repeatedly to uphold the authority of the magistrates in the face of demands made by the freemen, but in the end he was compelled to yield. He was also compelled to modify his doctrine of the Covenant of Grace when Anne Hutchinson carried it to extremes. He took for granted, as did his fellow Puritans, that democracy is "the meanest and worst of all forms of government"; and he defended theocratic intolerance against Roger Williams, who believed that civil authority should extend only to men's bodies, not their souls. Cotton held that the state, although in theory a separate society with clearly defined functions, was in practise an agency for maintaining the moral discipline established by the church and the law of God.

The demands on the part of certain elements in the colony for a definite body of laws led Cotton to outline a rigorous, almost Mosaic, constitution and penal code, dubbed by Winthrop "Moses, his Judicialls." Although it failed of adoption in Massachusetts it served as the basis for the frame of government of the colony of New Haven, of which Cotton's friend, John Davenport, was cofounder. Cotton's draft for the Cambridge Platform in 1648 was not accepted, but he wrote the preface for the slightly less strict draft of Richard Mather which was adopted. His catechism, *Milk for Babes* (London 1646), was widely used until it was supplanted by the Westminster *Shorter Catechism*.

To his contemporaries his fame rested less on his defense of theocracy than on his defense of Congregationalism. He defended the rights of independent churches against both Presbyterians and Anglicans, and in spite of his antidemocratic sentiments he provided in his defense of the Congregational covenant an argument which was widely and effectively used by later champions of democracy. Congregational theology is expounded in his three treatises, which had a great influence in England: *The Way of the Churches of Christ in New England* (London 1645); *The Keyes of the Kingdome of Heaven* (London 1644); and *The Way of Congregational Churches Cleared* (London 1648).

HERBERT W. SCHNEIDER

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COUNCIL OF THE INDIES (Consejo de Indias) was the administrative body through which the Spanish crown for several centuries governed its vast overseas possessions. It owed its separate and legal existence to a decree of Charles V of August 1, 1524. In the beginning, from the time of Columbus' second voyage in 1493, affairs of the "Indies" were entrusted to Juan Rodríguez de Fonseca (1451–1524), member of the Council of Castile, assisted after 1501 by a secretary for colonial affairs. In 1503 the Casa de Contratación (*q.v.*) was established and from 1510 there was a special committee, or Junta de Indias, consisting of five and later seven members of the Council of Castile, presided over by Fonseca. But with the conquest of the mainland territory of New Spain by Cortés and the increased burden of administrative business the creation of a separate tribunal became necessary; for this the death of Fonseca provided a convenient occasion.

Its personnel at first consisted of a president, five or more councilors (*letrados*, men trained in civil law), two secretaries, a crown attorney (*fiscal*) and a reader or reporter. In 1528 a grand chancellor and his deputy were appointed. Other officials were added from time to time during the next hundred years: a treasurer, four ac-

countants, two attorney's assistants, a lawyer and a solicitor for poor suitors, two additional reporters, a chaplain, a notary, several ushers and a bailiff. The number of secretaries varied from two to four but was finally fixed at two, one for the viceroyalty of New Spain, the other for the viceroyalty of Peru. In 1571 was created the post of historian and cosmographer, twenty years later divided between two individuals, and in 1595 was added a professor of mathematics. Councilors chosen were preferably men who had filled important offices in the Indies, such as former viceroys, governors and judges, so that the benefit of their experience and advice might be had.

Under the Hapsburg kings the Indies were held to belong to the crown of Castile to the exclusion of Aragon, for it was under the auspices of Queen Isabella that they had first been discovered and explored. Consequently the laws and institutions of Spanish America were modeled on those of Castile, although changes in form and function developed to meet local needs. Moreover, in Castile on the ruins of baronial anarchy the Catholic kings and their successors created a royal absolutism, which in the New World found a field free from the traditions and inhibitions of an Old World society. The Indies therefore were treated as the direct and absolute possession of the king. They did not belong to Spain or even to Castile as such. Mexico and Peru were kingdoms, combined with the kingdoms of Spain under a common sovereign, bound together only by a dynastic tie. This theory was lost sight of in the eighteenth century under the Bourbon dynasty, but it was reasserted by the colonists to justify their demands for political autonomy.

The Council of the Indies, therefore, was a *real y supremo consejo*, independent of, and coordinate with, the other royal councils. It had the same jurisdiction over Spanish communities in America and the Philippines as was possessed within the Spanish peninsula by the Council of Castile, a body which had been brought to its high state of importance by Ferdinand and Isabella and which formed a model that the Spaniards tended to follow when devising governmental organs for such great divisions of their empire as Aragon, Italy and the Netherlands. The competence of the Council of the Indies extended to every sphere of government: legislative, financial, judicial, military, ecclesiastical and commercial. The king was absolute lord of the Indies and the council was his mouthpiece. It resided at the court and its deliberations were secret.

All laws and ordinances relating to the administration, taxation and police of the American dominions were prepared and dispatched by the council with the approval of the king and in his name, and no important local scheme of government or of colonial expenditure might be put into operation by American officials unless first submitted to it for consideration and approval. In consultation with the crown it traced the territorial divisions of the American empire. It proposed the names of colonial officials whose appointment was reserved to the king, and to it all such officers were ultimately accountable. It corresponded with the authorities in the New World, lay and ecclesiastical, and kept jealous watch over their conduct. Since by early papal bulls the tithes and the patronage of the church in America were reserved to the crown of Castile, the supervision of ecclesiastical matters also fell within the council's jurisdiction. Nominations to all important benefices were made in this tribunal, and no papal letters or decrees might be published in America without its exequatur. With respect to the Spanish Inquisition and its agents, however, the council was far from enjoying undisputed supremacy.

In its judicial capacity the council sat as a court of last resort in important civil suits appealed from the colonial audiencias and in civil and criminal cases from the judicial chamber of the Casa de Contratación. Reserved to it were all other cases arising in Spain and concerned with the Indies, as were all matters relating to *encomiendas* of Indians. Supervision of the interests of the aborigines was indeed one of its special concerns, for their conversion and civilizing were always regarded as the crown's peculiar responsibility. The council also made arrangements for the *residencias* (judicial review of an official's conduct at the end of his term of office) of viceroys, governors, judges and other important colonial officers. From time to time it sent to the Indies inspectors general (*visitadores*) to investigate every phase of colonial life and administration and report back to the council. In the sixteenth century it audited the accounts of colonial treasurers and comptrollers of the exchequer. But, owing to distance and to the difficulty of securing a regular remission of accounts, the establishment of courts of audit (*tribunales de cuentas*) at Lima, Mexico and Santa Fé de Bogotá, from whose decisions there was no appeal, was ordered in 1605.

Like most Spanish councils the Council of the Indies was a hard working body. It was required to meet from three to five hours every day except holidays, three councilors constituting a quorum. Important matters were decided by the council as a whole; minor questions were assigned to smaller committees by the president. From 1601 to 1609 and after 1644 there was a permanent committee for all matters of royal favor and patronage called the Consejo or Junta de Cámara de Indias. Military and naval affairs after 1597 were reserved to a Junta de Guerra de Indias consisting usually of four councilors of the Indies and four from the Consejo de Guerra of Castile. It nominated important naval and military officers in the fleets and in America and also those charged with the expenditure of naval and military funds.

Powers of censorship were also exercised by the council. No book treating of the Indies could be printed in Spain or the colonies without its previous inspection, approbation and license, and no such book could be introduced into the Indies without its express permission.

Although the principles and ideas behind colonial administration doubtless emanated from the crown, especially in the formative period of the sixteenth century, the influence of the Council of the Indies upon legislation must have been considerable. But an institution such as this, responsible collectively to an autocratic king, possessed the defects inherent in a conciliar system of government: on the one hand, absence of individual responsibility; on the other, growth of a spirit of routine which paralyzed procedure and made rapidity of decision and action difficult. Like other councils of Hapsburg Spain it deliberated interminably. Matters were referred to the king, from the king back to the council and to the king again. There were instructions after instructions, memorials upon memorials and endless accumulation of documents, useful as preserving precedents and enlightening to the modern historical investigator but serving only to clog the wheels of government.

Under a paternalistic monarchy legislation for the Indies soon became very voluminous, touching every aspect of the duties, rights and responsibilities of the colonists and of the officials set to rule over them. Much of it in time became obsolete or contradictory. More than a century of effort to compile and systematize it resulted eventually in the promulgation on May 18, 1680, of the *Recopilación de leyes de los reynos de las Indias* (4 vols., Madrid 1681; 5th ed. 2 vols., 1841). This famous code, in spite of defects visible to the wider experience of a later day and in spite of the restrictive, paternalistic spirit which dictated it, is a notable monument of colonial legislation. Its shortcomings were chiefly those common to the colonial policy of most European nations in that age. At least it did not, according to recent investigators, prevent the growth of customary law in the overseas territories, in which considerable elements of aboriginal law are to be found.

When Bourbon princes came to occupy the Spanish throne from the beginning of the eighteenth century they brought with them the administrative experience and practises of France, and in the course of time many innovations were introduced into the political organization of the state. Cabinet ministers were appointed, among them a minister of marine and Indies in November, 1714. To the latter were transferred all matters relating to war, finance, navigation and commerce, and the nomination of all but purely political and judicial officers, including members of the Council of the Indies and of the Casa de Contratación. By a decree of July 8, 1787, a second minister of the Indies was appointed with jurisdiction over patronage and justice; but three years later, in April, 1790, the two portfolios were suppressed and their functions distributed among five ministers who presided over the respective departments of government for the peninsula: foreign affairs, war, marine, justice and finance. The older Hapsburg theory of the relation between the crown and its American possessions was forgotten or ignored.

The council, however, continued to serve in an advisory capacity to the king, shorn of many of its former powers but proud of its traditions. Several changes in its organization and prerogatives were introduced in the reign of Charles III, notably by decrees of 1773 and 1776, which divided it into three chambers—two of government (one for Mexico, the other for South America) and one of justice—and increased the number of councilors to fourteen. The Cortes of Cádiz, in which natives of America participated, abolished the council along with the other old councils and tribunals, by a decree of April 17, 1812. It was reestablished by Ferdinand VII after his restoration in 1814. After the loss of the major part of the Spanish American Empire it was abolished by a law of March 24, 1834. There existed, however, from 1851 to 1854, a Consejo de Ultramar.

To a certain extent the type of colonial gov-

ernment embodied in the Council of the Indies was applied to the rule of the Portuguese colonies during the union of that country with Spain. The establishment in 1591 of a Council of Finance divided into four sections for the government of Portugal and its domains was followed by the creation in 1604 of a Council of the Indies which shared the government of the colonies with the Council of Finance. Although this body possessed many of the powers of its Spanish model, for various reasons it never enjoyed as much authority as the latter. Nevertheless, many features of the Spanish regime did not fail to survive the restoration of 1640.

CLARENCE H. HARING

See: COLONIES; COLONIAL ECONOMIC POLICY; CASA DE CONTRATACIÓN; AUDIENCIA; ASIENTO.

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COUNTER-REFORMATION. *See* REFORMATION.

COUNTER-REVOLUTION. *See* REVOLUTION.

COUNTERVAILING DUTIES. *See* CUSTOMS DUTIES; TARIFF.

COUNTRY LIFE MOVEMENT. This term is used to designate a widely varied group of organized activities which have as their main concern the cultural and social welfare of the rural population. The conditions which have called it forth are a product of the past century, but the movement has grown to importance only within the last twenty-five years. Within that time vague sentiments of concern for the rural population and unrest among farmers and country dwellers have crystallized into definite programs for action or study. It is still true, however, as Dean L. H. Bailey, chairman of the Roosevelt Commission on Country Life, said in 1909, that the country life movement "is not an organized movement proceeding from one center or even an expression of one set of ideas. It is a world-motive to even up society as between country and city."

Through the many generations during which the rural segment of society approximated economic and social self-sufficiency there was little possibility or necessity for special consideration of the social aspects of rural life. The industrial revolution brought with it, however, a sharp demarcation between the urban and the rural dweller, while the agrarian revolution with its scientific and machine efficiency led to the commercialization of agriculture. Agriculture ceased to be a way of life and became a method of business enterprise. The standard of living of the farm family automatically came to be conditioned by market prices for farm products and money profits on the farm enterprise. In the meantime, methods of transportation and communication had developed to a point where the farm population was thoroughly aware of the manner of life of city populations. The social and intellectual as well as economic inadequacies of modern country life, apparent in a conscious comparison and competition of urban and rural standards of living, were manifested by the drift of rural populations to urban centers. A steady movement to the city had been taking place in all western civilization ever since the advent of the industrial revolution, but it became pronounced in the United States only when the limits of the frontier were reached and the tide of population turned back on itself. The belief spread that the drift to the city was leaving a decadent civilization in the rural areas. It was as an outcome of governmental as well as private concern over these alarming tendencies that the country life movement developed. In the United States the sentiments and ideas which had been fostered for two generations in the large farmers' organizations such as the Grange, the Farmers' Alliance and the Farmers' Union gave added impetus to the demand for improvement.

The first organized expression of the movement came in the United States in 1908, when President Roosevelt appointed a Commission on Country Life and charged it with the responsibility of discovering if possible the weak spots in American rural life and their remedies. In his message to the United States Senate and House of Representatives on February 9, 1909, he said: "The object of the Commission on Country Life, therefore, is not to help the farmer raise better crops, but to call his attention to the opportunities for better business and better living on the farm." He opened the concluding paragraph of his message with the following words: "I warn my countrymen that the great recent progress made in city life is not a full measure of our civilization; for our civilization rests, at bottom, on the wholesomeness, the attractiveness, and the completeness, as well as the prosperity, of life in the country."

The report of the Roosevelt Commission on Country Life was made in January, 1909. It reviewed the most prominent deficiencies in rural life and encouraged the formation of a variety of voluntary organizations to give greater vitality and greater stability to country life.

This report stimulated popular and academic concern in the problem and gave rise to a series of studies and investigations of country life. About the same time, the movement derived considerable new impetus from the development and spread of general interest in a recognized technique of social work. Moreover, the sociologists, and especially those concerned with community life and organization, had begun to realize that rural attitudes and rural institutions presented an important field of study. Intelligent analysis has revealed distinct culture patterns of the country which cannot be recast into a city mold but require a fair chance to achieve independent fruition. Ten years after the publication of the report of the Roosevelt commission the National Country Life Conference was formed in Baltimore, Maryland, at a meeting of the leaders of social agencies and institutions working in rural areas. This conference has become a centralizing agency within the movement. Since its formation it has held annual meetings, at each of which a single topic has been discussed and an attempt made to mobilize information, discussion and opinion on the problem at issue. At the second meeting of the conference, held in November, 1919, rural health was the topic of discussion. The wide range of interests is indicated by the subsequent topics of the annual programs: rural organization, town and country relations, country community education, the rural home, religion in country life, needed adjustments in rural life, farm youth, farm incomes and rural progress and urban-rural relations. The association has had a full time executive secretary for the past eight years and in addition to its annual proceedings publishes in New York the magazine *Rural America*, which now appears ten times each year. The association fosters state and regional country life conferences and now plans to sponsor a National Rural Forum on agricultural issues and policies. A National Council of Rural Social Agencies has also been formed recently to coordinate the work of the various bodies doing actual work in rural areas.

There have been various other manifestations of an interest in country life in the United States during the last half century. Increasing numbers of magazines and periodical articles have been devoted to rural living, and many realistic novels, semipopular and semiscientific books on the changing conditions of rural existence have appeared. Membership has increased yearly in the great general farmers' organizations and farmers' cooperatives, many of which emphasize the social and intellectual as well as the economic side of farm life. Rural sociology has found an increasingly important place in the curricula of American colleges and universities, with approximately six hundred persons now teaching such courses; and approximately $100,000 per year is being expended in rural social research.

The country life movements of European countries have started with quite different premises and problems than those of the United States. Rural society in Europe has had traditions as old as, and until very recently stronger than, urban traditions. The definite class structure of European society soon made agriculturalists seek to improve their conditions through association. The peasants' and farmers' organizations which multiplied so rapidly in most of the European countries during the nineteenth century concerned themselves with all aspects of living—economic, social, intellectual and moral. Thus there was for a long time no place for a country life movement such as that in the United States, organized for the most part by semipopular associations and teaching agencies. With the increasing drift of population to the city, governments in Europe also became concerned with the status of rural life, and about 1910 there was considerable interest in the re-

vival of folk life and folk arts in a number of European countries; but the most effective activity has been the encouragement of existing cooperative organizations. Denmark and Ireland are outstanding examples of the remaking of rural life through such cooperative movements. Since the war an increased interest of outside groups in rural social welfare has been manifested. The Women's Institute in England, founded in 1915, constitutes a country life movement similar in aims to that of the United States. It has fostered the organization of community clubs and organizations all over England. In no European country has the formulation of rural sociology or the promotion of research and investigations in the field of rural social life developed to any extent. But there are indications of an increasing development and application of social work and community organization techniques to rural problems in many of the European countries.

These developments have been of sufficient force to result in the organization of an International Country Life Conference, the first meeting of which was held in Brussels, Belgium, in July, 1926, the second at East Lansing, Michigan, in August, 1927, and the third at Budapest in June, 1929. Thirteen countries were represented in the first conference, twenty-five in the second and nine at the third. The objects of this international organization are the exchange of information and views between the rural improvement agencies of the different nations and the encouragement of such agencies throughout the world.

CARL C. TAYLOR

See: RURAL SOCIETY; PEASANTRY; RURAL EXODUS; BACK TO THE LAND MOVEMENT; BOYS' AND GIRLS' CLUBS; EXTENSION WORK, AGRICULTURAL; RURAL SOCIOLOGY; SOCIAL WORK; COMMUNITY ORGANIZATION.

Consult: Bailey, L. H., *The Country Life Movement in the United States* (New York 1911); Butterfield, K. L., *The Farmer and the New Day* (New York 1919); Robertson Scott, J. W., *The Story of the Women's Institute Movement in England* (Idbury, Kingham, Eng. 1925); United States, Commission on Country Life, *Report* (New York 1911); American Country Life Association, American Country Life Conference, *Proceedings*, 1st–13th (1919–30); International Country Life Commission, *Bulletin*, nos. i–viii (Louvain 1925–30); United States, Bureau of Agricultural Economics, Farm Population and Rural Life Division, *Farm Population and Rural Life Activities* (mimeographed quarterly, 1927–29).

COUNTY AGENT. *See* EXTENSION WORK, AGRICULTURAL.

COUNTY-CITY CONSOLIDATION. An important problem of local government, especially in the large metropolitan communities, is that of the relation between the governments of the city and the county. Where a large city contains much the greater part of the population of the county in which it is located there is duplication of governmental machinery and an overlapping of functions, causing waste and opening the way to conflict of authority. The cumbersome system of county government becomes more complex in counties containing large cities; and in elections for both city and county offices candidates for the latter are likely to receive very scant attention. The problem is more acute where the metropolitan area and the political limits of the city do not coincide. In such cases the city is hampered in the performance of its proper functions. City police are unable to control the suburban areas, which in the case of many large American cities become havens for gamblers, bootleggers and other undesirables. The acquisition of wooded tracts for city parks, the extension of fire protection, the proper planning of building zones and traffic highways, all require control or cooperation over an area larger than that contained within the political limits of the city.

To meet these problems consolidated county-city governments have been established both in the United States and in other countries. In Prussia cities of over 25,000 population are constituted as "circles"—local districts corresponding in some degree to the American counties. In England the larger boroughs (until recently all over 50,000 population) are classed as county boroughs and vested with the powers of county councils as well as those of boroughs. In the United States some measure of county-city consolidation has been established in a number of the larger cities, including New York, Philadelphia, Baltimore, Boston, St. Louis, Denver, New Orleans and San Francisco. As in England, cities in Virginia are automatically removed from the control of the county authorities. In other places the problem has been under active consideration in recent years and various plans have been proposed for its solution.

New York City and county covered the same area from early colonial days. The city was extended in 1898 to include four counties, and a fifth has since been created by the division of New York county. County and city functions have been merged to some extent—in financial administration, local charities, public works and

ordinance powers. But each county elects certain officers prescribed by the constitution, mainly for the administration of justice. Each county also constitutes a borough, with an elected borough president in charge of some local municipal activities. The city of Baltimore was separated from Baltimore county in 1851, and the city has in effect the legal status and powers of a county. In 1854 the city limits of Philadelphia were extended to include the entire county of Philadelphia. Some county offices (those of commissioners, treasurer and auditors) have been discontinued, but other officials connected with the judicial courts (judges, clerks, district attorney, coroner and recorders) continue as elective officers. A consolidated government for the city and county of San Francisco was established in 1856, and the plan of government has since been altered and somewhat simplified. A board of supervisors serves as both county board and city council, and one set of finance officials (assessor, tax collector, treasurer and auditor) acts in both county and city affairs. There are duplicate legal and law enforcement agencies, however, with separate district and city attorneys, sheriff and city police. The city of St. Louis was separated from the county of the same name in 1876 and a combined city-county government established for the city. Some county offices were discontinued, including the county fiscal court. The new system seems to have secured substantial results in economy and efficiency. But with the growth of the community beyond the boundaries of the city new difficulties have arisen and thus far efforts to extend the area of the city have failed. Boston includes nearly the whole of Suffolk county, and there has been some consolidation of city and county agencies. The mayor and council of the city have the powers of a county board, and the finance officials of the city (treasurer and auditor) act also as county officers. There are, however, a number of elective county offices. By an amendment to the Colorado constitution adopted in 1902 Denver was separated from the county of Arapahoe and established as a consolidated city and county. A home rule charter was adopted, with a simplified form of government eliminating duplication of officers and functions. Consolidation was delayed by legal proceedings for nearly ten years but has now been more completely carried out than in other American cities.

County-city consolidation, even when only partial, appears to have brought about increased efficiency and financial economy. But in most cases the consolidation is by no means complete and new difficulties have arisen as the combined city-county overflows its boundaries.

Several state constitutions have provisions authorizing county-city consolidation. The Missouri and Michigan constitutions authorize cities of over 100,000 population to be organized as separate counties, the Minnesota constitution has a similar provision for cities of over 20,000 population and the California constitution provides for the consolidation of city and county governments. Constitutional amendments authorizing county-city consolidation were adopted in Montana in 1922 and Georgia in 1924. Efforts to secure a similar amendment in Ohio in 1919 were not successful. But no instances of county-city consolidation other than those already noted have been carried out under these provisions. Active efforts have been made in several places, including Alameda county, California, Multnomah county (Portland), Oregon, and Silver Bow county (Butte), Montana. In Pennsylvania a constitutional amendment was adopted in 1928 authorizing a federated system of local government for Allegheny county, including the city of Pittsburgh, and a charter to make this effective has been prepared for submission to popular vote.

Opposition to the consolidation of city and county government comes in part from the residents of the suburban and rural portions of the county, who fear a higher tax rate, and in part from the political officeholders, who fear the loss of their positions. Poor municipal government strengthens the position of those who object to absorption in the larger organization. A federal system of organization, as in London and Berlin, with some autonomy for local districts seems to offer better prospects for success than a completely centralized system. Other difficulties arise from the need of securing enabling legislation. Often the state constitution must be amended. The growing practise of submitting consolidation proposals to a referendum in the areas concerned increases the difficulty. Financial and technical problems necessitate careful study before a satisfactory adjustment can be reached.

Other methods of dealing with particular problems of metropolitan regions are by the creation of special districts, such as the Metropolitan District of Massachusetts, the Port of New York Authority and the Sanitary District of Chicago; and by the voluntary cooperation of

various local authorities, as in regional planning for New York and Chicago.

JOHN A. FAIRLIE

See: GOVERNMENT; LOCAL GOVERNMENT; MUNICIPAL GOVERNMENT; COUNTY GOVERNMENT, UNITED STATES; COUNTY COUNCILS; CITY; METROPOLITAN AREAS; ADMINISTRATIVE AREAS; REGIONAL PLANNING; HOME RULE.

Consult: Munro, W. B., *Municipal Government and Administration*, 2 vols. (New York 1923) vol. i, ch. xxii; Reed, T. H., *Municipal Government in the United States* (New York 1926) ch. xviii; Maxey, C. C., "Political Integration of Metropolitan Communities" in *National Municipal Review*, vol. xi (1922) 229–53; American Political Science Association, *Proceedings*, vol. viii (1911) 61–121, and vol. x (1914) 281–91; Illinois, Legislative Reference Bureau, *Local Governments in Chicago and Cook County*, and *County and Local Governments in Illinois*, Constitutional Convention Bulletins nos. xi–xii (Springfield, Ill. 1919); Fairlie, J. A., and Kneier, C. M., *County Government and Administration* (New York 1930) ch. xxiv.

COUNTY COUNCILS. The reform in county government brought about by the Local Government Act of 1888, which established the county councils for the first time, was at least fifty years overdue. So far back as 1835, when the frequently corrupt and degenerate borough councils were set in order by the Municipal Corporations Act, it was already clear that the justices of the peace, who at that time comprised the only important constitutional rulers of the county, were utterly unfit to carry on the administration of local government in the modern state.

Public opinion ran strongly against the county justices not merely on account of their general inefficiency and lack of integrity but also because of their biased and arbitrary attitude in regard to such matters as the administration of the game laws, the stopping up of footpaths and the restriction of public house liquor licenses. The immediate result of this criticism was the passing of legislation which removed from the jurisdiction of the justices, entirely or in part, certain important functions which they had previously exercised. Thus the Poor Law Amendment Act of 1834 placed the supervision of the poor law in the hands of the central government; and similar action was taken in regard to the prison service by the Prisons Act of 1835, the control of ale houses by the Licensing Act of 1828 and the control of lunatic asylums and to some extent action even in regard to police management by other statutes. The Factory Act of 1833 took away from the justices the power they had possessed for thirty years of inspecting cotton factories and transferred the function to the Home Office inspectors.

The justices in quarter sessions were manifestly incapable of discharging the heterogeneous mass of legislative, judicial and administrative powers which had been conferred upon them since Tudor times. Yet strangely enough no attempt was made for nearly half a century to set up an adequate municipal structure to supersede them. The justices were regarded primarily as judicial authorities, and it is to this fact that their survival in the ensuing decades must be ascribed.

The Local Government Act of 1888 divided the country into administrative counties differing in various respects from the ancient or historic counties in all save one or two cases. Thus large ancient counties such as Yorkshire, Lincolnshire, Cambridgeshire, Hampshire, Northamptonshire, Suffolk and Sussex have been divided into two or three administrative counties each. On the other hand, various cities comprise parts of two or three ancient counties. The administrative county of London, for example, was created from parts of the three ancient counties of Middlesex, Surrey and Kent. Then again, the ancient counties include the county boroughs, large or important towns possessing the powers of both a borough and a county council, whereas under the act of 1888 each county borough is "an administrative county of itself." The ancient or historic counties are, as their name suggests, the oldest counties known to us. But they are no longer units of local government for any purpose whatsoever. The census of 1911 was the first taken on the basis of modern administrative counties, and since the Representation of the People Act of 1918 the ancient county has been abandoned even as an area for division into parliamentary constituencies.

The act of 1888 set up in each county a popularly elected council consisting of a chairman, aldermen and councilors. These county councils were entrusted with the management of the administrative and financial business of the county. The administrative business of the justices of the peace for the county in quarter sessions assembled was thus transferred to the county councils. The most important functions thus conferred were the maintenance of main roads and bridges, reformatory and industrial schools, asylums for pauper lunatics, the execution of the acts relating to animal disease, destructive insects, fish conservancy, weights and

measures and wild birds. The justices have been left with only two administrative functions: the issuance of licenses for the sale of liquor and a share in the administration of the police. The county police is under the control of a standing joint committee composed of an equal number of members chosen by the county council and the justices in quarter sessions. The judicial functions of the justices have not been affected.

Since 1888 a further mass of functions has been conferred on the county councils, especially with regard to education, health and charitable institutions, so that today they administer services of great diversity and magnitude. The Local Government Act of 1929 contained important reforms affecting the county councils. On its administrative side this statute abolished the boards of guardians and transferred all their powers, duties and property to the county councils and county borough councils. In this way the Poor Law after three centuries of separate existence has been woven into the general municipal structure. At the same time the act of 1929 has placed under the jurisdiction of the county councils practically the entire mass of highways, apart from those in the independent county boroughs and excluding a certain number of streets in minor towns. The act also confers extensive town planning powers on the county councils.

Despite this vast accumulation of powers, indeed to a large extent because of it, the county councils are beset with grave difficulties. These arise from two distinct sources. On the one hand, the county councils are not completely in command of county government because of the existence of minor authorities possessing independent or concurrent powers. Within the sixty-two administrative counties of England and Wales there are no less than 255 non-county borough councils, 783 urban district councils, 644 rural district councils and approximately 7200 parish councils and 5646 parish meetings. In every part of the county there are at least two and often three local governing authorities. Public health and education, to take two important examples, are divided between the county council and the county district council. The division is not based on any logical or coherent plan. Each council is independent and without power over the other. Both draw their revenue from a single source of taxation. The tendency in recent years has been for Parliament in passing new legislation to make exclusive use of the county councils in preference to the smaller authorities. This has been strenuously resisted by the county district councils.

The county councils are engaged, on the other hand, in a bitter struggle with the large independent towns and cities—the county boroughs. This is due to the persistent efforts of non-county boroughs to secure promotion to county borough status and also to the continuous enlargement of boundaries achieved by existing county boroughs at the expense of the county councils. A non-county borough, although possessed of a directly elected borough council with extensive powers, is nevertheless within the area of the administrative county for purposes of taxation, and the county council administers many important services therein. When it attains county borough status it is completely severed from the surrounding administrative county for all local government purposes and becomes entirely independent of the county council.

The measure of success attained by the towns in this twofold movement may be judged by the fact that between the years 1889 and 1925 the number of county boroughs increased from sixty-one to eighty-two. The effect of this was to transfer 1,300,000 persons, 100,000 acres of land and £6,500,000 of ratable value from the counties to the county boroughs. During the same period there were 109 extensions of boundaries effected by county boroughs councils, which removed from the dominion of the county councils a population of 1,700,000 persons, 250,000 acres of territory and £8,000,000 of ratable value. The total losses to the counties involved by these changes were thus 3,000,000 citizens, 350,000 acres of land and nearly £15,000,000 of ratable value. This represents losses to the administrative counties of 8.55 percent of their ratable value and 8.92 percent of their population. A loss of prestige was also involved. The protests of the county councils resulted in the appointment of a Royal Commission on Local Government in 1923 to investigate this and other important questions. The recommendations of the commission have resulted in a change of procedure whereby all contested applications are decided by Parliament under the private bill procedure.

The counties vary widely in size, population, wealth and character. The boundaries of a county were often the limits of the jurisdiction of a feudal earl. The ancient counties, which form at least the basis of the administrative counties, appear to have reached some approximation to

their present extent and form before the Domesday Book was compiled about 1085; their boundaries were gradually defined in the centuries between the Angle and Saxon settlements and the middle of the eighteenth century. Their immense inequalities of area, population and wealth, their irregular and irrational boundary lines, the frequent disregard of natural configuration and economic frontiers, contribute in greater or less degree toward making many of the counties imperfect as areas of local government. Moreover, the progress of science, the extended sphere of public administration and improved means of communication have made even the best of the counties inadequate from the point of view of optimum efficiency. Such services as electricity supply, road transport, land drainage, higher education, town planning and the control of river pollution require not only much larger areas of operation, if the best results are to be obtained, but also areas expressly designed to meet the special needs of each function.

These facts, the importance of which has become accentuated with the passage of time, have given rise to a number of schemes of reform. In particular, mention may be made of the plan for great regional councils put forward by G. D. H. Cole and others; the system of municipal "cells" from which areas of any shape or size could be built up proposed by Sidney and Beatrice Webb; and the numerous suggestions made before the Royal Commission on London Government shortly after the war. The weakness of most of these schemes is that they involve the supersession of the county councils, which constitute one of the strongest political forces in the country.

London presents a special problem in itself, partly on account of its great size, partly on account of the stubborn vested interests and historic traditions which impede a settlement based only on considerations of good government. The area of the London County Council is manifestly inadequate to its task. It does not include the square mile of the so-called City—the wealthy commercial and financial heart of the British Empire—which is governed by the Corporation of the City of London. Nor does it include the vast dormitory areas which spread out for miles in every direction and which contain many thousands of residences for workers of all classes. These workers form a huge tidal wave of population which surges in and out of the city on every working day. Costly services have to be provided for this invading army during the daytime by the London County Council or the metropolitan borough councils; but as their homes are outside the area they escape taxation in respect of these services.

The labors of the Royal Commission on London Government to find a solution for this problem were abortive, largely on account of the powerful opposition put forward by the surrounding authorities and the city corporation to the proposal for a comprehensive authority covering the entire area. But the difficulties of the present position continue. The achievements of the London County Council mark it out as the authority on which an increasing degree of responsibility must inevitably fall, whatever changes ensue.

The county councils follow the practise of all English local governing bodies of working by means of administrative committees, some of which are required by law, others of which are optional. These committees are nearly always appointed so as to represent the various groups on the council approximately in proportion to their strength. The principle of co-option is in some cases prohibited, in other cases permitted and in a few instances required by legislation.

There has been a strong tendency in recent years for local government in Great Britain to develop on party lines. This has been particularly noticeable since the rise of the Labour party. But up to the present party politics has penetrated less to the county councils than to any other type of municipal authority. This is due in part to the lack of popular enthusiasm shown toward county government and in part to the inability of the Labour party to find candidates able to afford the time and expense involved in service on the county council, which is unpaid. The councils usually meet during the day, and the fares for traveling to the county town amount often to a considerable sum. The result at present is that low polls and uncontested elections are frequent; little interest is shown in county elections in the majority of cases; and in most counties the council is drawn from the well to do or leisured or landed classes. In consequence the social outlook of the counties tends generally to be conservative. But the administration is pure and incorrupt; the county officials are usually men of considerable ability; and a seat on the county council is regarded as something of an honor. The position is, however, in a state of flux, and the next decade may witness far reaching changes.

The county councils are linked together in a

powerful body known as the County Councils Association. This body forms the external policy and defends the interests of the county councils. It also represents them in negotiations with the central government or other local authorities.

WILLIAM A. ROBSON

See: GOVERNMENT; LOCAL GOVERNMENT; MUNICIPAL GOVERNMENT; HOME RULE; ADMINISTRATIVE AREAS; REGIONALISM; REGIONAL PLANNING; JUSTICE OF THE PEACE; SHERIFF; POOR LAWS.

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COUNTY GOVERNMENT, UNITED STATES. The county is the most common area of local government in the United States. Each of the forty-eight states is divided into counties except Louisiana, where such districts are known as parishes. With the exception of Indian and other government reservations and some cities every part of the territory of the United States is in a county. The county government of each state is established by its own constitution and laws. There are large variations in county organization between the different states, but important features of similarity inevitably result from the common origin in the English county of the seventeenth century and the active intercourse between the several states.

When the American colonies were first settled England was divided into shires, or counties, and these in turn into parishes, while there were also other districts, known as hundreds, manors and boroughs. The principal county officials were the lord lieutenant, the sheriff, the coroner and justices of the peace. All but the coroner were appointed by the crown, but in practise local administration was largely decentralized. The lord lieutenant was head of the militia system. The sheriff was chief conservator of the peace and executive officer of the centralized judicial courts. Local affairs were mainly in charge of the justices, acting in some matters individually and in others in petty or special sessions of several justices, while the justices in each county met in quarterly sessions as a criminal court and as the fiscal and administrative authority for the county.

Counties were early established in some of the American colonies and had been organized in most of them before the revolution, with officials similar to those in England. But some important changes were made in certain colonies. About the end of the seventeenth century locally elected county boards of various types which acquired the fiscal and administrative functions of the justices were established in New York, New Jersey and Pennsylvania. In Pennsylvania the office of sheriff was made locally elective in 1705. County treasurers were provided first in Massachusetts in 1654, local prosecuting attorneys in Connecticut in 1704. Recorders of deeds were created in most of the colonies. The development of town government reduced the importance of the county in New England and to a smaller extent in the middle colonies. Parishes, manors and hundreds were established in some colonies but soon disappeared. A number of boroughs and cities were also established.

Many of the first state constitutions included provisions concerning county government, with minor changes in the direction of a more decentralized system, such as provisions for legislative appointment or local election and the fixing of definite terms of office. Further changes in the same direction took place during the first half of the nineteenth century as settlement moved westward. Voting rights were extended, elective county boards were introduced and other county officials were made locally elective and their number increased. Toward the end of this period constitutional restrictions on the formation of new counties were adopted. Since the Civil War counties have been organized throughout the country and the scope of county administration has increased. But except for a few recent experiments and some state supervision of county administration the decentralized and disorganized regime of county officials has remained, often imposed by constitutional provisions.

About two thirds of the state constitutions contain numerous provisions relating to county

officers and restrictions on the formation of new counties, on special legislation and on local debts. The exceptions are mainly in New England and other states, such as Iowa, Oregon and Wisconsin, where there has been no general constitutional revision since 1860. Provisions as to the formation of new counties usually require the consent of the voters concerned and fix a minimum area—commonly about 400 square miles but ranging from 275 square miles in Tennessee to 900 square miles in Texas. Some constitutions also require a minimum population, ranging from 1000 in North Dakota to 10,000 in Ohio. A few states authorize cities with more than a certain population—100,000 in Michigan and Missouri, 20,000 in Minnesota—to be organized as counties without regard to the minimum area. About a third of the states require a local referendum for changes in county lines and about the same number require a local vote, in some cases more than a majority, for a change in the county seat. Except in a few of the southern and western states the creation of new counties or the readjustment of county boundaries rarely occurs.

There are more than 3000 counties in the United States. Most of the larger states have from 60 to 100 counties. Texas has 254, the largest number; Rhode Island with five and Delaware with three have the fewest. In area and population there are wide variations, not only over the country as a whole but within many of the states. Nearly two thirds of the counties have an area of from 300 to 900 square miles, the most usual area being from 400 to 650 square miles. But Bristol county, Rhode Island, contains only 24 square miles, while San Bernardino county, California, has 20,000 square miles. Most counties have from 10,000 to 30,000 inhabitants; but there are many counties below and above these limits. Thus Crane county, Texas, had a population of 37 in 1920, while Cook county, Illinois, had over 3,000,000. In New England, county areas are somewhat larger and population much greater than in the typical county. In the north Atlantic states most counties have over 50,000 population. In the southern states counties are usually smaller than the average both in area and population; in the western states, much larger in area and smaller in population than elsewhere. About two thirds of the counties are distinctly rural areas, in which the largest village or city has less than 5000 population and often less than 2500. About a fourth of the counties include along with a substantial proportion of rural population and some villages a city of 5000 to 25,000 population. In about a twelfth of the counties the urban population distinctly preponderates.

The great majority of American counties are much smaller in population than counties in England or the corresponding districts in other countries. This reduces the importance of the public business to be carried on. Under present conditions of transportation many American counties are too small both in area and population for efficient public administration.

Like most other local governments the county occupies a dual position. On the one hand, it is a subdivision of the state for the administration of state laws and, on the other hand, it is a district for local administration. In England until recently and in the early days in America counties were primarily administrative districts for the general government and were not recognized as having the status of a legal corporation. They are now referred to as bodies corporate and politic and are recognized as public corporations. In most states they are considered quasi-corporations but in some they are included in the class of municipal corporations. As corporations they may within the scope of their powers acquire, hold and dispose of property, make contracts and incur debts and sue and be sued in the courts. But their property is more subject to legislative control than is the property of cities, while the county is ordinarily not liable for damages in cases of torts committed by county officials and employees.

Counties differ further from municipal corporations in that they are created by the state and not established voluntarily by the local inhabitants. Their functions as agents of the state government are so important that it has been held in a judicial opinion that counties "exist only for the purpose of the general political government of the state. They are the agents and instrumentalities the state uses to perform its functions. All the powers with which they are entrusted are the powers of the state, and the duties imposed upon them are the duties of the state" (Madden *v.* Lancaster Co., 65 Fed. Rep. 188, 191; 12 C.C.A. 566). A more conservative statement by another court holds that "a county organization is created almost exclusively with a view to the policy of the state at large" (State *v.* Downs, 60 Kans. 788).

Primarily the county is a district for the administration of justice, the enforcement of law and the maintenance of peace and order. Courts

of civil and criminal jurisdiction are regularly held in each county, and while the judges are often selected for larger districts the administrative officers of the courts are county officers. In some states there are distinct county courts, and in most states the county is the district for probate administration and the public record of land titles. In connection with these and other functions courthouses and jails are maintained. In most states finance administration is an important function of county government. In the states of the South and far West and to an increasing extent in other states the assessment of property for state and local taxes and the collection of such taxes is carried on by county officers. The county is also an important district for election purposes. Not only county officers but in most states members of the state legislature are elected by counties, and the county is the district for conducting the elections and canvassing the returns for county, state and national officials. The position of the county as an election district is reflected in the importance of the county committee in party organizations. The county ordinarily has important functions in the construction and maintenance of roads and bridges and sometimes of drainage and other public works, including in some states water supply, sewers and lighting plants. It is the usual district for the administration of poor relief, maintaining a poor farm or almshouse. Generally there is a county school officer, and in many of the southern and western states the county is the primary unit for local school administration. In these lines there has been a distinct tendency toward an increase of state activity and control. On the other hand, the scope of local county functions has increased through the development of county hospitals, county libraries, county parks and airports and new activities in matters of public health and social welfare. County revenues and expenditures per capita have doubled in each decade since 1900 and during recent years they have increased at a faster rate than city finances.

The importance of the county varies considerably in different sections of the country. The traditional classification has been based on the situation in the colonial period, in which the county ranked as of first importance in the South, of least importance in New England, while in the middle group of colonies it occupied an intermediate position. Based on an enumeration of functions and the relative importance of counties and towns, this arrangement continues, with the far western states grouped with those of the South. But if the scope of county activities is measured in terms of per capita expenditure, the county is of much the greatest importance in the states of the far West. Second place is taken by the north central and middle Atlantic states, with the southern states third and the New England states last.

In the machinery of county government the most significant feature is the lack of any definite system of organization. About two thirds of the state constitutions have provisions for the election of a list of county officers, and in nearly all the states there are a number of elective county officials, largely independent of each other, with no concentrated executive control and no adequate representative council with substantial powers of local legislation. The doctrine of separation of powers is largely ignored.

In all but two states (Rhode Island and Georgia) there is in each county an elective county board which usually levies county taxes, has control over some matters of local administration and has a limited supervision over other elective officials. In three fourths of the states the county boards are small bodies of from three to ten members. In most cases these small boards are elected at large and are called county commissioners, but boards of more than three members in some cases are elected by districts and called boards of supervisors. In half a dozen states county boards of supervisors are larger bodies (usually from fifteen to fifty members) elected by townships. In several southern states the county boards are also larger bodies, elected by districts, such as the parish police juries in Louisiana and the county courts of justices of the peace in Kentucky, Tennessee and Arkansas. County boards have sometimes been referred to as the legislative branch of county government. While the larger boards are organized on a representative basis, there is little difference in the powers of the two types of boards and very little in the powers of either that can be called legislative. Their main work is administrative, and for such business the larger bodies are unwieldy.

In a few states the power of making appropriations and levying taxes has been placed in a body other than the county administrative board. In some of the New England states these powers are exercised by the state legislature or by the members of the legislature from each county. In Indiana an elective county council has been established in each county for these

purposes, in addition to the board of three county commissioners.

The number, titles and functions of other county officers vary a good deal in the different states. Rhode Island has only two county officers, the sheriff and clerk of court, both appointed by the legislature. The other New England states have about six officers in each county. All the other states have a more numerous list. Usually there is no clearly defined chief executive, but in a few states there have been some steps toward developing one. In some New Jersey counties the chairman of the county board has special powers, as has the president of the Cook county board of commissioners in Illinois. In Alabama and Arkansas the county or probate judge is ex officio chairman of the county board and tends to exercise a large influence in its work. In Georgia in some counties the ordinary is probate judge and chief administrative officer of the county. Within recent years several North Carolina counties have appointed county managers, and Georgia and North Carolina have provided by statute for the adoption of the county manager plan of government. In some of the north central states the county clerk or county auditor is the most important administrative official.

Every county has a sheriff and also a court clerk or county clerk, the latter being usually also secretary to the county board. In some states, e.g. Ohio and Minnesota, the county auditor is clerk of the county board. Most of the states have a local prosecuting officer elected in each county under varying titles, such as prosecuting attorney, district attorney, state's attorney, county attorney and solicitor. In some states these prosecuting officers usually act in judicial districts larger than a county. In most states there is a county judge or probate judge in each county, and sometimes there are both a county judge and probate judge. Most states have county treasurers, county recorders or registers of deeds and coroners. Often there are additional clerks for probate and circuit, district or other courts. In the southern and western states and some others there are county assessors; and in most middle Atlantic and north central states there is a county supervisor of assessments. Outside of New England there are usually elective county surveyors and county or district school commissioners and also county road officers and superintendents of the poor. The latter are usually appointed, as are also county health officers in a number of states.

Terms of county officers vary from two to eight years. In states east of the Mississippi River the terms of different officers often overlap. In the southern states a four-year term is common and in the states west of the Mississippi River a two-year term prevails. In most counties the subordinate staff of county officers is small, but in the populous counties with large cities the number of deputies, clerks and other employees is larger and of more importance. Such positions are in most cases filled and held at the pleasure of their superior officers and are often subject to political and personal influence. In the larger counties of New York and New Jersey and all the counties of Ohio and in a few scattered counties in other states the merit system of civil service has been applied to some extent.

County officers in many states are still paid by fees and commissions for particular services; in other states, where a fixed salary system has been established, fees and commissions, out of which the expenses of the office are paid, are collected by the several officers. This practise often leads to extravagance, waste and inefficiency.

Serious attention has been given to the problems of county government in the United States only in recent years. There were earlier studies in the history of local institutions, but the first attempt at a comprehensive analysis of the existing system was that published by John A. Fairlie in 1906 (*Local Government in Counties, Towns and Villages*). In 1912 a survey of county and town government in Illinois was made for a legislative committee of that state. In 1917 H. S. Gilbertson published *The County: the 'Dark Continent' of American Politics*. Since then there have been detailed studies of county government in a number of states. As a result considerable attention has been drawn to the defects in the present situation and various proposals and efforts have been made to improve conditions.

The principal defects of the prevailing methods may be summarized as follows: the detailed enumeration of uniform requirements in state constitutions and laws without regard to varying conditions; the lack of any definite principle of governmental organization; the long list of elective officials in most states; the failure to concentrate administrative responsibility; and the absence of satisfactory business and financial methods in the conduct of county affairs.

Measures for the improvement of conditions have followed different lines. On the one hand,

there has been a tendency toward increasing state activity through the development of state institutions and activities, such as state hospitals, state roads, state police, state administrative supervision in tax and finance administration and in other fields. Some have indeed suggested that this movement should be carried to the point of abolishing the county.

On the other hand, there have been steps toward a greater variety of local methods by laws classifying counties, by optional laws and in two states (California and Maryland) by constitutional provisions for county home rule. Changes in county government resulting from such measures have been in the direction of a simplification of machinery by abolition of some county offices and by strengthening the position of others, and in some cases of moving toward the development of a chief executive officer. The most recent step in this direction is the North Carolina law of 1927 authorizing county managers in that state.

The complexities and difficulties of county government could also be reduced by the consolidation of small counties into larger units. Several states have laws providing for this; but until recent action in Tennessee there has been little evidence of an inclination to adopt this plan. The consolidation of city and county government in the larger metropolitan areas and proposals for regional government are other measures in the same direction.

JOHN A. FAIRLIE

See: GOVERNMENT; LOCAL GOVERNMENT; MUNICIPAL GOVERNMENT; ADMINISTRATIVE AREAS; COUNTY-CITY CONSOLIDATION; METROPOLITAN AREAS; DECENTRALIZATION; HOME RULE; ORGANIZATION, ADMINISTRATIVE; LOCAL FINANCE; ASSESSMENT OF TAXES; BOARDS, ADMINISTRATIVE; STATE LIABILITY; PARTIES, POLITICAL; MACHINE, POLITICAL; CORONER; SHERIFF; JUSTICE OF THE PEACE; COUNTY COUNCILS.

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COUP D'ÉTAT is a change of government effected by the holders of governmental power in defiance of the state's legal constitution. The practise is presumably of immemorial antiquity, antedating the evolution of the constitutional law which makes government subject to, as well as creator of, legality. But the name has been associated with the actions of Napoleon I in 1799 and Napoleon III in 1851. The fame of these strokes of policy fixed the name in the French language, but the phenomenon is no more characteristic of France than of other nations, except as republican France, making constitutions almost unamendable, compelled changes to take violent forms.

In one fundamental respect the coup d'état is similar to revolution. In either case the organic continuity of law is broken and the validity of law as an abiding object of reverent obedience is seriously impaired. Problems arise, internal and external: how and by whom the new bases of governmental structure are to be laid; whether and how soon and on what conditions the outside world will recognize the new constitutional structure; what degree of continuity there shall be between old and new regimes as to state property, debts, alliances. Such problems beset the empire of Napoleon III in 1852 as they did the Soviet republic in 1918.

As regards process, however, coup d'état and revolution are distinct. Coup d'état is committed when those in governmental office alter in their favor the terms on which their office is held, transforming it from a public trust to a private possession. They suspend or cancel terms and powers of the constitution that they find inconvenient. For example, a president elected for four years declares himself president for ten years or for life, or even emperor; a president or king, hampered by parliamentary opposition, gives his own edicts the force of law; or a general—as in the case of Pilsudski in May, 1926—enters the national capital by force, makes and unmakes presidents and premiers, uses and abuses parliament and effectively rules his country by virtue of the deference universally paid to his will as representative national hero.

A coup d'état is almost invariably sudden in appearance; after long secret preparation it is sprung on the unsuspecting, carried through ruthlessly by preventive arrest of notables, dispersal of representative assemblies, suspension of courts by martial law. Force is its essence but more or less under a veil; violence is not rough but orderly; police or soldiery operate illegally but under military command, so efficient as to make bloodshed and destruction needless or of small amount. In some cases there is a subsequent effort to get the appearance of popular consent by plebiscite—a doubtful compliment, as such elections are controlled, not free, and no feasible alternative is presented to the voter.

A revolution may change government by giving effect to an idea, a public opinion that is widely held but is thwarted by existing law. A coup d'état is more likely to be in the interest of a small group or even an individual. The person may be a dynastic claimant to an existing throne, as in the case of Carol of Rumania, or an ambitious maker of new or revived empire, such as Napoleon I or III. More significant in the present decade is such a coup d'état as that of Mussolini on January 3, 1925, which is associated with dictatorship. Generally in such a case severe national crisis is produced by impending economic bankruptcy, class war or external danger. The constitutional government is unable to cope with the situation, perhaps because the system separates and sets in opposition political and administrative powers that should be exerted in harmony, perhaps because parliamentary parties divide interests so fundamentally and multifariously that the representative body can agree upon nothing. Government is paralyzed, yet action is imperative. An executive officer or faction leader seizes power outside the law. To enable the state to emerge from the impasse of legal powers abused and used only to deadlock he cuts Gordian knots instead of trying to disentangle them, he brushes aside constitutional law, he suspends individual or group liberties such as the press or the vote and thus enables the state to exert a will. It is his own will, perhaps arbitrary or unintelligent, but even that is regarded as better for the state than deadlock or multi-party parliamentary paralysis, which is no will at all. If public opinion is irresolute, divided, incapable, the hero of such a coup d'état may appeal to public sentiment, which, while less rational than opinion, is stronger and more widely held and is capable of being caught by such spectacles or slogans as a Carol arriving in an airplane or a Mussolini leading impatient youth to revive the grandeur of Rome.

Coups d'état rarely succeed. Manifestly destructive to present legality they incur the opposition of all who have an interest in the status quo. But the vast element of political inertia, at first an obstacle, may by appearance of success be quickly transformed to a support. Masses of men are indifferent, irresponsible, passively accepting whatever seems to have succeeded in asserting itself as authoritative. Coups d'état are gamblers' strokes, favored by those who have little to lose by failure, but a fortune to win in the event of success. Coups d'état have been thwarted, usually in secret by the gamblers' loss of nerve, sometimes in the open by the active resistance of the law abiding. The French king Charles X in 1830, attempting a coup d'état in the interest of autocracy, was checked by the spontaneous popular erection of barricades; and the net outcome of the affair was the bourgeois constitutional regime of Louis Philippe. The Kapp *Putsch* of March, 1920, was a coup d'état

directed toward restoration of the old regime in Germany. The officers temporarily ousted were able to call out on general strike the working masses who were loyal to the republican regime. The strike paralyzed the coup, and the republican regime was rendered so much the stronger in public opinion and sentiment by the proof it had given of strength to endure severe shock. Generally speaking, coups d'état find success only in case the constitutional regime is suffering extreme and widespread and deep seated unpopularity and unbearable economic or political discontent, with no promising outlook for far reaching legal change of policy or governing personnel.

On the other hand, a coup d'état is a natural, not to say normal, practise in communities that are politically immature, in which immediate objects (economic prosperity of a dominant class or dominance of a favorite political leader) are more highly appreciated than ultimate benefits such as stability and credit—where regard for law as such is undeveloped. Consent of the masses, at least to the extent of not rebelling, may be easy to win by spectacular strokes and temporary appearance of success. It is a slow process to win the public mind by persuasion to the acceptance of a man or an idea. The man who does things may in such a community win wide sentimental adherence, which looks like public order. Most people fail to appreciate the value—to them abstruse and dubious—of right method. They see that order is quickly restored after a coup, and unquestionably machine gun, airplane and censor controlled cheap press and radio do work wonders in this sense. Perhaps it is not duly appreciated that such order is not the rational stable order of willing, sympathetic obedience, but the precarious order of helpless, brutish endurance of the lesser of evils.

It is significant that England's experience with the coup d'état—the armed man Cromwell suppressing Parliament—is nearly three centuries in the past. France suffered more than once from the iron ambition of a Bonaparte and the fascination of that victorious name, but her trouble was yet more the growing pains of her adolescence in constitutional self-government. In the past three generations there has been no serious threat. On the other hand, eastern and southern Europe and Latin America suffer so severe a handicap of past misrule and hence of political backwardness that they still endure earthquake shocks and eruptions of a political energy that is irregular and perhaps, until after long political experience, incapable of regulation. In their political action one must expect violent shocks until a habit of constitutional law shall have been acquired by usage.

HENRY R. SPENCER

See: SUCCESSION, POLITICAL; REVOLUTION; CONSPIRACY, POLITICAL; DICTATORSHIP; CONSTITUTIONS; RECOGNITION, INTERNATIONAL.

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COURCELLE-SENEUIL, JEAN GUSTAVE (1813–92), French economist. After an intensive classical education he studied at the École de Droit in Paris. While director of a metallurgical plant in Lemousin he was editor of the *National*, Armand Carrel's opposition newspaper, and later the editor of the *Journal des économistes*. Following the outbreak of the Revolution of 1848 he was appointed director general of the public domains in the Ministry of Finance but resigned a few days later when he realized that he could accomplish nothing useful. After the coup d'état of 1852 he left for Chile, where he taught political economy at the law school in Santiago and acted as financial adviser to the Chilean government for several years. Upon his return to France he was appointed councilor of state in 1879 and three years later was elected member of the Académie des Sciences Morales et Politiques.

Courcelle-Seneuil was a distinguished member of the liberal school. His contributions include a clear separation of economic theory (plutology) from applied economics (ergonomy) and an analysis of the nature and forms of appropriation. Of the two forms of appropriation, the contractual and the authoritarian, he clearly recognizes the former as the superior and as characteristic of civilization, but he differs from the classical school in that he regards both as

natural outcomes of historical circumstances amenable to the intervention of human will. Courcelle-Seneuil was also a recognized authority on banking and was an ardent advocate of the independence of banks of issue. His *Traité théorique et pratique des opérations de banque* (Paris 1853), now in its thirteenth edition, is still considered a classic in its field.

Courcelle-Seneuil's influence was not confined to the academic field. As councilor of state his advice was sought in matters of economic legislation. His influence was particularly strong in Chile, where he stimulated the study of economics and where his opinions were incorporated in legislation on tariff, banking and allied matters.

ANDRÉ LIESSE

Important works: *Le crédit et la banque* (Paris 1840); *Traité théorique et pratique d'économie politique*, 2 vols. (Paris 1858, 2nd ed. 1867); *La banque libre* (Paris 1867); *L'héritage de la révolution* (Paris 1872); *Préparation à l'étude du droit* (Paris 1887); *La société moderne* (Paris 1892).

Consult: Juglar, Clément, "Notice sur la vie et les travaux de M. J. G. Courcelle-Seneuil" in Académie des Sciences Morales et Politiques, *Séances et travaux*, vol. cxliv (1895) 850–82.

COURNOT, ANTOINE-AUGUSTIN (1801–77), French mathematician, philosopher and economist. Cournot was professor of mathematics at Lyons, rector of the Grenoble Academy, inspector general in the department of public instruction and finally rector of the Dijon Academy. Among the university philosophers of his time, most of whom were under the influence of Cousin, he was distinguished by his knowledge of science, particularly of mathematics, to which he made important contributions.

Cournot was preeminently the theorist of chance. In opposition to Laplace, who thought of chance events as occurrences of whose cause we are ignorant, he defined chance as the unpredictable concurrence of two independent causal series and thus attributed to chance as much essential reality as to cause. It was this notion of chance which led him to indicate the importance of probability calculus for statistics, whose aim he described as the coordination of observations for the purpose of establishing numerical relations purged of accidental influences and exhibiting the operation of regular causes.

His belief in the reality of chance underlies also Cournot's distinction between science and history: the former, he held, deals with laws of nature, constant mathematical relations between two variables, and the latter with material representing a mixture of necessary and fortuitous events. In the field of human history chances are vastly more numerous and rich in consequences than they are in physical nature. Yet the historian may find principles of order present even in the midst of disorder. Cournot's historical etiology refuses to explain everything by "little causes." Although great men play an important part, the success of individuals is conditioned by the concatenation of social forces and man himself is always the product of a social environment. A historian must disentangle the significant from the unimportant, show the predominance of the constitutive element over the immediate cause, discover the main trend of the centuries. Cournot himself sketched something like a philosophy of history. He observed that with the progress of civilization the organic gives way to the mechanical, the calculable is increasingly substituted for the spontaneous, the fixity of mathematical and logical combinations for the disordered movement of life, the rational for the instinctive.

Cournot was also the founder of mathematical economics although he was not the first to employ mathematical methods in this field. He deliberately limited their application to chrematistics, a study of market phenomena based on the assumption that the participatory individuals are governed by an unlimited pursuit of gain. His foremost contribution is the apparatus of demand and supply functions with the aid of which he analyzed not only price formation under conditions of perfect monopoly, duopoly and perfect competition but also the shifting of taxes regarded as an additional cost of production. He did not concern himself with considerations of utility and disutility underlying phenomena on the pecuniary level nor with conditions of a general equilibrium in a market. His treatment of foreign exchanges, of variation in general prices and of social income was less successful.

C. BOUGLÉ

Important works: *Exposition de la théorie des chances et des probabilités* (Paris 1843); *Essai sur les fondements des nos connaissances et sur les caractères de la critique philosophique*, 2 vols. (Paris 1851); *Traité de l'enchaînement des idées fondamentales dans les sciences et dans l'histoire*, 2 vols. (Paris 1861); *Considérations sur la marche des idées et des évènements dans les temps modernes*, 2 vols. (Paris 1872); *Matérialisme, vitalisme, rationalisme* (Paris 1875); *Souvenirs*, ed. by E. P.

Bottinelli (Paris 1913). Economic works: *Recherches sur les principes mathématiques de la théorie des richesses* (Paris 1838), tr. and corrected for mathematical errors by N. T. Bacon (New York 1897; reprinted with addition of mathematical notes by Irving Fisher, New York 1927); *Principes de la théorie des richesses* (Paris 1863); *Revue sommaire des doctrines économiques* (Paris 1877).

Consult: Mentré, F., *Cournot et la renaissance du probabilisme au XIXe siècle* (Paris 1908), containing a bibliography of works by and about Cournot; *Revue de métaphysique et de morale*, vol. xiii (1905) no. 3; Flint, Robert, *Historical Philosophy in France and French Belgium and Switzerland* (New York 1894) p. 644–55; Ruyer, R., *L'humanité de l'avenir d'après Cournot* (Paris 1930); Fisher, Irving, "Cournot and Mathematical Economics" in *Quarterly Journal of Economics*, vol. xii (1897–98) 119–38.

COURT MARTIAL. Military courts have existed wherever a civilized state has maintained a standing army. Their organization and procedure depend more on the compromise which military authority is forced to make with current ideas of criminal justice than on any historical sequence. It is customary, however, to trace their origin to Roman law. Roman military judges were a permanent part of the judicial system, exercising civil as well as criminal jurisdiction over soldiers. The exact limitations of that jurisdiction are in dispute because of the necessarily increased power of military judges in conquered territory. In feudal times in England a differently organized society created less efficient but more picturesque military justice. Feudal society made no sharp distinction between military and civil duties. One of the king's tribunals after the Norman Conquest was a court of chivalry of *curia militaris*, sometimes called the Constable and Marshal's Court, dealing with matters touching deeds of arms where the common law was inapplicable. Such matters included heraldry and successions to the various feudal dignities not involving property rights. Since the distinction between citizens and soldiers in the feudal state was vague, the jurisdiction of the Constable and Marshal's Court was also vague. Its power increased in time of war, that is, when the courts at Westminster were closed—a definition which has persisted to the present day. In time of peace it was unpopular, as indicated by the Petition of Right of 1628, a protest against its activities. Its traditions and procedure were so alien to a rapidly developing common law and so dependent on an absolute royal prerogative that it disappeared with the feudal system. During the reign of Henry VIII the office of constable was never filled and the Marshal's Court was finally voted a grievance by the Parliament of 1640. All that survived was a system of military regulations made by the constable and issued by the kings in preparation for war.

With the reign of Charles I courts martial assumed the modern form of boards of specially appointed officers. They were a direct development of the Marshal's Court with its Roman traditions and were guided also by the military usages of the Low Countries, as decreed at Arnheim in 1590, and by the military laws of Gustavus Adolphus. Standing armies became permanent with the Cromwellian revolution. Their discipline seemed to require an exercise of the king's prerogative, subject to strict limitations by a watchful Parliament expressed in articles of war and annual mutiny acts. These mutiny acts were reenacted every year from 1689 to 1879, when they were consolidated with the articles of war in an Army Discipline and Regulation Act, replaced in 1881 by the Army Act. The fact that this act must be passed annually is an interesting survival of the ancient fear of the military power of the crown.

The English court martial system and military code were adopted in America in 1775 by the Second Continental Congress and have not been altered in their essential structure since that time, although the Code of 1916 represented a complete revision in matters of detail. The permanent personnel of the court martial system in the United States consists of the commanding officer with power to appoint the court and execute or disregard its sentences; a staff of technical advisers known as the Judge Advocate General's Department, located at Washington, and staff judge advocates located with the separate commands; and the president, who has the rule making power within the limits of the articles of war and who by executive order issues the *Manual for Courts-Martial*. The courts martial themselves are not permanent bodies and their personnel is determined by the officer appointing them. They are of three kinds, general, special and summary. The first consists of not less than five officers, the second consists of not less than three officers and the third consists of one officer. Their separate jurisdictions depend not on the kind of offense but on the weight of the penalty sought to be imposed. The appointing officer is of higher or lower rank according to the jurisdiction of the court to be convened. Only general courts can try officers or persons charged with capital offenses. They are

not courts in the sense that they may give final judgment. Except in the case of an acquittal their decisions are only advisory.

The machinery of prosecution is an extension of the military command. Public criticism in 1919, led by General S. T. Ansell, acting judge advocate general during the war, resulted in an attempt to make the court martial system less dependent on the commanding officer, and the Army Reorganization Act of 1920 embodied several of these suggested changes. The privilege of preferring charges, hitherto limited to officers, was extended to private soldiers. The commanding officer was compelled by statute to consult his staff judge advocate as to the desirable method of dealing with the charges, a procedure which was previously only a matter of custom. If the case is tried, a specially appointed trial judge advocate, with no training required, occupies the anomalous position of both prosecutor and adviser to the court. All records of the trial are examined by the staff judge advocate who in cases tried by general courts martial submits them also to the judge advocate general. In the office of the latter there is a board of review which must approve sentences involving dishonorable discharge, penitentiary imprisonment or death. Further amendments to the code in 1927 included no important changes.

The jurisdiction of courts martial rests on the Fifth Amendment to the constitution and on the statutory articles of war. Within the limits of these articles the president by executive order issues further regulations called the *Manual for Courts-Martial*. An additional source of legal doctrine and advisory authority is found in the opinions of the judge advocate general, published annually but rarely available in the ordinary court martial trial. The *Manual for Courts-Martial* contains certain gestures of conformity to the language technique of the civil courts, such as the reasonable doubt presumption, the hearsay evidence rule and rules as to the admission of documentary evidence together with a vague direction that the general rules of evidence in criminal trials are to be applied. Since the court gets its legal advice from the prosecuting trial judge advocate there is little evidence of any uniform application of such rules.

The court martial system is designed solely for the discipline of persons declared by statute subject to the military service; hence it deals only with offenses against the articles of war committed by such persons. Extensions of that jurisdiction are supposed to rest only on the necessities of a state of disorder, when martial law is invoked.

In most states a system of courts martial for the National Guard is recognized. A uniform act has been passed in many states limiting the penalties of the National Guard courts martial to a small fine and providing for the collection of that fine by a system similar to the levy of execution, with the additional penalty of imprisonment for failure to pay.

Naval courts have not the long history of military courts, probably as a result of the almost absolute power of a captain on shipboard and also of the lack of opportunity to extend that power over civilians. Prior to 1645 naval commanders appear to have had absolute power over life and death. In England the first laws for the discipline of the navy were passd by the Long Parliament on the model of the army system. Naval courts martial in the United States today are similar to the army courts in form and procedure.

In England the absence of anything corresponding to the American summary court and the fact that the judge advocate acts only as adviser and not as prosecutor are important differences in the court martial system. The system includes a General Court Martial, a District Court Martial corresponding to our Special Court and a Field General Court Martial appointed in emergencies by officers not ordinarily empowered by warrant of the king to convene a general court martial. Summary punishments up to imprisonment for twenty-eight days are administered by the commanding officer, providing that the offender does not insist on a trial. An interesting variation is the fact that the death penalty for sleeping on a sentry post has been abolished in England since the World War but retained in the United States.

The military courts of France and Germany show greater conformity to ordinary court procedure than the Anglo-American system. In Germany before the war there was a hierarchy of three courts martial with a system of appeals from the lower to the next higher court. Each court included in its membership specially trained law members. After the war each of these courts was stripped of its jurisdiction by the constitution of 1919, and except in time of war and on board warships the military code is enforced by the civil courts.

In France after the revolution an interesting attempt was made to handle military justice by civil procedure. A system of grand and petty

juries was used by military courts and their jurisdiction extended over civilians, provided the offense charged violated the military code. The attempt was a failure. Juries were suppressed by Napoleon in 1806. The permanent courts remain, however, with permanent official staffs in each military department, subject to military courts of appeal. There is a final appeal in limited instances to the Court of Cassation. The procedure imitates the civilian procedure in France in that it is more like a judicial investigation than an Anglo-American trial. The president may suspend the right of appeal during a time of emergency, and this was done during the early part of the World War. During the first years of the war summary trials by special courts were resorted to which were later abandoned, as a result of public disfavor. Officers of military police, or *prévôts*, have a summary jurisdiction without any form of procedure and may impose as much as six months' imprisonment. The military courts of appeal, however, go to the other extreme in formality and include in their membership two civil appellate judges, one of whom presides. They can reverse only for errors of law.

An organized court martial is the gesture which military power makes to current ideas of criminal justice. Discipline, the paramount purpose of the army code, is based on obedience to the individual. The conception of a rule of law and not of men, difficult to reconcile with army organization, finds its only expression in military courts. But in the army its place must be subordinate and formal. Therefore the contribution of courts martial to legal logic or philosophy has been negligible. For this reason a lack of uniformity of results in similar cases has always been noteworthy. This may in part be explained by the fact that a systematic conceptual way of explaining results makes civil courts seem more uniform than they really are, and in part by the fact that individualization of punishment is the most effective device of the disciplinarian.

In its efficiency in obtaining convictions the system is unique. Out of over 68,000 cases tried in general and special courts martial during the two years ending June 30, 1919, there were convictions in more than 85 percent. This has led a few eminent jurists to say that there is some magic in the system which civil courts would do well to learn. Yet this magic probably consists only in the fact that where procedure and legal concepts become mere ritual a court is more free to do as it pleases and that the aims of military discipline are relatively so simple that military courts are surer of what they please to do. The most important thing which civil courts can learn from courts martial is that where judges are so sure of desired results that they dare to arrive at them in a direct way without the aid of mystical abstractions they invariably cause intense popular resentment.

THURMAN ARNOLD

See: MILITARY ORGANIZATION; MILITARY LAW; MARTIAL LAW; CIVIL LIBERTIES.

Consult: Benét, Stephen V., *A Treatise on Military Law and the Practice of Courts Martial* (6th ed. New York 1868); Clode, Charles M., *The Administration of Justice under Military and Martial Law* (2nd ed. London 1874); Hickman, William, *A Treatise on the Law and Practice of Naval Courts Martial* (London 1851); Acland, Reginald, "The Development of Naval Courts Martial" in *Journal of Comparative Legislation and International Law*, 3rd ser., vol. iv (1922) 35–59; United States, Navy Department, *Naval Courts and Boards* (1923); Bray, Joseph, *Essai sur le droit pénal militaire des romans* (Paris 1894); Page, W. H., "Military Law—A Study in Comparative Law" in *Harvard Law Review*, vol. xxxii (1919) 349–73; Glenn, Garrard, *The Army and the Law* (New York 1918) chs. iii–iv; Halleck, H. W., "Military Tribunals and Their Jurisdiction" in *American Journal of International Law*, vol. v (1911) 958–67; Great Britain, War Office, *Manual of Military Law* (1929); Banning, S. T., *Military Law* (17th ed. London 1929); Aitchison, C. M., "Courts-Martial" in *Juridical Review*, vol. xxxii (1920) 147–58; Stephens, J. E. R., "English and Continental Military Codes" in *Journal of the Society of Comparative Legislation*, n.s., vol. v (1904) 244–52; Planhol, René de, *La justice aux armées* (Paris 1917); Angell, Ernest, "The French System of Military Law" in *Illinois Law Review*, vol. xv (1921) 545–58; United States, War Department, *A Manual for Courts-Martial* (1916, 1920, 1927); Ansell, S. T., "Military Justice" and Bogert, G. G., "Courts-Martial: Criticisms and Proposed Reforms" in *Cornell Law Quarterly*, vol. v (1919) 1–17, and 18–47; Morgan, Edmund M., "The Existing Court Martial System and the Ansell Army Articles" in *Yale Law Journal*, vol. xxix (1919) 52–74; United States, War Department, Special Board on Courts Martial and Their Procedure, *Proceedings and Report of Special War Department Board on Courts Martial and Their Procedure* (1919); Taylor, Frank E., "Military Courts-Martial Procedure under the Revised Articles of War" in *Virginia Law Review*, vol. xii (1926) 463–94.

COURT, PIETER DE LA (1618–85), Dutch writer on politics and political economy. He was a wealthy textile manufacturer and merchant in Leyden at a time when the industry was flourishing and exporting to all countries. Entrepreneurs were rebelling against the control of the guilds, the public markets and the monopolies of the Indian trading companies. De la Court was the

spokesman of his industry in these causes. Viewing intolerance as detrimental to economic welfare he argued also for religious liberty and defended the academic freedom of the University of Leyden.

His chief economic work, *Het welvaren van Leiden*, defending the new liberal views, was written in 1659, but since it was not printed in a complete edition until 1911 (The Hague, with German translation by F. Driessen) his influence on the development of political economy was slight. He published under the name of van den Hove (Dutch for de la Court) his *Interest van Holland ofte gronden van Hollands welvaren* (Amsterdam 1662), which was republished as *Aanwijsing der heilsame politike gronden en maximen van de republike van Holland en West-Vriesland* (Leyden 1669; 2nd ed. Rotterdam 1676) and translated into English (London 1702). This essentially political work was a defense of the anti-Orange party, the *staatsgezinde* whose leader, Jan de Witt, had been his collaborator on the book. When the party fell in 1672 de la Court fled the country.

Z. W. SNELLER

Consult: Rees, O. van, *Verhandeling over de Aanwijsing . . . van Pieter de la Court* (Utrecht 1851), and *Geschiedenis der staathuishoudkunde in Nederland tot het einde der achttiende eeuw*, 2 vols. (Utrecht 1865–68) vol. i, p. 362–99; Driessen, F., *De reizen der la Courts, 1641–1700–1719* (Leyden 1928); Blok, P. J., in *Nieuw nederlandsch biografisch woordenboek*, vols. i-viii (Leyden 1911–30) vol. vii, p. 337.

COURT, ROYAL. *See* ROYAL COURT.

COURTNEY, FIRST BARON, LEONARD HENRY COURTNEY (1832–1918), English economist and statesman. Courtney was a fellow of St. John's College, Cambridge, and was called to the bar, but he found his occupation in the office of the *Times*, where he became a leader writer in 1864. In 1880 he became undersecretary of the Home Office and in 1882 financial secretary to the Treasury, the highest office below the cabinet. In 1884 his official career, which had begun with such promise, was cut short by his own action. He resigned because Gladstone would not include proportional representation in his new franchise bill. Two years later the Liberal party split over home rule and Courtney took the Unionist side; but he was not happy in his new party, for although a Unionist he was a determined opponent of imperialism, and imperialism was now in the saddle. He was the most effective critic of the government's handling of the Jameson raid in 1895 and when the South African War broke out in 1899 he was the leader of the Peace party. In 1906 he stood for West Edinburgh as a Liberal; after his defeat he was made a peer by Campbell Bannerman. He gave a general support to the Liberal government, but he was an active critic of its foreign policy. In the Great War he pleaded for moderation and for trying every avenue to peace.

Courtney held a unique position in British politics. He shared Mill's intellectual inheritance with Fawcett and Westlake. The causes nearest to his heart were not party causes; they were proportional representation and women's suffrage. He was a Unionist, but not for the usual reasons; he held in 1886 that another effort should be made to reconcile England and Ireland within the Union. He was universally respected for his integrity and his independence.

JOHN LAWRENCE HAMMOND

Consult: Gooch, G. P., *Life of Lord Courtney* (London 1920).

COURTS. A court is popularly conceived as that part of the communal organization whose function is to determine disputes between individuals or groups, whether or not the disputants are in some way representative of the community. Despite its abstract name a court as it exists concretely is always a man or a group of men. One man may sit as a court or it may be composed of the entire number of adult citizens. In either case the court is to be regarded as an institution. Members of a court may perform many other functions, but they are a court only if and when they try an issue.

Accordingly, it is extremely unlikely that there are or were communities without courts of some sort, since it is almost impossible that there are or were communities in which there never was an occasion for dispute. But courts do not emerge as institutions until they are to some degree formalized; that is to say, until the method, the time, the person or the place required for a trial of issues is established by custom or statute and until only issues so determined engage the authority of the entire community. In such a developed form courts have appeared in many parts of Europe and Asia and especially in Africa, but they have not been found to any noticeable extent among the Indians of North and South America.

It may properly be said that until such a development has taken place, systems of law proper do not really come into being; in other

words, there is no possible differentiation between the law and the other mores of the community by which are formulated its religious and moral activities and its daily habits of dress and intercourse. Law is distinguished by being that body of practises upon which courts have pronounced judgment or will or may pronounce judgment, and practically there is no other test. This explains the overwhelming importance of courts in legal history. Indeed, early legal history is almost exclusively concerned with describing the organization of courts and the procedure which prevails in them. Such law as exists has been correctly described as secreted in the interstices of procedure.

The judicial function was nearly always a highly prized privilege and nearly always a prerogative of the ruling class. Generally those who conducted the administration kept within their hands the management of the courts as well, but the fullest development of courts was reached only when they were completely detached from other instruments of government and when the office of judge became a profession which was the exclusive business of selected persons. This development was attained in the later Roman Empire and in Europe, especially in England, after the twelfth century.

But the degree of independent development of courts is not necessarily correlated with the complexity of the political organization. A highly intricate administrative system might exist, as in Ptolemaic and Roman Egypt, in which court and executive were scarcely severed at all. And among the west African tribes an elaborate development of courts is found side by side with a relatively insignificant political growth. In the main, however, a loose organization in which political functions are themselves of secondary importance and partly undifferentiated implies a similar vagueness in the operation and differentiation of courts; and a specialization in the one field is accompanied by a similar development in the other.

Were early courts essentially bodies of private arbitrators? Such a statement is often made because it fits into a schematic presentation of the growth of courts, but it is actually very doubtful in any exact sense. Where our documents are fullest it seems clear that private arbitration, which in practise must have been often resorted to, was at first ignored or barely tolerated by the courts but finally and to varying degrees sanctioned by them. The result was sometimes that the custom of friendly arbitration created institutions which were like courts and were ultimately absorbed into the judicial system; and sometimes, as at present in the United States and England, the result was that arbitral agencies secured a partial authority from the courts themselves in the enforcement of their judgments. It may be said for the most part that court activity, instead of being private in its origin, arose through the gradual dissociation of the judicial from the executive functions of the magistrate, who was anything but an arbitrator. Only during the so-called classical period of the Roman law and in post-Tudor England, however, did the dissociation become sharp enough to make a judge differ externally from a private arbitrator except in the authority of his utterances.

It is not easy to generalize about "primitive" law because primitive tribes were and are extremely varied. If we consider chiefly conjectures about the primitive antecedents of present legal systems, it is possible, however, to mention various leading characteristics. In primitive courts the distinction so familiar to us between civil and criminal courts does not exist. It is the redress of personal grievances that is sought in all cases. Criminal courts arise when the accuser has no personal grievance whatever and appears in a representative capacity only. Again, primitive courts are not so much directly engaged in judging disputes as in guaranteeing the accuracy of the complicated ritual of early procedure. It is probably this fact which has given rise to the idea that the judges must at first have been arbitrators. But it appears that the enforcement of the result which a correctly performed ritual sought was practically compulsory; and oaths, ordeals, spells and formulae make their appearance almost everywhere. Even in what we may call the most primitive stages the enforcement of justice was never absent from the avowed purpose and practical outcome of court activity. Moreover, since the ritual was all important, the initiator of proceedings always had an enormous advantage. In fact, the court was a mere instrumentality by which the initiator could get what he claimed and most decisions were necessarily for the plaintiff. But in small communities it could scarcely have happened often that a claimant would put the ritual procedure in motion to secure a result which the community would condemn, and this is only another way of saying that he would scarcely have the effrontery to make an obviously unjust claim. Another

characteristic of primitive courts, which also tended to prevent this, was the fact that they were public and held in the open. They were public because the time and place of their sessions were known or soon came to be known and because the people who assembled to listen and observe were an essential part of the court. The requirement that the court be held in the open may have had some connection originally with religious notions, but these again might have been nothing more than a rationalization of practical need, since few ancient buildings could accommodate a crowd.

When the early codifications begin, it becomes easier to observe the organization of the courts. But while in almost all cases the purpose of codification was at least partly reformatory, it rarely succeeded in changing the court system, which was too closely connected with religion and the need for supernatural security to be lightly tampered with. The result of codification was thus usually to fix the organization and operation of the courts to such an extent that even slight modifications of their jurisdiction and activity became difficult to justify. In all likelihood it is this fact that created the need, which courts felt, of achieving the ends of justice by various evasive devices, which, however, soon hardened into technicalities and under changed circumstances defeated the very purposes for which they were created.

The famous code of Hammurabi indicates a considerable development of legal institutions. Yet a complete detachment of the courts from the administrative organization does not appear. Moreover, the dissociation of the court from the religious organs was never quite complete. This is shown by the fact that the place of the court was regularly a temple even in those later days when the priests instead of being the judges themselves were merely expert advisers in regard to the procedural ritual. Although the judge was an administrative official he sometimes bore a judicial title, and although also a royal official he was a local officer continuing the powers of an older functionary of the autonomous city-state. But under the great Hammurabi the royal power reached nearly its maximum of centralization. The king appeared as the professed father, patron and judge of his people with the specific purpose of establishing peace in their personal relations and of protecting the weak against the strong. It is this paternalistic attitude which explains the requirement that the judge should attempt a reconciliation between the parties before proceeding to an issue. The judge's retention of executive and administrative functions helped to effect such compromises, as well as the execution of the judgment if the case was tried.

That there ever was a popular element in the court is unlikely. A council of elders who appeared as witnesses, as investigators, as legal experts and advisers, sat with the judge in important matters. They exercised no control over the proceedings except by the weight of their personal authority, and it was not their verdict but the magistrate's judgment that was decisive. There is a distinct indication, however, that these elders were an extremely ancient institution, so ancient indeed that the term for court was sometimes derived from them. It is possible therefore that the magisterial and official character of the judge is a later development.

In the Assyrian monarchy a royal emissary came to discharge judicial, fiscal and administrative functions, displacing local and communal tribunals. But in the intricate bureaucracy of Egypt there is not to be discovered even a tendency toward the differentiation of judicial from administrative functions or any hint of a popular jurisdiction. The administration of justice was given a set cast which it always retained. Transmitted to the Ptolemaic kingdom it affected profoundly the later Roman system. Especially to be noted is the system of record in the Egyptian courts. There was a great deal of signing, transcribing, recording and authenticating. Secondly, the right of appeal, usually invoked in writing, was permanent. The poorest peasant might ask justice of the king after he had exhausted the ordinary forms of recourse. But the extreme interpenetration of government and courts made justice dependent more than elsewhere on the strength and vigor of the central authority. Not merely a powerful king but a vigorous and active system of inspection was necessary to insure the proper working of a system of this sort. In Egypt consequently the outcry against the cruelty and oppression of the governor is a constant burden, and periodic visitation such as the reforming Pharaoh Harmhab instituted did not effect much that was permanent.

In ancient Greece a notable development of democratically organized courts took place. By Greek tradition the oldest Athenian court, the Areopagus, was also the oldest senate, or boule. If the Homeric king is recalled, who did justice, as all ancient kings did, aided by god given

themistes, specific divine directions for each event, it becomes apparent that this ancient court and council was simply, as its name implied, the adviser, sponsor and later the master of the judge proper, the magistrate himself. When the oligarchy succeeded the monarchy in the seventh century and the king's functions were divided among the nine archons, the magistrate's function became an honorary presidency and the council became the body of judges. The democratization of Athens simply transferred the court function as it did the legislative function to the assembly of free citizens. One of the reforms of Solon was to allow a right of appeal from the decisions of the magistrates to the people assembled in the Heliaea, the judicial assembly, as distinguished from the Ecclesia, the political assembly. In the time of Clisthenes these so-called heliastic courts became courts of first resort. The magistrates now merely prepared cases for trial and presided over the heliastic court when they were heard. The whole body of 6000 heliasts became too large and was compelled to segregate itself into sections, or divisions, called dicasteries. This was done by lot and each section was officially the whole body of Athenians. The members were addressed by the formal political title of "citizens of Athens," never "judges" or "gentlemen of the jury"; and the large size of these bodies, several thousand in some cases, made them seem virtually a body of citizens assembled in their political capacity.

An important reform was introduced in the tyranny of Pisistratus, which was reestablished by the restored democracy in 453–52 B.C. To help remove the congestion of the ordinary courts resulting from the existence of restrictions upon the jurisdiction of the subject cities thirty itinerant judges were created to hear cases in the Attic countryside. When the thirty tyrants were overthrown, the itinerant justices were replaced by the Board of Forty sitting at Athens only. A form of public arbitration was also introduced about this time. Through this period the Areopagus continued to exercise jurisdiction in cases of wilful homicide. Other courts to try lesser degrees of homicide also existed, the so-called ephetic courts, recruited from the membership of the Areopagus.

It has been inferred that the law administered by the Athenian popular courts was a refined sort of mob law, fluctuating and arbitrary and determined by easily roused passions. But it is to be remembered that much of our information is obtained from the Athenian orators, and a system of law or courts can scarcely be evaluated solely upon the basis of the harangues of special pleaders. The extant judicial orations of Demosthenes, Lysias and other Athenian orators appeal as much to passion and prejudice as do modern jury speeches. It is none the less a fact that a system of popularly organized courts like that of Athens made it extremely difficult for a class of professional jurists to arise, and such a class is essential for a highly organized judicial system administering a scientific body of law.

The history of Rome exhibits the evolution of courts from primitive forms in the regal period to a highly organized structure of a subordinated hierarchy of jurisdictions in the late empire. The consuls succeeded to all the powers of the kings, but by the *Lex licinia* in 367 B.C. civil jurisdiction was vested in the *praetor urbanus*, and in 242 B.C. the *praetor peregrinus* was created for suits involving aliens. In 494 B.C. the aediles were established; they were administrative policing officers but had jurisdiction over cases involving nuisances and certain kinds of market sales. The number of the praetors and aediles was increased as Rome expanded.

Throughout most of Roman legal history the single judge type of court may be said to have predominated in civil cases. But in the classical period of the Roman law a twofold process came to prevail whereby different agencies really had charge of a case in its preliminary and final stages. The praetor merely organized the case and sent it for decision to a judex selected by the cooperation of the parties. Modern investigations incline to the view that the judex succeeded the private arbitrator, but there are still weighty and unrefuted objections against this conclusion. In complex cases more than one judex might be appointed. In cases involving the claims of foreigners, the judges —the so-called recuperators whose character remains obscure—were also plural. According to some Romanists the formulary procedure was first applied by the *praetor peregrinus* but others believe it to be due to the *Lex aebutia*. There existed also permanent tribunals, the ancient centumviral and decemviral courts, about which very exact knowledge is also not available. The former were distinguished by the fact that the archaic procedure of the *legis actiones* persisted in them after its abolition in the other Roman courts; according to Cicero

it had jurisdiction in such matters as succession, guardianship and quiritarian ownership; the decemviral court appears to have had jurisdiction in some matters of status.

In criminal cases the jurisdiction of the consuls was limited by the *Lex valeria* in 509 B.C., which gave Roman citizens a right of appeal to the *comitia centuriata*, the popular assembly, when the sentence was death or scourging. Permanent criminal courts developed in the last two centuries before the Christian era as even better guaranties of popular rights—the so-called *quaestiones perpetuae*. These tribunals each tried separate types of crimes. The presiding judge was either one of the praetors or a special *judex quaestionis*. The decision was left to the *consilium*, a jury of Roman citizens.

Under the empire the old Roman judicial system was gradually superseded. The division of the judicial process between magistrate and judex was abolished, and the former now kept jurisdiction of a case until final judgment. A bureaucratic judicial system of higher and lower courts came into existence. The most important judicial officer became the praetorian prefect, and the auditory of the praetorian prefect was a great central court to which appeals ran from all parts of the empire. Under the republic appeals in civil cases had been practically impossible. Some of the greatest Roman jurists were praetorian prefects: Papinian, Paul, Ulpian. The Roman judicial system had produced what had been lacking in all the older systems of the Mediterranean basin, a body of professional jurists. Even under the republic the judex who was a private citizen had found himself more and more compelled to rely upon the advice of the jurisconsults, and especially from the time of Augustus he was compelled to do so. Under the empire the personnel of the courts came naturally to be selected from the professional jurists.

The rise of Christianity brought into existence a system of tribunals that were destined to play a far reaching role in the development of European law. Pious Christians, just as pious Jews, were forbidden by their spiritual chiefs to have recourse to the pagan courts and were required to submit their difficulties to private arbitration or to the decision of their bishops. This form of voluntary jurisdiction, the *audientia episcopalis*, had assumed considerable proportions when the imperial Roman system became manned by Christians and the reason for abstention disappeared. The episcopal tribunals, however, far from disappearing, gathered new strength by the gradual decay or forcible destruction of the imperial administration in the West, and about 600 the writings of Pope Gregory indicate an enormously extensive jurisdiction responsible to the Roman See and covering almost the entire range of possible legal relations, secular as well as spiritual. Nor did church courts disappear with the growth of the feudal system but remained the peculiar court of the clergy, and from the eleventh to the fourteenth centuries they again began to encroach upon the jurisdictions of the temporal courts.

Tribal courts at first administered justice among the Germanic peoples which established themselves as territorial states in western Europe. The Frankish customs, which had so wide and profound an influence, are best known, and enough is known of the others to make it unlikely that the Franks had much that was unique or peculiar to themselves. The characteristic element in these tribal systems was the judicial authority of the popular assembly, the Thing. It may have been quite a general institution among all the peoples of Indo-European speech; in these ruder societies of the German forest the control by the armed warriors of everything which might lead to feuds between septs or families was permanent and active.

The tribally selected judge was the *thungin*. When the tribal organization was transformed into a territorial state and the tribal king invested with some of the trappings of the Roman *imperium*, the *thungin* was displaced by the count (*Graf*), a royal official. But both the *Graf* and his predecessor were judges only in the sense that they guaranteed the regularity of the procedure and assured the execution of the judgment. The judgment itself was the work of the assembly confirming the special verdict of a group of semireligious advisers or councilors, the *rachimburgi*. Among the Franks they were seven in number and formed a committee of the hundred, and after Charlemagne they became a permanent council. In this respect the German court consciously differed, as an ancient gloss reveals, from the only court with which it could be compared, the church court, in which, following the late Roman system, the official judge conducted the trial, declared the judgment and issued execution.

Ritual ideas clung to the court and showed themselves in the fixed time of its meeting,

which was usually every six weeks, and of its duration, which was regularly three days. There was perhaps also present in the number of the tribal division which constituted the court assembly proper the hundred, which soon ceased to have any special significance. But what marked the German court particularly was that attendance upon it was obligatory for all the freemen of the hundred. The obligation was felt to be a great burden, and one of the most popular reforms of Charlemagne was the edict which reduced the days of assemblage to nine throughout the year.

The growing complexity of life and economic organization increased the number and kinds of courts and affected their organization. There were lower or special courts for small matters summoned at intervals where and when the *Graf* or his vicar chose. In the special courts permanent lay judges (*Schöffen*) developed and it was they who found the judgments, and even in the regular courts they later obtained this power. The appearance of a royal court, which followed the king and in which he himself did justice directly, indicates that the king's court, modeled on the Roman system, stepped almost as a matter of course into all the gaps which the customary organization showed. When to this is added the system of *missi*, royal commissioners sent out by Charlemagne to examine, adjudge and report, the idea of assize and circuit courts appears as well as the notion of a residual justice in the central authority from which in due time was to come the corrective element of legal administration.

This corrective element was applied as part of the movement which created the modern national state and broke up the feudal system. Under it a host of private jurisdictions developed, administering justice over small territorial units. The feudal lord maintained the ancient custom of the hundred court, upon which attendance was compulsory, over which he or his steward presided and in which all adjustments of difficulties between vassal and vassal, and vassal and lord were made. With the tightening of the feudal structure the primary purpose of the local court was to maintain and to aggrandize the lord's power. No small element of that power was the unrestricted penal jurisdiction of which the avowed principle was the maintaining of order by frequent, drastic and savage punishments. Civil disputes concerned the only property of real importance —the land. The local court under the immediate control of the lord must have soon ceased to be anything else in such questions than an instrumentality for sharpening and confirming his expanding claims. Indeed, the court system and its administration was one of the most prized and bitterly defended rights of feudal tenure.

The national king could emerge only from a successful struggle with the lords, great and small, whose almost incredibly complex interrelations had formed something very like a caste. There can be little doubt that the Carolingian scheme was the conscious model toward which the new monarchies directed their efforts; and the system of an ambulatory court, sent out by the king or following him and demanding an account of justice done in the local courts or supplementing that justice, was a ready means for the purposes entertained. The king's court appeared a refuge to the oppressed vassal.

Nowhere can the progress of this struggle between the king's justice and local justice be better followed than in England. The Anglo-Saxon tribunals administered local tribal systems under local superintendence. There was no king's court in any proper sense except as a court coordinate with those of other lords, just as there was no general legal custom of the whole country. But when the conquest introduced into England Norman feudalism, which was itself patterned on the Carolingian monarchy, it gave a large scope to the central authority, in that the king made a direct claim on the allegiance of the vassals of his earls and barons. The continental preoccupations of the early Norman kings put England under the immediate control of a minister who characteristically bore the title of justiciar. It was in fact by the intrusion of the king's justice into the local communal jurisdictions of hundred, shire and moot and the seigniorial jurisdictions of courts baron and courts leet that his authority was most strikingly brought home to Englishmen and constituted the strongest weapon forged against the growing strength of the great lords. Of the political side of the struggle it may be said that the power of the nobility was at its height in the thirteenth and fourteenth centuries and created a permanent result of their triumph in the peculiar English development of the Norman parliament. But the gathering control by the royal or central power over the courts and the displacement of local jurisdictions by the king's courts was more than adequate compensation. It was Henry II and

Edward I who accomplished the great constructive work of centralizing English justice, and never after the end of the thirteenth century was it beyond royal control. The office of justiciar ceased to exist after 1234.

From the Curia Regis evolved the general courts of the realm by the process of separating the judicial functions of the king's councilors from their executive and administrative ones. The three great courts of the common law, as they are called, came to be the Court of Exchequer, the Court of Common Pleas and the Court of King's Bench. The courts were at first ambulatory, following the person of the king, but gradually ceased to be so. It is not easy to explain briefly the ill defined jurisdictions of the three courts, which in most cases were concurrent and led to a great deal of rivalry. It is likely that the tendency of the courts to think of themselves as marked out by special privileges to be closely and jealously guarded was characteristic of mediaeval psychology. At all events, Westminster offered a double escape from the limitations and archaic procedure of the local courts and the overwhelming weight of the lord's influence there.

The king's exchequer found itself exercising the functions of a court in determining the validity of fiscal exemptions and in enforcing the debts due to the crown. But it soon began its career as a court of common law by asserting successfully a general jurisdiction by means of more or less ingenious fictions: for instance, the allegation that the plaintiff was indebted to the crown but that because of the defendant's refusal to pay his debt he could not meet the royal obligation. In revenue cases the barons of the exchequer heard pleas of the crown. In opposition to these were common 'pleas, or pleas between subject and subject, which came to be entrusted to the Court of Common Pleas. It had its origin in 1178 when Henry II appointed justices to sit at Westminster to render right to all comers. In 1272 a separate chief justice was appointed for the Common Pleas. An exclusive jurisdiction secured by the Common Pleas was over real actions, and thus in cases of trespass it adjudged pleas of the crown. The Court of Common Pleas was the first to become a fixed court. It was so provided in Magna Carta. The Court of King's Bench was at first less an organized body than the method by which the king in person heard those disputes which by their intrinsic importance and the position of the litigants could be heard nowhere else. Although the King's Bench had a chief justice as early as 1268, a number of historical accidents, among them the absence of Richard from the kingdom and the minority of Henry III, retarded its development as an independent bench. From its particularly close connection with the king it derived, however, great prestige. It secured original and appellate jurisdiction in both civil and criminal cases. It was the court that could issue the prerogative writs such as certiorari, habeas corpus, prohibition, mandamus and quo warranto. Error lay from the Common Pleas to the King's Bench. The extensive original civil jurisdiction which the King's Bench secured was largely at the expense of the Common Pleas, which was hampered by an inferior procedure. This original jurisdiction was based upon pleas of the crown, and it made particularly great use of the writ of trespass, which came to cover an exceedingly wide field.

The growth of the royal courts represented a process of centralization. A degree of decentralization was necessary if seeking the king's justice either at Westminster or elsewhere was not to become an intolerable burden. The mechanism adopted was the familiar one of visitation by itinerant justices in periodic rounds of the country. This began soon after the Norman conquest, but the commissions issued were intended primarily for inquisitorial purposes, to secure information of wrongs the prosecution of which might fill the royal treasury. Not only the king's power but also his exchequer was enriched by the felon whose goods were forfeited as his blood was corrupted. These early justices on General Eyre, as it was called, spread such terror that commissions of these kinds became obsolete. The chief commissions which survived for the trial of crimes were those of Oyer and Terminer and Gaol Delivery. The justices delivered the jails and inquired into the methods of local tribunals. The king's justices had the great advantage of being able to offer trial by jury, which alone prevailed in the administration of royal justice. But if trial by jury was better than ordeal or combat, it must not be supposed that the king's court either at Westminster or in its peregrinations from assize to assize was a place where an accused could expect indulgence. This was prevented by the pecuniary interest of the king in criminal justice. Its absence in cases of minor offenses, where no forfeiture took place, had a great deal to do with the early establishment of

one of the most characteristic of English institutions, the office of the justice of the peace, which was brought into existence by statute in 1327. It ultimately put the control of the daily lives and happiness of the great mass of Englishmen into the hands of the landed gentry.

In civil cases the jurisdiction at first conferred by the commissions of assize was limited to certain possessory actions. But by the Statute of Westminster II in 1285 the justices of assize were given a general civil jurisdiction over cases begun in the Common Pleas or King's Bench. This statute established the so-called nisi prius system, for it provided that cases should not be tried in the two latter benches nisi prius (unless before then) the justices of assize failed to come into the country to do so. The circuit system thus established was later extended to other courts and to criminal as well as civil cases, and the holding of the assizes ceased to be occasional and became fixed and periodic. The harmonious growth of the law was insured despite this decentralization by the fact that the judges of the three benches also went on circuit and by the adjournment of difficult cases into the courts of Westminster. The circuit system thus evolved in its main features still endures today.

During these centuries there began to take shape a peculiar limited appellate jurisdiction in Parliament, later confined to the House of Lords and still exercised by it. Probably it arose from the sitting of the king and his council in Parliament and from the growing idea of Parliament as the maker of new law. But from the residuary justice which still remained in the king and his council there developed, particularly in the course of the fifteenth century, a far more important peculiarity of the English judicial system, which indeed became established as its most marked feature. The emergence of a separate court of equity meant that English justice was to be administered by a dual system of courts of common law and equity which, although at first in actual and later in theoretical conflict, nevertheless were to bring about a harmonious development of English law.

It was not long after the common law courts had gained the ascendancy over the local courts that they began to develop difficulties and vices of their own. Their procedure became stereotyped and limited in range. Their fees were high, and corruption and oppression became relatively frequent. It was the jurisdiction of the common law courts which now needed supplementing and correcting, and it was the king's greatest officer and closest personal adviser, the chancellor, who in the king's name offered the courts newer writs on occasion and undertook to do justice where the king's court had failed or was helpless. It was not long before this occasional and exceptional interference made the Chancery a court proceeding according to settled equitable principles. It perhaps first began to assume something of the regularity and permanence of a real tribunal when the practise of creating charitable uses grew up—an indirect form of transferring property, in which the church was vitally interested and upon which the crown looked without disfavor because it powerfully limited many troublesome feudal claims and privileges.

The Chancery, which had a specific and peculiar business besides the vague jurisdiction which it derived from the residual royal power, grew slowly into a court with its own special forms and procedure, its own body of apprentices and even its own vices. Its characteristics were that there was no jury, that written forms were predominant and that it had a peremptory and drastic method of acting on those before it. It may well have derived its tone and methods in part from a conscious transfer of those in vogue in the canonical courts or in those of the revived Roman law, with both of which the earlier chancellors were obviously familiar since until the end of the fifteenth century the great majority of them were prelates. The chancellor acted merely upon the "conscience" of litigants by punishing them for contempt of the Great Seal, whose keeper he was, since he could not directly, by virtue of the operation of his decrees, transfer rights recognized by the common law courts. In this way the fiction was maintained that these remained unimpaired despite the interference of the Court of Chancery.

In the fifteenth century, which witnessed the decay of the ancient baronage, a process finally completed by the Wars of the Roses, there emerged the absolutism of the Yorkist and Tudor monarchs, and almost the first effort of the new masters was directed to establishing in England that Roman law which had somewhat perversely become a charter of absolutism on the continent and which had recently recreated there a bureaucratic officialdom converging in the prince.

The attempt failed and was soon abandoned, following the revolt against the Stuart attempt to continue the Tudor tradition. The crown

had destroyed the last vestiges of feudalism and the secular power of the English church only to create a new body of small landowners roughly corresponding to the gentry. As a result of this reorientation the common law courts, King's Bench, Common Pleas, Exchequer, came to represent the established property rights of Englishmen, and the chief instruments of the crown were the Chancery and the Star Chamber, a tribunal of ancient date which was another offshoot of the king's council and which although it exercised some vague civil jurisdiction may be regarded chiefly as the criminal counterpart of the Civil Chancery. But the Star Chamber was abolished, in 1641 the Chancery was temporarily pushed into the background, and the Common Benches were erected into the champions of a government of law as against one of men. In the seventeenth century, however, the vogue of natural law theories revived and strengthened the jurisdiction of the Court of Chancery and put it upon the path which it was to follow in the nineteenth century, when it was mechanized by Eldon and humanized by Romiily and Jessel.

This description of the English judicial system does not take into account such special jurisdictions as the Admiralty Court, the ecclesiastical courts, which were finally abolished in 1857, or such mercantile courts as the Courts of Piepowder or the Courts of the Staple, which disappeared when the law merchant was absorbed into the general law administered by the Common Benches and the Chancery. When Coke wrote his fourth institute he described seventy-four courts which did the work now discharged by three. As long as it was chiefly landed proprietors and rich merchants who appeared before the courts, the difficulties of procedure and the duplication of jurisdictions were not seriously felt. The rise of an industrial society, however, created new and exacting demands for court adjustment arising particularly from the demands of poorer types of litigants for justice. As first attempts at reform may be mentioned the interesting eighteenth century experiment of the courts of requests, which were established to hear small claims not exceeding forty shillings and which had a simplified procedure. When their jurisdiction became too petty as a result of the decline in the value of money they were succeeded by the present English system of county courts. These have no historical connection with the old feudal county courts, being entirely a statutory creation of 1846. They were especially designed for poorer litigants, and although limited in jurisdiction they make some effort to do justice cheaply as well as effectively.

The general reorganization and unification of the English judicial system was first postponed by the Napoleonic wars and later by the more urgent cry for penal reform. But it gathered momentum during the middle of the nineteenth century and was finally realized in the Judicature Act of 1873, taking effect in 1875. Its purpose was not only to amalgamate the existing courts but also to fuse the principles of common law and equity. A Supreme Court of Judicature was created in two divisions: the High Court of Justice and the Court of Appeal. The High Court was given unlimited jurisdiction and was divided merely for convenience into five divisions: the Chancery Division; the Probate, Divorce and Admiralty Division; the Common Pleas; Exchequer; and Queen's Bench divisions. The latter three were amalgamated into one by order in council in 1881. By the Appellate Jurisdiction Act of 1876 the appellate jurisdiction of the House of Lords was reformed and regularized. A very much needed reform, a system of criminal appeal, which had hitherto existed only in the supervisory jurisdiction of the King's Bench and in the practise of judges in reserving difficult points of criminal law which had been sanctioned by statute in 1848 by the creation of the Court for Crown Cases Reserved, was completed by the establishment of the Court of Criminal Appeal in 1907. But technicalities are still not favored, and a criminal trial in England has acquired many of the qualities of an efficiently despatched transaction which is a grim business for a man under indictment.

On the continent it was in France that the early development of the judicial system was most similar to that of England. The organization of courts in the feudal system after the disruption of Charlemagne's empire was highly complex. There were royal courts, feudal courts, city courts and church courts. Most feudal courts had elaborate divisions, since the feudal princes were themselves suzerains of vassals who had courts of their own and since even the king was duke of France as well as suzerain of the great feudatories and thus conducted two independent kinds of courts. The courts of the feudal lords were as a matter of fact largely usurpations, being in most cases substitutes for those of the Carolingian *Graf* or his

vicar. The distinction between the "high justice" administered by the former and "low justice" administered by the latter corresponded roughly to criminal and civil justice, but it soon ceased to have much practical importance when both were fused, as they were in most seigniorial courts.

The royal justice, on the other hand, soon fused the king's feudal court with his general court. From this Curia Regis a number of special courts arose, of which the most notable was the *parlement*, specifically the Parlement of Paris, which served as a model for similar institutions in the provinces after the unification of France in the fifteenth century. *Parlement*, which was a court of appeal for royal officers only, successfully claimed after the thirteenth century the right to review many classes of cases from the seigniorial courts. This right of appeal was as powerful an instrument of royal power in France as in England. Equally advantageous to the king were the practise of reserving certain cases solely for him and the right of "prevention" by which the king's judges intervened if the local authorities were in their opinion hesitant or dilatory. In this way local courts were made to possess a delegated authority, but they retained enough of the vestiges of their independent origin to resist the *parlements* a little and keep alive more than a spark of local patriotism.

The *parlement*, which had so potently assisted in the creation of the royal authority, seemed to the crown a greater danger than that of the local courts. Consequently its authority was diminished by the creation of provincial coordinate *parlements* and by the formation of new courts, notably the Chamber of Accounts, which took from the *parlement* the very business which had enabled the English Exchequer Chamber to rival the King's Bench. The members of these various courts were in theory royal officers whom we should class as administrators, but there grew up very quickly under the tremendous impetus given by the rapid spread of systematic study of the Roman law a group of professional legists who by the fourteenth century seem to have constituted the *parlement* and from whom came most of those who actively assisted in its proceedings.

One of the effects of that organization of the monarchy which took place in the fifteenth and sixteenth centuries was the simplification of the course of appeal, the elimination of many rival jurisdictions and the introduction of royal judges even in the cities. Another and apparently contrary effect was the public traffic in judicial offices which were created anew by the king, sold to various persons and dealt with by these persons like estates that were freely transferable and inheritable. It must be admitted that this system was not quite as vicious as it sounds, since some little care was taken as to the general fitness of the grantee. It even made for an independent judiciary, since jurisdiction, being a property right, could not be revoked, nor could the judge be removed.

This system was not abolished until the revolution. The new organization elaborated by the First Republic and finally promulgated by the Napoleonic codes is the one at present in vogue in most of its essential characteristics. The court, usually described as of first instance, is of widest jurisdiction; there is an intermediate court of appeal, a tribunal to settle conflicting claims of jurisdiction and a final highest court (Cour de Cassation). An integral feature of the system is the administrative courts, quite independent of the other courts and culminating in the Conseil d'État. They were made necessary by the fact that the doctrine of the separation of powers was interpreted in France to mean that the judiciary was powerless to interfere with any of the acts of the administrative authorities.

French courts became part of the governmental administrative machinery. The political development in England, which made the English crown secondary and put the actual government in the hands of an aristocracy of small landholders, allowed the lawyers and judges to grow into something like a separate estate of the realm and to assume an unrivaled independence and power. In France, on the other hand, the crown became practically absolute and the courts, with the exceptions noted, were functionaries in a bureaucratic system. After the revolution this last fact became, if anything, even more apparent. Bureaucracy and a sense of corporate solidarity seem in popular imagination to characterize French courts, although the highest court has more than once given evidence of breadth of view and boldness of action. Despite the fact that litigation is relatively expensive and likely to be protracted the tenacity with which property rights are maintained and defended makes litigation less of a last resort than it is likely to be elsewhere. It cannot be said that there is or has been a lack of confidence in the processes of the courts

in France, and the complaints which are heard there are apparently little more than the almost inevitable resentment of a laity against any control of their lives by professional experts.

In other parts of Europe the development resembled that of France, except that the tendency toward centralization was retarded by the fact that the feudal principalities in Germany and Italy were never organized into a single powerful state before the French Revolution. But one interesting unifying influence in the German states dating from the fifteenth century deserves special mention. This was the organization in 1495 of the Reichskammergericht, or Imperial Chamber of Justice, which endured until 1806. The importance of the emperor's own court had been very much diminished by the Golden Bull of 1356, which exempted the subjects of the electors from appearing before it, and by the fact that the emperor himself was frequently absent from his own dominions. The Reichskammergericht was thus established not as a court of the emperor but as a court of the empire, with a view toward abolishing "cabinet justice." It was given a notably wide range of jurisdiction in the field of public law: it had jurisdiction in suits between different territorial sovereigns and it was a supreme appellate court in cases coming from the different territorial courts. It is true that the efficacy of Reichskammergericht was seriously undermined by the creation soon after of another imperial court which often exercised concurrent jurisdiction. Nevertheless, it remained a great influence in the reception of the Roman law in Germany and thus helped to bring a considerable degree of unity into the development of German law.

The nineteenth century compelled a reorganization of courts more or less after the revolutionary pattern, which was faithfully copied in Italy and Spain and recast for her own needs by Germany. In all these states a system of administrative courts was created. The French system also served as a model for most Latin American countries and indeed for a great many nations coming within the range of European influence. It must be noted, however, that neither the Italian nor the German courts had anything like the influence, power or vigor of those of France or England in the period before the Great War, and this has often remained true even where democratization has resulted from post-war developments.

In the United States the early colonial courts were manned by judges of inferior capacity who were in all cases appointees of the governor or the proprietor and hence acted largely as his agents. In the early colonial legislatures no fine distinction was maintained between legislative and judicial functions. The courts which became established with the final and firm reception of the common law after the revolution were markedly different in respect to both the tenure of the judges and the separation of powers. The judiciary became indeed so independent that it was often beyond the reach of the popular will. The separation of powers was applied in such a way that according to the prevailing theory the courts were supposed to be constitutional bodies who not only could not be deprived of any of their powers as equal and coordinate branches of the government but could not be compelled to assume other than judicial functions. Moreover, it was held that the courts were the arbiters of the extent and nature of the separation of powers. In other words, they received the right, which was then unique, of passing upon the constitutionality of legislative and executive acts. As a result of this power of judicial review the courts came to occupy a particularly important place in the American governmental system.

In their organization American courts have been determined partly by English tradition and partly by special native conditions. To some extent French influence was also felt, since all things French enjoyed great popularity in post-revolutionary America. The force of English example was not particularly fortunate, considering the intricate and multiple nature of the English courts of the period before the judiciary acts. It was offset to some extent, however, by the infiltration of the more rational and formal French ideas of judicial organization. These fitted in well with American necessities; a large and sparsely settled agricultural country needed no complex court system, but it did require one that would bring justice to every man's door. This could be accomplished only by courts of first instance, the basis of whose jurisdiction would be territorial, and by appellate courts, whose supervisory jurisdiction would be general, all the courts finally being arranged in hierarchic gradation. The federal nature of the American Union also encouraged such a judicial structure. If the common law had not underlain American legal institutions, American conditions would have dictated an even greater logical symmetry than they did. Thus, while

it cannot be said that American courts have even now been thoroughly unified, they began to approach this objective long before the English judicature acts. In the less densely populated states the judicial organization is still rather simple. But in the states with many large urban communities the organization of the courts is tending to become complicated. It is true that means of communication and transportation are now so well developed that a greater degree of centralization is feasible than ever before. But against this must be set the need of the cities for many special types of courts.

It is naturally impossible to describe in any detail the present judicial organization of forty-eight different states. But the most typical system is as follows: (1) a highest court of appeal; (2) an intermediate court of appeal; (3) courts of general, original jurisdiction, among which are (a) courts of law, (b) courts of equity, (c) criminal courts and (d) probate, or surrogates', courts; (4) inferior courts of intermediate grade, such as the county courts and municipal courts; and (5) petty courts, such as the court of the justices of the peace in rural districts and the police courts in the cities. The mingling of influence is here obvious. The relation of the courts is to a large extent hierarchic although not unitary. The separate courts of equity are plainly of English origin. But although at first the rule they are now the exception, and separate courts of equity (or Chancery) exist now in only six states: Alabama, Arkansas, Delaware, Mississippi, New Jersey and Tennessee. In many states there are also no separate criminal courts. But where they exist their very names often bear an English stamp, such as Court of Oyer and Terminer and General Gaol Delivery. The courts of general, original jurisdiction, except where there are separate equity courts, are usually endowed with all the powers once possessed by the English Common Benches and the Chancery, subject of course to such modifications as are dictated by American conditions. The probate, or surrogates', courts, which are chiefly entrusted with the management of decedents' estates and actions relating to them, were made necessary by the fact that the English ecclesiastical courts which had first exercised this jurisdiction could not be accepted as models in a republic. The county courts have been particularly important for rural America. They have exercised a far wider jurisdiction than the English county courts, very often having both civil and criminal jurisdiction in first instance. The municipal courts exist in the cities and help to relieve the congestion of the courts of general civil jurisdiction by taking from them cases involving only moderate amounts (usually one or two thousand dollars). The justices of the peace were obviously also suggested by English example but were given not only a petty criminal but also civil jurisdiction. The justices, however, have not often been of a high caliber, and the excellence of communication has made them in most places so unnecessary that abolition of the office is sought.

The federal judicial power is vested in the Supreme Court of the United States (*q.v.*), which has played a tremendous role in American history as a result of its being the final arbiter of all constitutional questions. The Supreme Court is a constitutional court, owing its existence to article III, section 1, of the constitution, but the inferior federal courts have been shaped by Congress by a series of judiciary acts. The federal courts of general, original jurisdiction are the district courts. Each state constitutes at least one judicial district but some are divided into two, three or four. Each district court is usually presided over by one judge. The district courts have jurisdiction of all cases arising under the constitution or laws of the United States. A peculiarity is the vesting in the federal courts by the constitution of all maritime jurisdiction. They have now also been entrusted with exclusive bankruptcy jurisdiction. The general civil jurisdiction, which is at both law and equity, is usually derived from the diversity of citizenship on the part of litigants, providing the controversy involves more than three thousand dollars. In this way the adjudication by state courts is often escaped when the escape is advantageous to the plaintiff. The federal courts do not always apply the same rules of law as the state courts, and thus a choice of courts involves often a choice of law. The diversity jurisdiction is particularly easy to invoke in corporate reorganization, with the result that the federal courts have come to administer great business interests in receiverships. Above the district courts are the circuit courts of appeal, which were first created in 1891 and of which there are now ten. These courts are intermediate courts of appeal and were established to relieve the Supreme Court of some of its less important burden of appellate jurisdiction. The district and circuit courts are

coordinated by the fact that the circuit judges may sit as district judges.

The federal judicial system is based upon the premise that the federal judicial power cannot be entrusted to the state courts but requires a separate organization of federal courts. Doubtless no other arrangement was possible at the time when the federal judicial system was inaugurated, since the states and the federal government were too jealous of each other to tolerate a unitary system. But a great deal can be urged against it under present conditions of national unity, and it may well be doubted if it would be adopted now if another federal constitutional convention were to meet. Indeed, it is interesting to note that no separate federal system of courts beyond a separate general court of appeal has been established in such federal countries as Germany, Canada and Australia.

The congestion of the courts is a complaint which is made very frequently in connection with the American administration of justice, but it is one that is heard in all countries that have large urban and industrial centers. A common way of meeting it is resort to private arbitration, particularly in commercial causes. Administrative commissions in the United States have also come to exercise many functions which may well be regarded as judicial. It is often suggested that a great deal of the underlying difficulty could be removed by the creation of truly unitary judicial systems in each of the various states, such as exist under the English judicature acts. Part of the English system is a judicial council which surveys the administration of justice and informs itself where additional judges are needed, so that it becomes possible to shift judges from the less congested divisions. This is, however, difficult to do in American courts, which exist independently, and although judicial councils have been adopted in thirteen states (Wisconsin, Massachusetts, Ohio, Oregon, North Carolina, Washington, California, North Dakota, Connecticut, Rhode Island, Kansas, Virginia and Texas) they are largely confined to surveys of judicial administration. The Conference of Senior Circuit Judges established in 1922 has, however, been given powers not only of oversight but also of transferring federal judges from district to district as they are needed.

The problem of congestion can be only imperfectly understood unless all available courts are taken into consideration. But the present review has been necessarily confined to what may be described as the ordinary court systems. The work of these has at various times and in various countries been supplemented by more specialized types of courts which have received here very little or no mention. Such have been the special administrative, ecclesiastical, commercial or industrial courts. There are also the special types of courts which have appeared particularly in the United States in the last few decades: juvenile courts, domestic relations courts and various types of so-called small claims courts which have been devised to aid poor litigants. The multiplication of special courts for special types of controversies as they arise has been said to be typical of early judicial organization. But in truth they are reappearing under the pressure of modern needs. Nor can the work of modern courts be understood without noting that despite the doctrine of the separation of powers they have in the course of their history acquired and are still acquiring many functions which are really not strictly judicial. The popular conception of a court as an institution for resolving disputes has never been more than partly true. Courts, as has been said, have always had certain administrative functions. Such acts as naturalizing aliens or performing marriage ceremonies are modern instances of such functions. Further, the dispute to be resolved need not be hostile, and in the "non-contentious jurisdiction" of continental courts, in many probate cases, in friendly suits of partition, in the request for advisory and declaratory opinions, there is no dispute in the strict sense. But in these last cases the courts are as much engaged in delimiting rights, actual or potential, as in the ordinary lawsuit.

Courts as institutions have frequently been very unpopular. American courts have often become so because in passing upon the constitutionality of legislation they have come into conflict with the popular will. If it be true that courts in some form are unavoidable, it must be apparent that it is a historical accident whether they shall be few or many, arranged in a hierarchical series, composed of single individuals or groups, dissociated from other agencies or an integral part of them, administered by trained experts or laymen. Any one of these systems may work and under particular conditions may work well with any type of politically or socially organized community. And since it is a historical accident which type shall be used, it is wholly idle to invest a special and familiar type with any degree of sanctity

or to suppose that any particular judicial machinery is essential either for maintaining existing property rights or for modifying them profoundly. The use to which judicial machinery is directed will always depend on the persons who direct it.

In the last analysis a court gains its authority not from the threat of forcible execution which the executive organs of the community announce in aid of its judgments but from an almost general acceptance of these judgments. The end of law is justice, and the courts form the means by which conflicts between citizens are adjusted. The only alternative to the type of court which western civilization has produced—a court which is permanent, wholly or partly differentiated from other governmental functions and administered by a partly segregated class—is a system in which inexperienced men adjudicate conflicts by impressions immediately produced on them. It is extremely unlikely that such impressionistic judgments will be as much in accord with the general communal sense of justice as the technical and systematized adjudications of a formal court.

MAX RADIN

See: JUSTICE, ADMINISTRATION OF; LAW; LEGAL PROFESSION; JUDICIARY; JURY; PROCEDURE, LEGAL; JURISDICTION; EQUITY; APPEALS; GOVERNMENT; SEPARATION OF POWERS; JUDICIAL REVIEW; CUSTOMARY LAW; CODIFICATION; MARITIME LAW; EXTERRITORIALITY; ECCLESIASTICAL COURTS; COURTS, ADMINISTRATIVE; COURTS, COMMERCIAL; COURTS, INDUSTRIAL; MUNICIPAL COURTS; POLICE COURTS; JUVENILE COURTS; DOMESTIC RELATIONS COURTS; SMALL CLAIMS COURTS; SUPREME COURT, UNITED STATES; HAGUE TRIBUNAL; PERMANENT COURT OF INTERNATIONAL JUSTICE; ARBITRATION, COMMERCIAL; ARBITRATION, INTERNATIONAL.

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found in Engelmann, Arthur, *Der Civilprozess*, 3 vols. (Breslau 1889–1901), vol. ii tr. by R. W. Millar as *History of Continental Civil Procedure*, Continental Legal History series, vol. vii (Boston 1927), especially pages 94, 104, 113–17, 258, 263, 316, 520, 590, 628, 708, 804, 821.

COURTS, ADMINISTRATIVE. Administrative courts are authorities, outside the ordinary court system, which interpret and apply the laws when acts of public administration are attacked either in formal suits or by other established methods. Administrative adjudication may be the sole function of such authorities, or it may be additional or even incidental to administrative and regulatory functions.

Types of Administrative Courts. Although no two countries have exactly the same administrative court systems, it is possible to divide administrative courts roughly into two main types, the continental and the Anglo-American.

Administrative courts of the continental type are organized into a definite system; arranged in hierarchical order in respect to appeals; generally separated partially or wholly, at least in the higher instances, from the active administration; possessed of a well defined procedure; manned by trained judges and experienced administrators secure in their tenure; and free from the control of the ordinary courts, so that the judgments of the highest appeal instances are final. Certain special administrative courts are sometimes established outside the system.

Administrative courts of the Anglo-American type are not organized into a system. Administrative judicial functions, which may or may not be recognized as such, are often performed by the regular government departments. Special tribunals are also established; these are frequently called boards or commissions. There may be a concentration in the one agency of regulatory, administrative and judicial powers. Cases are often passed upon not by qualified judges and administrators, who cannot normally be dismissed, but by civil servants without judicial training and experience, or even by political appointees, who may be subject to removal at pleasure by the chief executive or by some other administrative officer. There is no general method of procedure nor a definite hierarchy of appeal instances; appeals often lie to the ordinary courts.

The French and the German administrative courts may be taken as the outstanding examples of the continental type. The French system developed historically around the doctrine of the separation of powers, as an agency for protecting the administration from control by the ordinary courts. The German system developed with the conception of the "legal state" (*Rechtsstaat*) in which all duties should be enforced and rights secured by means of the enactment and enforcement of legal provisions; the administrative court was established as a method for compelling the executive, although free from control by the ordinary courts, to act within the law. The Anglo-American type is not an outgrowth of any philosophy; it is the result of compulsion by circumstances. With the tremendous increase of public functions in the past century, inevitably function after function was given over to a special agency, which might regulate, administer and adjudicate. Occasionally, as with the Court of Customs Appeals, only the judicial function was given to the agency.

The chief administrative tribunals of France are the council of state, the interdepartmental prefectoral councils and the councils of litigation in the colonies. Among special administrative tribunals not included in the general system may be mentioned the court of accounts, the superior council on public instruction, the councils of revision, the superior commission on special contributions and the prize council.

Although the Weimar constitution requires the establishment of a national administrative court in Germany, this court has not yet been created. Among the special administrative tribunals established by the Reich are the national insurance office, the national finance court, the national patent office, the higher and the lower courts of arbitration for cases involving employees' insurance, and the national office for public relief agencies. It is in the German states that complete and even elaborate systems are found, each of which has its own special features. In general the states place upon some agency of local administration, such as the county committee in Prussia, the duty of acting as an administrative court of first instance, whereas the higher administrative courts are relatively or entirely independent judicial authorities. Württemberg alone has no such local administrative court.

The chief administrative tribunals in England are the Railway and Canal Commissioners, the Railway Rates Tribunal, the Ministry of Health, the London Building Tribunal, the district auditors, the national health insurance tribunals, the tribunals for unemployment insurance, the Board of Education, the Electricity Control Board and the pensions appeal tribunals; also,

in first instance, the local authority representing these various functions.

The chief federal administrative tribunals in the United States are the Federal Trade Commission; the Interstate Commerce Commission; the Customs Court in first instance and the Court of Customs and Patent Appeals in second instance; the Patent Office, with appeal to the Court of Customs and Patent Appeals; the Board of Tax Appeals; the Court of Claims; the immigration authorities in first instance, with the secretary of labor in second instance in exclusion cases; the food and drug administration; the Board of Tea Appeals; the Federal Power Commission; the registers of district land offices, with appeal to the commissioner of the General Land Office (who acts through an advisory board) and with further appeal to the secretary of the interior; the commissioner of reclamation, the director of the geological survey and the commissioner of Indian affairs, all with appeals to the secretary of the interior; and the Employees' Compensation Commission. In the states the chief administrative tribunals are the public utility regulatory bodies, called variously public service commissions, railroad commissioners, public utility commissions, etc.; the workmen's compensation commissions; the industrial commissions; and certain health authorities.

Jurisdiction. There are two principal types of administrative suits, namely: those which seek to protect a definite right of either an individual or the government (subjective suits); and those which seek to have the law enforced even where no such right is at stake (objective suits).

The jurisdiction of the council of state in France includes both types of suits. The subjective suit of full jurisdiction is a judicial process in which parties are heard, facts as well as law are examined, and justice is done with a view to both the public interest and the individual rights in question. According to the nature of the act giving rise to the suit, it may be annulled or amended if the court considers it illegal, erroneous, inequitable or inadequate.

The objective suit for annulment of an administrative act on the ground of excess of power is quite different. It is an examination into the legality of the act. Although complaint may be made by an individual, he is not a party in a trial. The decision is based on the legal questions involved, and its theoretical purpose is not primarily to do justice to an individual (although it may and usually does have this effect) but to "protect the objective legal order" by causing the administrative authorities to act within the law. In recent years, however, there has been a decided tendency to disregard this sharp distinction, so that objective and subjective suits are not so clearly differentiated as they formerly were. Only subjective suits may be brought before the lower administrative courts of France.

In most of the German states the jurisdiction of the administrative courts is limited to subjective suits. There are certain exceptions to this rule; thus in Prussia the state administrative authorities may bring suit contesting the validity of certain acts of the local authorities. In exceptional circumstances an individual may bring a similar suit. Ordinarily, however, suits brought by individuals must show a specific rather than a general interest, and a right violated or endangered rather than a mere desire that the law shall be observed by the administrative authorities. As a rule, the jurisdiction of the administrative tribunals in the German states does not include questions of discretion (except sometimes in the lower instance) but only questions of law and fact.

In the United States and England the proof that a personal interest is involved is always required, even where it is claimed that the administrative act in question is illegal. In most instances the administrative tribunals have jurisdiction as to both law and fact, and exercise a good deal of administrative discretion when making their decisions. The appellate administrative tribunals, which are definitely organized as such, usually pass on questions of law and fact, occasionally on questions of law alone. No such limitations bind the ministers or departments which pass upon administrative appeals.

Suits may arise under such circumstances that it is difficult to know whether they appertain to the jurisdiction of the ordinary courts or to that of the administrative courts. Methods have accordingly been devised for meeting this contingency. France has established a tribunal of conflicts, composed of administrative and judicial members. Courts of conflicts are found in most of the German states, and one is anticipated for the Reich when the national administrative court is created. In the United States and England the ordinary courts will pass upon the question whether a given tribunal is acting within its legal jurisdiction.

Procedure. In administrative courts the procedure generally differs more or less from that

in ordinary judicial courts. As a rule, that of the former is more simple, inexpensive and rapid than that of the latter. In many administrative suits attorneys do not appear; there is no jury; a public hearing is not required; the technical rules of evidence are considerably relaxed in order that all relevant facts may be brought out; the administrative judge or experts connected with the tribunal may take an active part in securing and presenting the evidence. Moreover, not only individual rights and claims as they appear in a particular case, but broad considerations of public policy, sometimes going far beyond the issues raised in the suit, may be the acknowledged basis of an administrative decision.

In France procedure varies according to the nature of the suit and the status of the court. Perhaps the simplest procedure is that of the council of state in dealing with the suit asking annulment for excess of power. When the written request for annulment, with supporting documents, reaches the council, investigation is made by a section or subsection. The minister of the department concerned is informed of the question at issue and permitted to make observations and present memoranda. There is no public hearing. The council makes its decision on the basis of all the materials presented and its own investigations. According to the subject and importance of the case, any decision reached may be made by a section, a subsection or the full assembly of the council. All decisions are announced in its name, however, and all are equally valid. A more complicated procedure, with attorneys and the possibility of an oral hearing, is employed for suits of full jurisdiction.

Procedure before the administrative courts in Germany is based in general upon the provisions of the national code of civil procedure, although differences appear from state to state. Departures from this code are chiefly due to the special needs of a court established for a special function, or to the fact that in many administrative suits the public interest is in question. Not only are both sides heard, as in the ordinary civil process, but also the representatives of the public interest. All states guarantee publicity and verbal discussions, with certain exceptions and limitations. The administrative court may undertake any investigations that will throw light on the matter at issue. The decision is based upon all facts that are either brought out in the testimony or developed as the result of the investigation, including considerations of public interest. Furthermore, as in France, the decision may go beyond the requests of the complaint by which the suit was instituted, with the purpose of bringing about an equitable and socially desirable situation.

In England there are no general rules of procedure for administrative suits. The few administrative tribunals which are established as such have varying procedures, generally including notice and hearing. Leading decisions on appeals (Board of Education *v.* Rice, 1911 A.C. 179; Local Government Board *v.* Arlidge, 1915 A.C. 120) show a tendency on the part of the judicial authorities to permit informal procedure and to leave the administrative agency making the decision as free as possible to develop its own methods, but to require that each party to a case be given an opportunity to present his side of the matter, either orally or in writing, and that decisions be reached "in a judicial temper."

Procedure in the United States is somewhat more definitely developed, owing partly to the fact that a number of administrative tribunals are clearly recognized and established as such, and partly to the enforcement by the ordinary courts of their conception of "due process of law." A tendency still exists, however, to regard as routine administrative decisions many acts which are by nature administrative judicial decisions—notably decisions of health, education and immigration authorities—and to construe due process in connection with these acts so broadly that occasionally important rights of liberty and property may be withdrawn from individuals without any opportunity for a true suit to be opened or a judgment given, as in the Ju Toy case [U. S. *v.* Ju Toy, 198 U. S. 253 (1905)]. It should be acknowledged that there is much confusion and inconsistency in the attitude of the courts, and it is necessary to mention a contradictory tendency on their part to interfere somewhat strangely at times with administrative acts (such as the O'Fallon order of the Interstate Commerce Commission) under color of merely assuring due process. Despite the difficulties to which it has given rise, the conception of due process is unquestionably an important factor in the development of definite and adequate administrative judicial procedure. This procedure often tends to approximate that of the ordinary courts, not only because of the due process requirement, but also because of the long tradition that tribunals of any sort ought to give hearings, call witnesses and decide on the basis of the evidence presented. It is sometimes

asserted that there is too much insistence upon decisions based on the facts presented by the parties, and too little use of other relevant materials which could and should be obtained by the administrative tribunals in order that their judgments might be fully informed, particularly as to the public interests involved.

Recourses. In France it is nearly always possible to appeal to the council of state from the decisions of the interdepartmental prefectoral councils and the councils of litigation in the colonies. This is not universally true; for example, suits concerning public accounts go on appeal to the court of accounts. Nevertheless, every special administrative court in France, even though its decisions are final within its own field of jurisdiction, is brought under the council of state as judge in cassation. It may therefore be said that the council of state affords recourse against the judgments of all administrative tribunals. Furthermore, it affords recourse against acts of departments and ministers when application has been made to them to right a wrong and they have refused to do so. Finally, it offers certain recourses against its own judgments, including opposition and review.

In Germany the number and the nature of the remedies against the decisions of administrative courts vary greatly in the different states. In Württemberg, where there is only one such court, its decisions of course are final. In Prussia the legal remedies available are of two sorts, the ordinary and the extraordinary. The ordinary recourses include the petition, the review and the appeal or formal complaint. The extraordinary remedies consist of remanding the case to the previous status, and the retrial.

There is no well organized system of recourses against the decisions of administrative tribunals in England. Appeals from the original tribunals to the higher authority, although judicial in the sense that legal questions are involved, are generally treated as little more than administrative appeals, instead of actual suits on administrative questions. Often a government department or other administrative agency is an appellate authority, particularly the Ministry of Health, the Ministry of Labour and the Board of Education. In some instances recourse may be taken to a referee, or a board or court of referees, or to an umpire. For the great majority of cases there is no appeal to the judicial courts except on the question of jurisdiction. When an appeal does lie to the ordinary courts, as a rule they will take cognizance only of questions of law. Very seldom is there an appeal to more than one instance.

In the United States there is usually recourse to the ordinary courts on questions of both law and fact, sometimes of law alone. In connection with some of the most important federal administrative courts, such as the Federal Trade Commission, the Interstate Commerce Commission, the Board of General Appraisers and the Board of Tax Appeals, methods are provided for judicial examination, with a further possibility of recourse to the Supreme Court through certiorari. In some cases, however, where an administrative authority is exercising powers judicial in nature, no appeal is permitted to the ordinary courts, but only to a higher administrative authority or the head of a government department.

The Place of Administrative Courts in the Governmental System. Administrative courts not only relieve the ordinary courts of a great bulk of work, but also serve purposes foreign to the latter. One of these is the decision of cases according to law, but by means of a particular set of values, in which the public interest is emphasized and the old individualistic common law conceptions of legal relationships are minimized, at the same time that the rights of the individual are protected by the fact that the administration is compelled to act within the law. The informal and inexpensive procedure before most administrative courts, and the possibility of specialization either in separate courts or in chambers, are generally considered very desirable. Another valuable feature is the securing of information relevant to a suit through agencies connected with the administrative courts, thus enabling the decisions to be made on the basis of more complete information than is likely to be obtained from partisan testimony. In the continental system the possibility of securing the annulment of illegal administrative acts and orders avoids the frequent necessity of disregarding them with a view toward subsequently defending this course when the administrative authorities bring suit to compel obedience—a situation which must inevitably breed disrespect for law and a spirit of defiance toward government. The continental administrative courts, generally possessing their own appellate instances beyond the control of the ordinary courts, maintain a separation between the administrative and the judicial powers. Although the ordinary courts are unable to control the administration as they do in the United States

and to a considerable extent in England, legal administrative action is compelled, and individual rights are secured, by an adequate trial before a competent tribunal. The weight of expert opinion considers the continental system more satisfactory than the separate administrative courts, practically always subject in certain respects to the judicial courts, which are found in England and the United States. There is no doubt that administrative courts of some kind are a necessary and increasingly important part of modern governmental machinery.

FREDERICK F. BLACHLY
MIRIAM E. OATMAN

See: ADMINISTRATIVE LAW; ADMINISTRATION, PUBLIC; SEPARATION OF POWERS; COURTS; BOARDS, ADMINISTRATIVE; COMMISSIONS; CONSEIL D'ÉTAT; INTERSTATE COMMERCE COMMISSION; FEDERAL TRADE COMMISSION; STATE LIABILITY; PUBLIC OFFICE; DUE PROCESS OF LAW.

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COURTS, COMMERCIAL. Commercial courts may be broadly defined as courts composed of persons with special knowledge of trade and commerce to adjudge disputes arising between parties to commercial transactions. They connote a specialized judiciary, a special jurisdiction as to causes and a non-technical procedure. More particularly, they should be distinguished from the position of ordinary courts having special calendars, chambers or lists for commercial cases.

There are evidences of the prototype of such courts in the judicial organization of ancient Athens. Upon the passing of the senate of the Areopagus and the rise of the dicasts, or popular courts, the supervising magistrates (the thesmothetes) appear to have specially arranged commercial cases for summary trial before particular dicasts.

The Roman system of judicial administration does not appear to have provided separate commercial tribunals. Trade regulations were diffused with other matters in the *Corpus juris* and were adjudged by the ordinary courts.

Courts by and for merchants assume an institutional identity most clearly in the Middle Ages. The beginnings of their development in this era should be credited to the independent cities of Italy. Following the routes of trade the development of these courts spread over the remainder of continental Europe. By the middle of the fourteenth century their development had culminated in governmental recognition in Italy and Spain and they were functioning in connection with authoritative commercial laws. Their jurisdiction was virtually exclusive of the ordinary courts in causes relating to trade. Like recognition was accorded such courts in France after a protracted struggle lasting into the sixteenth century and in Germany near the close of the seventeenth century.

Commercial courts are also found in the history of England. Piepowder courts, as they were called, appeared there, as on the continent, in connection with the mercantile fairs. As on the continent also these fairs and their courts were located at the trading centers where merchants met to transact business. But the piepowder courts of England failed to gain extended state recognition in competition with the king's courts. This is true notwithstanding

an occasional royal edict that merchants should have prompt justice *secundum legem mercatorium* and certain charter grants to trading companies of a jurisdiction over trade disputes between members. Before the close of the sixteenth century it was clear that England's commercial law was to be made by the regular courts, jealous of their power and prestige if not of their fees. Before the close of the seventeenth century absorption by these courts was completed. Uncritical Anglo-American historians glorify this as an instance of the genius of the common law.

The rise of commercial courts on the continent, first in Italy and Spain and later in France and Germany, was due in part to the development of political and economic power of the merchant class. Mercantile guild organization, existing for both aggressive and protective purposes, comprehended a separate and specially adapted plan of judicial administration. Such administration was a natural incident of the more general demand for self-government which prompted the guild movement. Again, as extra-municipal trade developed, political boundary lines failed to delimit trade and the need for a cosmopolitan commercial law became an immediate consideration of trade and commerce. Lastly, an inexpensive, expeditious and non-technical judicial procedure was inevitably demanded as a relief from the exasperating technicality of the civil law. Indeed, it is particularly significant in this connection to observe that the need for commercial courts in Germany appears not to have been felt until the so-called reception of Roman law with its dilatory tactics of practise.

Commercial courts were absorbed in some of the continental countries by a process not unlike that which took place earlier in England. In Italy and Spain, their original home, these courts were similarly displaced during the last third of the nineteenth century and in Germany after the formation of the empire. The separate identity and state recognition of these courts in connection with a commercial code still obtain in France and Belgium and in several countries in Latin America (Argentina, Brazil, Guatemala, Panama, Santo Domingo and Uruguay). The more important details of the French system are suggestive of the systems of the other countries where commercial courts still exist.

Most of the French tribunals of commerce are composed of four business men elected to office for a term of two years. Candidates for the office must be at least thirty years of age and must have had at least five years' experience as a licensed merchant, broker, corporation manager or sea captain. Their electors must be similarly qualified. Provision is also made for the assistance of arbitrators and of experts such as accountants and appraisers. The judges serve without pay.

At present there are some two hundred tribunals of commerce in France functioning under the Ministry of Justice. The Paris tribunal, with jurisdiction for the Department of the Seine, is the most important with respect to size and the volume of cases dealt with. This tribunal consists of sixty-seven judges acting in eleven chambers and handles about one half of the commercial cases of France.

Under the French system cases are commenced by citation upon the defendant. The case is then docketed and called within a few days. The Paris tribunal convenes twice weekly for calling the docket and reporting previous judgments. There are no formal trials; lawyers of the ordinary courts are excluded. The cause is assigned to one of the judges deemed best qualified for the type of question involved. He investigates evidence, interrogates the parties and witnesses and examines the reports of any special assistant to whom matters may have been referred. This judge renders a judgment on the facts and with reference to the commercial code and reports his judgment to the court. At least two other judges must concur. The judgment is ordinarily reported within a month after the citation. It becomes final after two months in absence of appeal. Judgments of the tribunal are enforced by execution as in the ordinary courts in the absence of appeal. Appeals may be had to an ordinary court of appeal if the matter involved is worth more than 1500 francs.

The French commercial tribunals are credited with the disposition of 200,000 cases annually. The following summary of cases in the Paris tribunal is reported by the United States Department of Commerce in the special circular cited below, as follows:

"The statistics for the Tribunal of Commerce of the Seine, which cover about half the entire volume of commerce litigation in France, show that for the calendar year 1929 a total of 105,584 cases were dealt with judicially. This was an average of 9,598 for each of the eleven chambers and 1,575 for each of the 67 judges.

"The volume of detailed work of the judges was reduced, however, by the reference of 13,888 cases to arbitrators or professional syndicates, the conciliation of 4,256, the withdrawal or merging of 10,582 and the judging by default of 51,293. Deduction of these categories leaves 25,565 cases which were adjudicated on their merits, or an average of 381 for each judge.

"Of the 76,858 cases judged by default or after full inquiry and hearing, 26,792 were in last resort, as they involved 1,500 francs or less, while 50,066 were in first resort, involving more than 1,500 francs.

"During the calendar year 1929 new cases filed with the Paris commerce tribunal numbered 77,033, while 20,249 old cases were reopened. The new cases exceeded by 9,046 the number filed in 1928. At the close of 1929 there were 5,971 cases remaining on the docket. Of these, 3,331 were filed in the last two months of the year and only 572 had been instituted as far back as July, 1929. From these figures it is evident that, despite the great and increasing number of cases filed, the tribunal is equal to the recognized need for promptness and despatch in commercial litigation."

In contrast to the generally unfavorable attitude toward the ordinary courts the French tribunals of commerce are commended for the ability of the judges as manifested by their decisions upon technical questions of commerce. Their decisions are arrived at speedily by a non-formal procedure and with a minimum of delay and costs. The commercial court accomplishes as intelligent and expeditious a disposition of commercial causes by qualified experts as does the practise of commercial arbitration by independent trade groups. It also possesses the advantages of simplicity of procedure and practise under the direct authority of state institutions.

Many recent reforms in procedure and practise of the ordinary courts in the United States are commendable, but a backlog of traditionalism remains because judges and lawyers are legalistic in training and methodology. Consequently provisions for the reference of causes to a short or commercial calendar of an ordinary court (and the same is true of the commercial lists in England) are for the most part rusting for want of use. Judges, lawyers, legalism, costs and delays are responsible.

That it is ideal to have specially qualified judges sitting with expert assistants to inquire into, investigate and decide the highly technical and varied disputes of modern business promptly and inexpensively, there can be little question. Personnel, training and traditionalism of the bench and bar, however, permit little hope of an early realization of any such ideal in the United States. The modern practise of commercial arbitration has thus far afforded the most practicable relief.

WESLEY A. STURGES

See: ARBITRATION, COMMERCIAL; COURTS; COMMERCIAL LAW; LAW MERCHANT; GUILDS.

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COURTS, INDUSTRIAL. Industrial courts are special courts for adjudicating disputes in labor relations. They may exist to deal either with collective trade disputes or with individual disputes between employers and employees or for both purposes. In so far as industrial courts are chiefly courts of arbitration or conciliation

they have been described in the articles on these subjects. The industrial courts to be now treated are the special occupational courts of continental Europe, which exist primarily to deal with individual disputes between employer and employee or between employees, based upon individual or collective contracts. It is true, however, that these European industrial courts have often also exercised functions of arbitration and conciliation.

While the present European industrial courts have no historical continuity with the mediaeval guild courts they carry on in a sense the same tradition. The modern courts derive from the establishment in 1806 of the French system of *conseils de prud'hommes*, which were themselves founded upon prerevolutionary experiments such as the Tribunal Commun in Lyons. Although the system of industrial courts thus originated in France they received their most extensive development and became most prominent in Germany, which in recent years has introduced a plenary system of labor jurisdiction.

In the Napoleonic period the *conseils de prud'hommes* became established in the Rhine provinces. There had also developed in Prussia, particularly in Berlin, a number of factory courts. The *Gewerbeordnung* (industrial code) of 1869 for Prussia established a general system of industrial courts. The system of *Gewerbegerichte*, which functioned until recently, was established under the empire by the law of 1891 as amended by the law of 1901. Such courts were made compulsory in cities of over 20,000. The types of suits they usually handled involved arrears of wages and compensation for discharges without notice. The limit of jurisdiction was one hundred marks and appeal lay to the *Landgericht*, the ordinary district court. The *Gewerbegerichte* also acted as boards of arbitration and were popular with the workers. Since the *Gewerbegerichte*, as their names imply, took cognizance only of labor in industry, there was agitation for the extension of their benefits to other types of workers, which led in 1904 to the establishment of the so-called *Kaufmannsgerichte* to deal with labor cases arising from mercantile pursuits. The name *Kaufmannsgerichte* has proved confusing since it implies, contrary to the fact, that the court might have jurisdiction over civil suits between merchants arising from commercial transactions. Such commercial courts did not then exist in Germany; there were only special commercial divisions in the *Landgericht*.

The present labor courts rest upon the law of December 23, 1926, which went into effect in July, 1927. The old system has been changed in many radical respects. The former courts were established by the various municipalities. The new ones are part of a nationally organized system of labor justice. While the old courts were only of first instance, and appeal lay to the ordinary courts, the new system has also established intermediary and final appellate courts. There are local labor courts, regional labor courts and finally the *Reichsarbeitsgericht*, the national appellate court. As the change of name of *Gewerbegerichte* to *Arbeitsgerichte* indicates, the scope of occupational jurisdiction has been widened to its greatest possible extent. Provision is now made not only for industrial and mercantile workers but for railroad employees, agricultural workers and domestic servants. Special mining courts which had existed since 1891 were abolished. Separate chambers for particular industries, however, still exist in some of the district courts.

The competence of the new labor courts extends to all individual disputes between employers and employees, to disputes between employees in the same industry and to civil disputes arising out of collective labor agreements. The courts no longer participate in the formation of such agreements. In addition they exercise a kind of administrative jurisdiction in matters pertaining to the organization of the works councils. Nevertheless, the handling of collective disputes has been entrusted to other authorities constituting boards of arbitration.

As they are now organized the district and regional labor courts are constituted by one professional judge and two lay assessors, one representing the employers and the other the employees. The reduction of the number of the assessors from the four under the old system to two has put greater responsibility upon the judge. In cases involving collective agreements, however, there are still four assessors. The national labor court is organized as a council consisting of three members of the regular national supreme court (the *Reichsgericht*) and two associates appointed for their expert knowledge. This participation of lay advisers, representing employers and employees equally, with professional judges has been a distinguishing characteristic of both the old and new German labor courts. A consistent interpretation of the law is thus insured as it is also by the system of intermediary and final appeal, resulting in a

unity that has hitherto been lacking. The new system of labor justice has already justified itself in an extraordinary manner in the few years of its existence.

The systems of labor courts which have been based upon the French *conseils de prud'hommes* may be described essentially as courts of industrial experts organized by the state at need, in contrast to the German idea of an industrial court as a civil court with a special jurisdiction. The decrees by which they have been organized usually fixed the occupational range of their jurisdiction, but mercantile as well as industrial pursuits have been included. They have thus not been based upon any inclusive concept of labor jurisdiction, which, moreover, has remained confined to proceedings at first instance. The systems of Belgium, Portugal and parts of Switzerland are based upon the French, as were the Spanish and Italian until recent years.

The present French *conseils de prud'hommes* decide to the exclusion of the *juges de paix* in cases arising from individual or group disputes as to the terms of a contract of labor in trade and industry where the amount in industry does not exceed two thousand francs (law of 1907, as amended by laws of 1919 and 1920, as codified in the fourth book of the *Code du travail*). They also decide in cases of claims for damages arising out of collective trade union agreements. The *conseil de prud'hommes* is divided into two sections, the first called a *bureau de conciliation*, which makes a preliminary attempt to bring the parties to a settlement by conciliation, and the second called a *bureau de jugement*, where the actual trial takes place when the first stage of the proceedings fails. To the former, employers and employees each elect one representative; to the latter, they send other lay members in equal numbers. *Juges de paix* are only exceptionally assigned in cases where the lay judges disagree, so that the secretary of the court, being the only professionally trained member, exerts a commanding influence. The ordinary tribunals function as courts of appeal.

Although other countries have borrowed chiefly from French or German models, the influences have often been mixed and many variations are to be found. The Belgian *conseils de prud'hommes* were reorganized by the law of July 9, 1926. The Portuguese industrial courts, called *tribunai de arbitros-avindores*, rest upon the law of August 14, 1889. In German Austria the present *Gewerbegerichte* are organized under the law of 1922, as amended in 1925, preceded by the laws of 1869, 1896 and 1910, which had narrower industrial application; but courts are to be found only in nine cities. In Czechoslovakia there is no uniform system: in the former Austrian region the limited Austrian system of 1910 applies, but in Carpathian Russia and Slovakia there are no industrial courts at all. Similarly, Switzerland has not achieved juristic unity; the regulation of industrial courts is left to the individual cantons, and twelve out of twenty-five of these have often placed no restrictions on the types of courts that may be erected in various cities. Certain procedural details, however, are prescribed by the federal Factory Law of 1914; the courts that exist derive in part from the *conseils de prud'hommes*, but the later influence has been increasingly Germanic.

The courts of the foregoing countries when compared as to competence, constitution and right of appeal often show divergences from their models. (1) As to competence: although the Belgian courts are supposed to have upon principle a broad general jurisdiction in all labor relations, the exceptions are so numerous that it is very similar to that of the French; the limit of competence, moreover, is as high as twenty-four thousand francs. The Portuguese courts, which are established by the state at need, are available to salaried employees as well as industrial workers. The Austrian courts, although called *Gewerbegerichte*, exercise comprehensive labor jurisdiction except that agricultural, forest and domestic workers are excluded. (2) As to constitution: again, in the Belgian courts in contradistinction to the French rule the elected lay judges are assisted in the *bureaux de jugement* by an *assesseur juridique*, but he has no vote except in case of a tie. The lay judges are generally chosen upon the principle of employer-employee representation on the basis of parity. (3) As to the right of appeal: while it lies most often to the ordinary courts, in Belgium *conseils de prud'hommes d'appel* exist, and in Portugal appeal may be taken to the tribunal of commerce, as was at one time the case in France.

In Czechoslovakia plans have been mooted in 1925, 1926 and finally in 1930 for a unified and comprehensive system of labor courts. The 1930 plan calls for labor courts under the presidency of professional judges in all localities of more than 10,000 inhabitants, and appeals are to run to district labor courts. The social movements of the post-war period have, indeed, wrought many changes in the constitutions of the indus-

trial courts. While in most countries they have simply undergone an organic evolution, in the three states that may be described as ruled by dictatorships, Spain, Italy and Russia, the changes have been more far reaching. All three of these countries have special systems of labor jurisdiction but none of them can be said to have complete systems of labor courts.

Spain, which under its law of 1912 had a system of industrial courts based upon the *conseils de prud'hommes*, created a new system in 1926. The labor jurisdiction is general except that domestic servants are excluded. Even in districts where labor courts are not warranted the ordinary courts are directed to employ a special procedure in labor matters. The labor courts are presided over by a professional judge, and the lay trade representatives act as a sort of special jury. Cassation is allowed to the courts of highest instance in cases of sufficient importance. Italy in 1928 abolished the old *collegi dei probi viri*, which was derived from the French and first established in 1893, and the more recent *commissioni arbitrali provinciali* for salaried employees established in 1923. The jurisdiction of these courts has been transferred to the ordinary courts, which, however, may act only in consultation with two associate judges representing respectively employers and employees. The court of appeal for individual labor disputes is the labor court (*magistrato de lavoro*), a council of the court of appeals strengthened by two appointed lay judges, who must be graduates in law but not necessarily employers or employees. This council is also a court of first instance for collective disputes and an arbitration board. Labor jurisdiction in the Soviet Union is naturally closely bound up with the ordinary jurisdiction. In economic centers and the seats of courts of second instance labor sessions, that is to say, meetings of the people's court, may be ordered for the trial of labor disputes. They deal with individual and collective disputes as well as industrial crimes, unless a court of arbitration has already taken cognizance of them. The judge in the labor sessions need not be a trained jurist, and he is assigned two associates, one appointed by the regional federation of trade unions and the other by the governmental executive committee on the nomination of the local economic council. Cassation lies from the work sessions to the highest courts.

HERMANN DERSCH

See: ARBITRATION, INDUSTRIAL; CONCILIATION, INDUSTRIAL; LABOR DISPUTES; INDUSTRIAL RELATIONS; INDUSTRIAL RELATIONS COUNCILS; COURTS; COURTS, COMMERCIAL.

Consult: *Die Arbeitsgerichtsbarkeit*, ed. by Walter Kaskel, Arbeitsrechtliche Seminarvorträge, vol. iv (Berlin 1929); Bloch, René, and Chaumel, Henry, *Traité théorique et pratique des conseils de prud'hommes* (new ed. Paris 1925); Pic, P. J. V., *Traité élémentaire de législation industrielle; les lois ouvrières* (5th ed. Paris 1922); Peretti-Griva, D. R., *Il contratto di impiego privato* (Milan 1925); Calvo y Camina, Pedro, *Comentarios a la ley de tribunales industriales* (Madrid 1917); Kaskel, Walter, *Arbeitsrecht*, Enzyklopädie der Rechts- und Staatswissenschaft, Abteilung Rechtswissenschaft, xxxi (3rd ed. Berlin 1928); Dersch, Hermann, and Volkmar, E., *Arbeitsgerichtsgesetz* (4th ed. Mannheim 1931); Silberschmidt, W., *Die deutsche Sondergerichtbarkeit in Handels- und Gewerbesachen*, Zeitschrift für das gesamte Handelsrecht, supplementary vol. lv (Stuttgart 1904) p. 258–71; Woodbury, Helen Sumner, "Industrial Courts in France, Germany and Switzerland" in United States, Bureau of Labor, *Bulletin*, vol. xxiv (1912) p. 273–464; Davis, H. B., "The German Labor Courts" in *Political Science Quarterly*, vol. xliv (1929) 397–420; "Activities of Labor Courts in Germany, 1929" in United States, Bureau of Labor Statistics, *Monthly Labor Review*, vol. xxix (1929) 1329; International Labour Office, Geneva, *Internationale Sammlung der Arbeitsrechtsprechung, 4th, 1928* (Geneva 1929) p. xxii–xxxix.

COURTS, JUVENILE. *See* JUVENILE COURTS.

COURTSHIP may be defined to include all forms of behavior tending to stimulate sex excitement and sex activity in the desired mate. In the animal world these comprise display, song and dance and other antics, pursuit, the discharge of perfumes and in some cases also the offer of prey or other exciting objects. The details vary enormously from species to species. Courtship is not found in plants, and in the animal world it is confined to the vertebrates, the mollusks and the arthropods. The distribution is, however, very uneven within these orders. Courtship is most conspicuous in birds but comparatively little known in mammals. The biological significance of the phenomena classed under animal courtship is still much disputed and its correct interpretation must await fuller knowledge of the sex life of animals and, in particular, fuller insight into the role of sexual selection. It seems probable that there is a correlation between sexual ardor and such sex characters as coloration and ornamentation, since both are influenced by the same hormones. But whether these sex characters lead to preferential mating and whether this results in an intensification of these characters is doubtful.

Among humans biological aspects of court-

ship are regulated by cultural traditions which modify, inhibit and stimulate the physiological mechanisms. Diversified cultural tabus associated with chastity, sexual asceticism and etiquette circumscribe and determine the nature of courtship relationships. There are wide divergences among different peoples and in different historical periods in the types of behavior permitted or prescribed during the courtship period.

Dance and music are a frequent means of stimulating sexual excitement during courtship. Fighting among suitors is not uncommon as part of the procedure of courting, and tournaments or trials of strength are often among the preliminaries of the marriage ceremonials. Erotic games and love magic are widely used courtship devices. That ornamentation serves as a sexual allurement is *prima facie* probable. Both primitive and modern peoples often give desire for sexual attractiveness as the reason for personal decoration, although other factors are also involved.

The active part in wooing is taken generally by the male, but there are numerous exceptions to this rule in all parts of the world. It has been suggested that the practise of the female taking the initiative in wooing is an aspect of, and is more in harmony with, the matrilineal system of kinship, but this alleged association is not substantiated by an analysis of the evidence.

The phenomena of courtship are not intelligible unless it is remembered that marriage, to which the courtship is preliminary, is a relationship affecting not only the young man and woman but also their families. Among many peoples marriage is a matter of arrangement between the families, although this does not always mean that the girl's wishes are ignored, for even where child betrothal is practised there are often methods whereby the girl may evade marriage with the man to whom she is betrothed. The period of courtship provides an opportunity for the families to settle the economic problems that arise between them as well as to test the suitor's adaptability and general desirability. This is particularly obvious among peoples with whom service in the girl's family is the normal method of obtaining a wife. Among some Siberian tribes the parents of the girl may send the man away even after five or ten years of such service. Apart from the institution of marriage by service prolonged periods of courtship and premarital love making are not uncommon even in primitive societies. The importance of delay and hesitation is indicated in the many cases in which resistance by the bride forms a part of the ceremonies connected with betrothal or marriage. In some cases a show of resistance is made both by the women and the men as, for example, among the Mpfumo people, where visits by the bridegroom and his friends to the bride's village and return visits by the girl and her friends constitute a necessary part of courtship and where on both occasions there is much show of hesitation to enter the village and of reluctance to accept food. Among the Chuckchee the wife is withheld from the adopted son-in-law for several years "to make his attachment stronger." A similar practise is that which is found among many European peasants of spending continent nights in the arms of the fiancée. In modern industrial countries the period of courtship is usually protracted by economic considerations involving the ability of the man to support the woman, although with the entrance of women into industry the factor is not everywhere as potent as formerly.

It has been urged from the biological point of view that courtship is rendered necessary by female coyness, which is interpreted as a temporary reluctance serving to incite the male to pursuit. According to Havelock Ellis the object of courtship, of the mutual approximation and caresses of two persons, is to create the state of sexual tumescence. Westermarck doubts whether the sexual impulses are so weak as to need this additional stimulus and suggests that the prolongation of excitement has the effect of increasing the secretions of the sexual glands and thus of facilitating fecundation. Other authorities are of the opinion that the reluctance serves to discourage the less ardent and energetic males —an explanation to which some countenance is given by the numerous cases in which endurance tests and fights form part of the procedure of courtship. Two additional reasons of a psychological and sociological nature may be given. It seems generally agreed that the development of sexual attachment is relatively slow in women but when once aroused is more enduring, while in man the process of growth is more rapid and the duration generally briefer. The function of delay and resistance would seem to be to allow time for the transformation of the sudden and momentary excitement of the male into a sentiment of love and thus to fuse the sex impulses proper with the social feelings and other elements of tenderness and affection. Secondly, it is widely held that in the sexual impulses of the

male there are present aggressive and destructive components. The period of courtship and especially the delay and control it involves, while perhaps acting as stimulants, also tend to moderate and tame the fierceness of male sexuality. Courtship, in short, in giving time for the sentiment of love to mature and thus to absorb the sex impulses into a wider and more stable system tends to render the sex relationship more enduring and pervasive, to equalize the differential responsiveness to sex stimuli as between men and women and in general to civilize love.

MORRIS GINSBERG

See: ANIMAL SOCIETIES; SOCIAL ORGANIZATION; MARRIAGE; FAMILY; CHASTITY; MORALS; ETIQUETTE; DRESS; WOMAN, POSITION IN SOCIETY; SEX EDUCATION.

Consult: Pycraft, W. P., *The Courtship of Animals* (2nd ed. London 1914); Howard, H. E., *The British Warblers*, 2 vols. (London 1907–14); Meisenheimer, Johannes, *Geschlecht und Geschlechter im Tierreiche*, vol. i– (Jena 1921–); Darwin, Charles, *The Descent of Man* (2nd ed. London 1874) pt. iii, ch. xix; Yerkes, R. M. and A. W., *The Great Apes* (New Haven 1929) p. 256–60, 542–43, 567; Ellis, Havelock, *Analysis of the Sexual Impulse*, Studies in the Psychology of Sex, vol. iii (3rd ed. Philadelphia 1906) p. 34–54; Westermarck, E. A., *The History of Human Marriage*, 3 vols. (5th ed. London 1921) vol. ii, ch. xiii; Briffault, Robert, *The Mothers*, 3 vols. (London 1927) vol. ii, ch. xv; Sumner, W. G., and Keller, A. G., *The Science of Society*, 4 vols. (New Haven 1927) vol. iii, p. 1683–85, vol. iv, p. 851, 871; Ploss, Heinrich, and Bartels, Max and Paul, *Das Weib in der Natur- und Völkerkunde*, 3 vols. with separate index volume (11th ed. Berlin 1927) vol. ii, p. 162–90; Malinowski, Bronislaw, *Sex and Repression in Savage Society* (London 1927) p. 193–200, and *The Sexual Life of Savages* (London 1929) ch. x; Mead, Margaret, *Coming of Age in Samoa* (New York 1928) ch. vii; Meyer, J. J., *Das Weib im altindischen Epos* (Leipsic 1915), tr. as *Sexual Life in Ancient India*, 2 vols. (London 1930) vol. i, ch. ii; Hindus, Maurice, *Humanity Uprooted* (3rd ed. New York 1930) ch. viii.

COUSIN, VICTOR (1792–1867), French philosopher, founder of the eclectic school. Cousin taught literature and later philosophy at the École Normale. He was an erudite historian of philosophy and made many scholarly contributions in this field. His own thought was a combination of diverse elements. As a disciple of Royer-Collard, Cousin appealed to the antimetaphysical common sense of the Scotch philosophers. Later he turned to German romanticism and was the first to introduce Hegel's work into France. Under these influences he worked out spiritualistic philosophy looking to enfranchisement by means of political action independent of daily contingencies. "We have wanted too long to be free with the ethics of slaves," he told his students in 1815. Although he was suspended from the Sorbonne by the restoration in 1821 and imprisoned for six months in Germany on suspicion of Carbonarism he was in no sense a radical. He stood for the middle way between Left and Right, for the constitutional monarchy and free speech, free press and free worship. He warned that absolutism must lead to terror and viewed constitutional monarchy as the happy synthesis. He defended philosophy against clerical attacks and yet used his power to subject the teaching of philosophy in the secondary schools to clerical authority. He participated in the antiliberal campaign in 1848, writing in *Justice et Charité* (Paris 1848; tr. by W. Hazlitt, London 1848) an academy pamphlet against the revolutionary notions of equality and the right to employment or assistance, and was violently attacked both by the clerical-royalist group and the republicans. In his later years he attempted to develop further his philosophy of compromise, sacrificing the best of his early theories to minimize church opposition. His chief service was that he infused into French universities the breath of liberty which made possible the work of Jules Lachelier, Émile Boutroux and Henri Bergson.

LÉON BRUNSCHVICG

Important works: *Du vrai, du beau, et du bien* (Paris 1836, 3rd ed. 1853), tr. by O. W. Wight (Edinburgh 1854); *Cours de l'histoire de la philosophie moderne* (Paris 1828; 2nd ed. in 8 vols., 1846–47), tr. by O. W. Wight, 2 vols. (Edinburgh 1852); *Cours de l'histoire de philosophie*, 2 vols. (Paris 1829), a chapter of which was translated by C. S. Henry as "Elements of Psychology" in his *Critical Examination of Locke's Essay* (4th ed. New York 1856).

Consult: Boas, G., *French Philosophies of the Romantic Period* (Baltimore 1925) ch. v; Dubois, L. P., *Cousin, Jouffroy, Damiron* (Paris 1902); Lévy-Bruhl, L., *History of Modern Philosophy in France*, tr. from the French by G. Coblence (Chicago 1899) p. 330–51; Janet, Paul, *Victor Cousin et son oeuvre* (Paris 1885); Simon, Jules, *Victor Cousin* (Paris 1887); Barthélemy-Saint Hilaire, J., *M. Victor Cousin: sa vie et sa correspondance*, 3 vols. (Paris 1895).

COUTTS, THOMAS (1735–1822), English banker. In 1761 Coutts joined his brother James as partner in an old established London banking house, and he became its head in 1775. He stands out as the most successful example of the old fashioned family banker. He was personally acquainted with his customers and extended his clientele by personal introductions. New customers, who knew nothing about the resources

of his bank, were attracted by his personal shrewdness and integrity. His investments were mainly personal loans. He fully understood the value of what is now called "service" and transacted all manner of business for customers remote from London. He undertook confidential missions for King George III, straightened the tangled finances of the royal princes and was consulted by leading statesmen of all parties. The greatest names in contemporary British history were in his books, and the French Revolution brought to his bank royal and noble families of the continent. Starting with a capital of £4000 he died worth £900,000 and one of the most influential men in England. His granddaughter, Angela Burdett (1814–1906), who inherited his fortune in 1837, became famous as Baroness Burdett-Coutts for her widespread benevolence. The management of the bank remained in the hands of the young men chosen by Coutts as his partners and their descendants, joined later by descendants of Coutts' daughters. This hereditary connection has contributed to the perpetuation in Coutts' bank of old banking principles and customs side by side with modernized methods.

RALPH M. ROBINSON

Consult: Coleridge, E. H., *The Life of Thomas Coutts, Banker*, 2 vols. (London 1920); Robinson, R. M., *Coutts', the History of a Banking House* (London 1929).

COUVADE. *See* BIRTH CUSTOMS.

COVARRUBIAS Y LEIVA, DIEGO (1512–77), Spanish theologian and jurist. Covarrubias was educated at Salamanca and the Colegio Mayor of Oviedo. At an early age he was appointed to the chair of canon law at Salamanca. Subsequently he was professor at Oviedo, judge in Burgos, counselor at Granada and bishop of Ciudad Rodrigo and later of Segovia. Just before his death he was nominated to the bishopric of Cuenca. He was also active in affairs of state, where his legal gifts were of great service; in 1572 he was appointed to the Council of Castile and in 1574 to its presidency.

Covarrubias wrote a number of treatises on criminal law, domestic relations, international law and other legal topics. He was also the author of *Veterum numismatum collatio* (Salamanca 1573), a work valuable for the study of the monetary system of Spain. In it Covarrubias discussed the authority of the king in all matters pertaining to money and interest.

With the foundation of the San Clemente College at Bologna in 1367 a new impetus was given to that school of Spanish legal philosophy which since the thirteenth century had been attempting to reconcile Roman and Spanish theories of law. A characteristic example of this attempt is the Gregorio López edition of *Las siete partidas* (Salamanca 1555), in which the multitude of references to Azo, Gratian and St. Thomas obscured the essential distinction between the two schools. Covarrubias was the genius of the López school, and his legal advice, based on the absolutist ideas of Roman law rather than on Christian theories, had the effect of strengthening the position of the king. This was of great importance to the development of monarchy in Spain, since Philip II followed legal formulae with meticulous care. Despite his Roman interpretations of monarchical government, however, Covarrubias held the traditional view that the authority of the king should be limited by the scholastic definitions of the interests of the people.

Covarrubias was a constructive theologian and took part from 1560 to 1564 in all the important sessions of the Council of Trent, which discussed the sacraments, the sacrifice of the mass and the disciplinary reforms. His analytic thinking, his intuitive grasp of the essentials of dogmatic definitions and his power to express these in clear and simple Latin won him a place on Cardinal Buoncompagni's committee to edit the decrees. He remained faithful, however, to the Spanish sovereign and on points of discipline defended the privileges which the Spanish kings demanded. His expositions show the influence of the Roman legal concepts on the questions of patronage and the adjustment of relations between church and state in Spain.

The best collection of Covarrubias' works was issued in 1762 (2 vols., Geneva).

MARIE R. MADDEN

Consult: Vales Failde, Javier, in *Jurisconsultos españoles*, 3 vols. (Madrid 1911–14) vol. i, p. 43–50; Hurter, Hugo, *Nomenclator literarius recentioris theologicae catholicae*, 6 vols. (3rd ed. Innsbruck 1903–13) vol. i, p. 38–39, for bibliography.

COWDRAY, FIRST VISCOUNT, WEETMAN DICKINSON PEARSON (1856–1927), British capitalist. At an early age he entered the contracting firm of S. Pearson and Son and extended its field to include the international promotion, construction and operation of railroads, utilities and public works. He was a

Liberal member of Parliament from 1895 to 1910, when he was raised to the peerage. In 1917–18 he was president of the Air Board.

Cowdray was a significant figure in the Anglo-American "oil war." He broke the virtual monopoly of American oil interests in Mexico but was prevented by diplomatic pressure from obtaining concessions in Colombia and elsewhere in the Panama Canal region. He tried unsuccessfully to unite British oil companies throughout the world into one British government company.

In 1889 he went to Mexico to build a canal and later the Tehuantepec railroad. His partnership with the Mexican government in this and in subsidiary companies was ended in 1918 by Carranza. To prevent control by American oil interests Díaz granted favored concessions to Cowdray, who had already obtained options on oil lands. Cowdray asked the Standard Oil interests to amalgamate with him. When they refused he started in 1909 his famous "oil war," in which the London and Washington governments were soon involved. Each side charged the other with bribery, arson and the theft of small holders' lands. By 1910 his company controlled 58 percent of the Mexican oil production. The fall of Díaz was, however, a serious blow to British interests, for the Madero government favored the Americans who had helped subsidize the revolt. Despite brief Standard-Cowdray truces in 1912 and 1913 Cowdray agents cooperated with Huerta, who overthrew Madero and rewarded Cowdray with concessions. From the time of Díaz' flight Cowdray had been negotiating for a sale to the Standard interests, but the British government, fearing American control, objected to the sale. After the United States entered the World War there was another oil truce, which ended with the Armistice. Finally, in 1919 Cowdray accepted a London government plan by which Royal Dutch Shell, the largest British combine, assumed management of his oil interests and continued in Mexico and elsewhere the Anglo-American struggle for international oil supremacy.

LUDWELL DENNY

Consult: Spender, J. A., *Weetman Pearson, First Viscount Cowdray 1856–1927* (London 1930); Denny, L., *America Conquers Britain* (New York 1930).

COXE, TENCH (1755–1824), American politician and economist. A Philadelphia merchant at the opening of the revolution, Coxe was at first a Loyalist, then a Whig, and after the conclusion of the conflict he served as delegate to the Annapolis Convention in 1786 and to the Continental Congress in 1788. He believed thoroughly in the proposed constitution and allied himself with the Federalist party, holding the office of assistant secretary of the treasury from 1789 to 1792 and commissioner of the revenue from 1792 to 1798. Dismissed by Adams he turned Republican and was purveyor of public supplies under Jefferson from 1803 to 1812.

He was an ardent believer in the development of the merchant marine by navigation acts and of manufacturing by a protective tariff. He held that commerce and manufactures in a country would complement and invigorate agriculture, particularly in the case of a redundant staple such as cotton. He devoted much space to the exposition of these theories in such pamphlets as *An Essay on the Manufacturing Interest of the United States* (Philadelphia 1804) and *An Enquiry into the Principles on Which a Commercial System for the United States of America Should Be Founded* (Philadelphia 1789). Few if any of his contemporaries excelled him in his knowledge of American economic conditions, and his *A Brief Examination of Lord Sheffield's Observations on the Commerce of the United States of America* (Philadelphia 1791) and *A View of the United States of America* (Philadelphia 1794) are a mine of dependable source material for the economic historian. When the federal government made its first effort in the census of 1810 to collect information respecting manufactures, Tench Coxe was employed to compile the digest, *A Statement of the Arts and Manufactures of the United States of America for the Year 1810* (Philadelphia 1814), and his ability in organizing the somewhat inadequate data of the census collectors has given him a secure position among American statisticians.

HAROLD U. FAULKNER

CRAFT GUILDS. *See* GUILDS.

CRAFT UNIONS. *See* TRADE UNIONS.

CRAFTS. *See* INDUSTRIAL ARTS.

CRAIG, JOHN (first half of the nineteenth century), British economist. Very little is known about his life except that he was elected in 1818 to the Fellowship of the Royal Society of Edinburgh, from which he resigned about 1840.

Craig is the author of the *Elements of Political Science* (3 vols., London 1814) and of *Remarks on*

some Fundamental Doctrines in Political Economy (Edinburgh 1821). In the latter work he points out the futility of Smith's distinction between productive and unproductive labor, discloses the fallacy of Ricardo's doctrine of the inevitable opposition between profits and wages and dwells on the analogy between revenue from land and that from capital. He was the first writer in English to stress the connection between utility and value and came near to expressing the idea of marginal utility.

Craig also made some distinct contributions to public finance. He was the first Englishman to work out the equal sacrifice theory of taxation, drawing from it conclusions in favor of the principles of graduation and differentiation. He was also the first of the nineteenth century economists to emphasize the capitalization theory of taxation.

EDWIN R. A. SELIGMAN

Consult: Seligman, Edwin R. A., *Progressive Taxation* (2nd ed. Princeton 1908) p. 257–59, *The Shifting and Incidence of Taxation* (5th ed. New York 1926) p. 175–80, and *Essays in Economics* (New York 1925) p. 77–81.

CRAMB, JOHN ADAM (1862–1913), British historian and political writer. He was born at Denny in Scotland and studied at Glasgow and Bonn universities. In 1893 he was appointed professor of modern history at Queen's College, London. His importance rests chiefly on his two books, *Reflections on the Origins and Destiny of Imperial Britain* (London 1900) and *Germany and England* (London 1914). Cramb was an intellectual product of the imperialistic nationalism that culminated in the Great War, but which in England was at its height in the last decade of the nineteenth century. It was perhaps his logical Scottish mind that made him carry his militarism to more uncompromising extremes than any other British thinker. "There is nothing in our annals," he proclaimed, "which warrants evil presage from the spread of militarism," and he characterized war as being "the supreme act in the life of the State." Accordingly, when it became evident to him that Germany was preparing for war against England, he positively welcomed the prospect and was only confirmed in his affectionate approbation of the rival power. Cramb sought to enlist the admiration of his countrymen for the most extreme manifestations of Prussian militarism. Even Bernhardi's ferocious outpourings seemed to him fair and just in their soldierlike simplicity.

Although he himself was full of esteem for the militaristic and imperialist ambitions of Germany, in which he saw the embodiment of the ancient Teutonic spirit, his works became the weapon of anti-German propaganda before and during the World War both in England and the United States.

ESMÉ WINGFIELD-STRATFORD

CRANE, WALTER (1845–1915), English artist. Crane began his career as an engraver and painter, but his greater fame came with the application of his talent for design to the crafts, including pottery, fabrics, plaster relief, mosaic, stained glass and especially book decoration. He believed that with the decline of handwork western industrial civilization had lost the basis of popular culture. Thus Crane and William Morris, inspired partly by Ruskin and Rossetti, led a movement to bring the arts and crafts into closer connection with one another and to give art a more substantial place in the things of everyday use. Finding that their work did not reach the public through the ordinary channels of commerce they founded in 1884 the Art Workers' Guild, with Crane as its first president; and in 1888 the first Arts and Crafts Exhibition in England was held. As a leader of the arts and crafts movement Crane's influence outside England eventually surpassed even that of Morris.

Crane was also one of the group, led by Morris, whose revolt against the ugliness of contemporary civilization led them into the Socialist party. Crane was an active worker for the cause, lecturing and contributing pamphlets and cartoons. He attacked capitalism because he believed that, while degrading the artist, it robbed the people of that liking for significant form and color which they show in all uncommercialized cultures.

ALFRED COBBAN

Important works: *The Claims of Decorative Art* (London 1892); *Cartoons for the Cause* (London 1896); *Ideals in Art* (London 1905); *An Artist's Reminiscences* (London 1907); *William Morris to Whistler* (London 1911).

Consult: Konody, P. G., *The Art of Walter Crane* (London 1902); Schleinitz, Otto von, *Walter Crane* (Bielefeld 1902); Scheu, Andreas, "Walter Crane" in *Neue Zeit*, vol. xxxiii, pt. ii (1915) 150–56; "The Reminiscences of a Socialist Artist" in *Current Literature*, vol. xliii (1907) 637–41.

CRANMER, THOMAS (1489–1556), first archbishop of the English Protestant church and leader of the English Reformation. According to

generally accepted evidence Cranmer in 1529, still almost unknown outside academic circles at Cambridge, suggested to Henry VIII the solution of the divorce problem and perhaps the outline of the Reformation itself as later executed. He became at once important at court, undertook embassies about the divorce to Germany and became archbishop in 1533. He promptly married Henry to Anne Boleyn, treating the marriage to Catherine as null and void; sponsored the new statutes and ecclesiastical expedients; later declared Henry divorced from Catherine; and convinced the clergy in general of the lawfulness of the Reformation, securing their almost unanimous support. An outstanding exponent of the prevailing doctrine of Erastianism, he championed the royal headship of the church as well as the reorganization and reduction of the power of ecclesiastical courts. His strong democratic sympathies, which revealed themselves in his opposition to the encroachments of the new nobility, prompted him also to sponsor the translation of the Bible into the common tongue and religious services into a vernacular intelligible to the common ear. Although he had little to do with the dissolution of the monasteries his opposition to the Act of the Six Articles and the attainder of Cromwell nearly cost him his influence and life and forced him to temporize until the accession of Edward VI. He then secured the adoption of his full plans, his *Homilies* (1547), his *Catechism* (1548), his *Book of Common Prayer* (1549) in English, the marriage of the clergy and communion in both kinds. But the second prayer book of Edward VI (1552) and the Forty-Two Articles (1553), in which doctrine was first restated, were his greatest achievements. With some omissions and changes they became the present prayer book and the present Thirty-Nine Articles, the influence of which upon English language, English style, education and life have been incalculable. He was the true founder of the Low church, its doctrines and practises. Because of his fear that the heterogeneity of Protestant doctrine throughout Europe might cripple the Reformation movement he attempted, although unsuccessfully, to arrange in London a Protestant council, to be attended by leaders of all the continental sects with a view to preparing a conciliatory body of doctrine on which might be built a united Protestant church. Therefore Cranmer's doctrinal reforms, although they directly affected only the English church, cannot be fully understood except in the light of this broader purpose. His rigorous opposition to Rome has somewhat overshadowed the very important part which he played in keeping the English church free from Zwinglian domination. On the accession of Mary he was deprived of all his offices, tried for treason and then for heresy and suffered martyrdom in 1556.

ROLAND G. USHER

Works: *Writings and Disputations of Thomas Cranmer . . . relative to the sacrament of the Lord's Supper*, Parker Society Publications, vol. xii, ed. by J. E. Cox (Cambridge, Eng. 1844); *Miscellaneous writings and letters of Thomas Cranmer*, Parker Society Publications, vol. xxiv, ed. by J. E. Cox (Cambridge, Eng. 1846).

Consult: Smyth, C. H., *Cranmer and the Reformation under Edward VI* (Cambridge, Eng. 1926), with bibliography; Pollard, A. F., *Thomas Cranmer and the English Reformation, 1489–1556* (new ed. London 1926).

CRAWLEY, ALFRED ERNEST (1869–1924), English social anthropologist. Crawley was an exceptionally brilliant and many sided man, a classical scholar, headmaster and a sportsman as well as an anthropologist. All his works are distinguished by great originality of outlook, and his anthropological writings are also notable for their literary qualities and for their almost Frazerian volume and weight of reference to authorities.

Crawley laid the foundations for the scientific treatment of primitive sexual and social relations. At a time when Westermarck's exclusively biological treatment of savage sexual relations and the exclusively legal standpoint of such writers as McLennan and Maine held the field, Crawley opened wider vistas by the use of a profound psychological analysis on the basis of biological common sense. His main thesis was the attribution of marriage and all the social relations connected with it to a fundamental antagonism between the sexes, an antagonism which he ascribed to the processes of "physiological thought," whereby savage man was led to fear contact, and especially sexual contact, with woman because of the contagious qualities of her weakness and general inferiority. To this antagonism and fear Crawley traced the sexual and commensal tabus and avoidances. Marriage and its subsidiary ceremonies—betrothal, defloration, sexual resistance—he regarded as rites of union (or, by anticipation, as *rites de passage*) intended to lessen and to combat the dangers feared from contact.

Crawley's detailed extension and application

of this view displayed remarkable prevision of the course anthropological theory has since taken. He anticipated, in particular, functional anthropology by considering "survivals" not as fossil forms in a living culture but as ideas which spring from permanent functional causes. As pointed out by Freud, Crawley expressed certain of his views in terms that are hardly distinguishable from those employed by psychoanalysis.

THEODORE BESTERMAN

Important works: *The Mystic Rose* (London 1902; 2nd ed. rev. by Theodore Besterman, 2 vols., London 1926); *Studies of Savages and Sex*, ed. by Theodore Besterman (London 1929); *Dress, Drinks and Drums: Further Studies of Savages and Sex*, ed. by Theodore Besterman (London 1931).

Consult: Malinowski, Bronislaw, "Primitive Marriage and Kinship" in *Nature*, vol. cxxi (1928) 126–30.

CRÈCHE. *See* DAY NURSERY.

CREDIT. Etymologically the word credit means belief or trust; in its technical usage it has come to be confined to the trust placed in a debtor. Credit, in fact, is best understood as simply another name for debt. The two parties to a debt are called debtor and creditor, and the same relation which from the debtor's standpoint is called a debt is called from the creditor's standpoint a credit.

Debts play a fundamental part in economic relations. Every purchase and sale of goods or of services creates a debt due from buyer to seller. The quotation of a price is an offer acceptance of which gives rise to a debt. It likewise gives rise to an obligation on the part of the seller to deliver the goods or to render the services stipulated, but this type of obligation is not a debt. A debt is a pecuniary obligation; it is expressed as a number in terms of a unit which is called a "money of account." The debt may be discharged immediately by the buyer's delivery of the agreed price in money or it may be left outstanding, to be discharged at a future time. It becomes necessary then to keep an account; hence the expression money of account for the unit in which debts are reckoned.

Debts do not arise only out of purchase and sale of goods and services, but also out of borrowing and lending of money or of pecuniary rights. The borrowing and lending (or hiring) of goods with an obligation to return the same goods are not credit transactions. The obligation connected with it is not a pecuniary obligation and therefore is not a debt. If the goods are not returned, the owner may recover pecuniary damages, and as soon as his right is established a debt is created, but that is not a part of the original transaction. Likewise, if anyone is entrusted with goods for safe keeping he is not a debtor, because his obligation is not a pecuniary one. Even if the goods entrusted to him be money, with the stipulation that he is not merely to return an equal sum of money but to keep and return the identical pieces deposited, that is not a credit transaction. If he were simply a debtor, he would be free to pay the sum due in any form of legal tender he chose, and in the interval could part with the pieces of money he had received.

Debts are legally payable in money. It is essential to have some means established by law for the definitive extinction of a debt, for otherwise a court of law would be unable to prescribe a settlement, and the obligation of debtor to creditor would not be enforceable by law at all. Money is so established by law, and every piece of money is given a value or debt paying capacity in terms of the money of account. Thus the ideas of debt and money of account are more fundamental than that of money in the sense of legal tender currency. Debts cannot be defined in terms of money because money must be defined in terms of debts. But once money is established by law, every debt or pecuniary obligation becomes thereby an obligation to pay money.

In practise, however, it is not always necessary for debts to be discharged in money, which is a convenient medium for small payments but offers considerable trouble and cost in handling, safe keeping and counting when used for large payments. The possible alternative is payment in credit. A debt can be extinguished by being set off against another debt. Two traders doing business together can keep a running account in which the debts and credits of each are recorded, and only the net balance due from one to the other need be paid from time to time. But this method cannot in general be carried very far, because a trader's debtors are not usually the same people as his creditors. If, however, a group of traders made a practise of transferring all their credits to one individual, that individual would be able to set off the debts and credits of every trader and to claim the debit balance due from some so as to make good the credit balance due to the others.

One of the principal functions discharged by

a banking system is to make possible that the debts and credits of the customers of the system be set off or cleared against one another. A customer by assigning his credits to his banker makes the banker his debtor for the amount, and is then in a position to pay his debts by assigning to his creditor sums thus due to him from the banker. Debts due from bankers to their customers and destined to be used in this way are called bank credit.

The use of bank credit as a means of payment requires that some ready method should exist for assigning a debt from one creditor to another. The assignment of debts accordingly assumes a fundamental importance in the history and in the theory of credit. In mediaeval Venice, if anyone wanted to transfer to another a sum held to his credit at a bank, the two would attend in person at the bank and the substitution of the new creditor for the old in the books of the bank would be recorded before witnesses. In the Middle Ages legal recognition was already being given to a less cumbrous method of transfer by documents, called in modern usage credit instruments. If the terms on which a debt was created provided that it could be transferred from one creditor to another without the intervention of the debtor, then this simplified procedure became permissible.

Perhaps the most obvious method of assigning a debt is to embody it in a promissory note, a written promise to pay a specified sum of money, without limiting the promise to any specified creditor. The promise may be simply to pay the bearer of the note whoever he may be, and the debt can be assigned from one creditor to another by simple delivery from hand to hand. Or the name of a creditor may be specified, but accompanied by the alternative of payment to anyone else whom he may designate or order. The creditor specified may then assign the debt to a new creditor or payee by writing and signing on the note a direction to pay to the latter; this is called endorsing the note, because the direction is customarily written on the back of the note. If the creditor simply endorses the note with his signature without naming any new creditor or payee, the note becomes payable to bearer. Promissory notes payable to bearer on demand have acquired a special importance in the form of banknotes. Promissory notes payable to order and transferable by endorsement are extensively used in the United States as instruments of short term borrowing and lending. In most other countries this function has devolved on the bill of exchange.

A bill of exchange is a written order by the creditor (the seller of goods) to the debtor (the buyer) to pay the sum due to the bearer or to a specified person or order. It is thus a more direct means of assigning a debt than a promissory note, since it is originated (drawn) by the creditor instead of by the debtor. If the buyer and seller of goods agree that the latter is to pay not immediately but only after an interval of time, a bill of exchange will be the means of assigning a debt due after that interval. Usage requires in that case that the buyer should recognize the debt by accepting the bill, i.e. writing his signature on the face of it.

In order that full advantage may be taken of the system of bills of exchange, there is required a class of people to act as intermediaries to present the bills to the debtors for acceptance and payment. This function ordinarily devolves upon the bankers. The seller of goods draws a bill on the buyer and makes it payable to his own banker. The banker may himself have an establishment in the place where the buyer is, or he will be in correspondence with some other bank there. He will transmit the bill there to be accepted and paid on maturity (collected). If he has confidence in his customer (the seller), the banker will be willing to discount the bill, i.e. to advance immediately to the customer the value of the bill, less interest calculated for the interval up to maturity (discount). If he does so, he is buying the debt represented by the bill and in effect lending the amount to the customer, but the customer is assumed in law to guarantee the bill in his capacity as drawer.

Whether he discounts the bill or collects it on maturity, the banker is carrying out an "exchange" operation, i.e. exchanging a credit or pecuniary right in one place for one in another; if the bill is drawn on a place in a foreign country it is a foreign exchange operation. Bills of exchange enable debts in different places to be cleared through the banks dealing in the foreign exchange market.

One particular form of bill of exchange, the check, has come into use in modern times as the predominant method of assigning bank credit in large sums. The check is a bill drawn on a banker by a customer and payable on demand. Being payable on demand, it is a means not of borrowing and lending but only of

payment. The possessor of bank credit draws checks upon the bank in favor of those to whom he has to make payments; the payees, who in all likelihood also have banking accounts, pass on the checks (endorsed, if payable to order) to their banks. Thus any bank receives checks drawn upon other banks, and it is usual for the banks carrying on business at any center to settle accounts with one another by sending the checks they receive to a central clearing house, where their respective debits and credits are calculated day by day, and net balances are paid either in money or by checks upon a central bank. Checks are used both for payments between people in the same locality and for payments at a distance. For payments between different countries they are first dealt in by the foreign exchange market and then passed on to the place on which they are drawn to be cleared. Thus credit instruments may be divided into two classes: first, promissory notes and bills of exchange, which promise or direct payment at a future date and which are therefore used as vehicles of borrowing; and second, checks and banknotes, which are used as vehicles of payment.

Payment by check or banknote is payment in credit, because it is effected by the transfer of bank credit. It should be mentioned, however, that banknotes, particularly those issued by central banks, are often made legal tender, and are thereby technically constituted money. The distinction between credit and money then becomes obscured. If the note is not legal tender in payments by the bank which issues it, but only in payments by others, it still may be regarded as credit, for it still represents a debt due from the bank. But if it is legal tender in payments by the issuing bank, that bank when asked to pay one note can do so by handing over another, and there is in substance no enforceable obligation at all. This is so even when the bank is obliged to convert its note into gold bullion. For bullion as distinct from coin is not money but a commodity; the delivery of gold bullion is not a payment but a sale; and the obligation, not being pecuniary, is not a debt. In some cases the legal tender notes of central banks are not given the form of credit instruments or promissory notes, but simply show the amount for which they are to pass in payment.

Credit instruments commonly possess the characteristic of being negotiable. In general if anyone assigns his property rights in an object to someone else, he cannot give the recipient a better title than he possesses. If he is selling goods which he has stolen or misappropriated, the purchaser may have to give them up (unless he has bought them in "market overt"). But these rules do not apply to money. When a thief pays stolen money to an innocent person, the latter acquires a perfectly secure title to the money. A negotiable instrument is a credit instrument which in this respect has been put on the same footing as money. The law allows a clear title to any honest recipient, and he is under no obligation to inquire whether the previous holder had a clear title. This privilege belongs to both bills and notes, whether payable to bearer or to order, although they can be divested of it by writing the words "not negotiable" upon them. The effect of negotiability is to facilitate the use of credit instruments as substitutes for money, i.e. as means of payment.

Bank credit is composed of simple debts due from banks. Money is not entrusted to a bank by its depositors in the same way as valuables may be entrusted to a bank for safe keeping, or as money may be placed with a banker on the understanding that he is to act as a trustee. When a customer simply pays in money or checks to his account with the banker, the banker becomes a mere debtor for the amount, and assumes no other obligation to the customer than the agreed terms of the debt. The customer has no say in the use the banker chooses to make of the resources he thus acquires.

Bank credit includes certain other forms besides deposits which can be drawn on by check payable on demand. There are time deposits, employed by the depositors as temporary interest earning investments for idle funds. Again, there are credits granted by a bank which may only be drawn upon by bills of exchange of an agreed type, bank acceptances; they cannot be drawn upon by check or withdrawn by the customer in money. Such a credit is required by a customer who is a buyer of goods and who wishes to authorize the seller to draw a bill. If the bill is drawn on the bank instead of on the customer it will be discounted on favorable terms, because the bank will possess better credit than an individual trader. The document by which a bank authorizes a customer to open a credit is called a letter of credit. A similar term is applied to the document by which a bank enables a customer who is traveling to

draw checks upon its branches and correspondent banks.

A bank has a dual function: in its capacity as debtor it supplies its creditors with the means of payment in the form either of banknotes or of checking deposits; in its capacity as creditor it is a short term lender to traders and others. Short term lending by a bank is effected partly through the discounting of credit instruments (bills and notes), and partly through advances (loans and overdrafts), which are simple book debts recorded in the books of the bank against its customers.

When a bank lends to a customer, it creates credit. Two debts come into being: a debt from the customer to the bank payable at an agreed future date, and a debt from the bank to the customer due immediately and available as a means of payment. Like all debts, such debts are payable, if the creditor so desires, in money. In view of the superior convenience of money as a medium for certain kinds of payment (wages, small retail purchases, railway fares, etc.) every bank must be prepared to pay its obligations in money so far as its customers may require. This condition limits the freedom of banks to create credit as a means of payment, because if they are too lavish they may run short of money. Credit has thus become very intimately linked up with monetary policy. A system of central banking has been evolved under which the banks in any country all rely on a single central bank to supply them with whatever money they may require. The use of metallic coin in circulation, except subsidiary token coin, has been almost entirely superseded by paper currency in which the notes of the central bank play a predominant and in some countries an exclusive part.

Short term lending is performed mainly by banks, but not quite exclusively so. In London there is a highly organized discount market, in which bills are bought and sold by discount houses or bill brokers, to whom the banks lend money at call. The discount houses are accustomed when necessary to borrow from the Bank of England or to rediscount bills, and loans to the discount houses are regarded by the lenders as a highly liquid asset. There are other lenders besides banks, who take advantage of the discount market to gain a higher rate of interest than the time deposit rate allowed by banks on large funds temporarily available. In New York there is a market in call loans to stockbrokers which has something of the same impersonal character, in that loans are regularly made by banks at competitive rates to others than their customers or by business corporations investing temporary surpluses. The call market grew up before the Federal Reserve system was instituted, and the rediscounting facilities now available have made it somewhat less important. Market dealings also exist in the United States for commercial paper (promissory notes) and for bank acceptances.

Side by side with the credit which is organized through banks and quasi-banking institutions or mobilized through credit instruments, there survives the more elementary form of book credit between buyer and seller. It is used not only in dealings between manufacturers, wholesalers and retailers; book credits are created also in sales to final consumers in the form of charge accounts and obligations payable on instalment. Finally, it is not to be overlooked that speculation gives rise to a form of book credit. Thus when a speculator buys commodities, securities or foreign exchange for delivery at future dates he incurs a debt equal to the price for the period of the transaction.

If credit is merely another name for debt, it is equally applicable to the long term debts which play a prominent part in the investment markets of the world. Governments, municipalities, corporations and individuals are accustomed to contract debts involving the payment of capital sums at the end of a considerable period of years, and the payment of interest meanwhile. Such debts are sometimes dealt in through the medium of bonds, payable to bearer or transferable by endorsement, which are credit instruments on the same footing as bills and notes, and the interest is paid by means of coupons or warrants, which are attached to the bond and are cut off when due and presented for payment like checks. Alternatively the rights of the creditors may be recorded or registered in books of account in which any change of ownership has to be entered in order to be effective.

An essential condition of the extensive use of credit is the existence of suitable facilities, practical and legal, for the provision of security for debts. There may be default on a debt either through the fraud or negligence of the debtor, or through the failure of the debtor's assets. To guard against that contingency, the creditor may as a condition of the loan require the debtor to assign him legal rights over some specified asset of sufficient value to cover the

amount of the debt with a margin for the risk of depreciation. If it is possible for him also to take physical possession of the asset, that is an additional safeguard.

When a bank lends to a trader, the borrower usually intends to acquire some marketable goods or securities with the sum lent. If goods in transit are financed by a bill of exchange, it is possible to secure the bill upon the goods by attaching the bill of lading to the bill, so that the holder of the bill is the holder of the title to the goods. But the bill of lading has to be detached when the owner of the goods wishes to sell them, and accordingly this form of security is not usually made use of, except in the interval before the bill of exchange is accepted. The bill, once accepted, becomes the recognized debt of the acceptor, guaranteed by the drawer and also by any intermediate holder who has endorsed it. If some of these parties to the bill are people of unimpeachable credit, collateral security ceases to be necessary. Sometimes notes or bank advances are secured by a lien on goods in warehouse or even in course of production (e.g. growing crops). Sometimes they are secured by bonds, stocks or shares which can be deposited with the lending bank or transferred to it.

The bonds or debentures of a corporation will be secured on the assets of the company. Either a corporation or an individual may provide security by a mortgage on land, buildings or other real property. The creditors of a government usually have to depend on its good faith, but sometimes they endeavor to reinforce their security by getting some government property or source of revenue assigned for the purpose and placed under independent control.

Security is not invariably required for debts. The creditors of a bank are usually content to leave their deposits unsecured. Banks often grant advances or overdrafts without security to customers of unquestioned solidity and probity.

Credit is essential to the economic development attained in the modern world. If we imagine a community without the practise of borrowing and lending, we must suppose every trader to be limited in the scope of his operations by the need to provide cash for all purchases. He must so conduct his business that the maximum need of working capital will not exhaust his resources, and the result will be that, when the need of working capital is at the minimum, he will be encumbered with a large balance of idle money. If he ties up too much of his capital in permanent investment in his business, he may miss lucrative trading opportunities for want of ready cash, or may even be involved in serious embarrassment through unforeseen losses. If on the other hand he keeps a large cash balance, the scale of his normal business is unnecessarily restricted so long as the opportunity of employing the cash does not arise. In the complete absence of credit institutions, every trader's position would be a compromise between these two disadvantages. All capital invested would be irretrievably sunk, and the amount of liquid resources available to cooperate in any important new development would be extremely limited.

It would seem that even in a community without credit institutions joint stock enterprise would still be possible, since a shareholder is not a creditor but a participator. In fact, however, joint stock enterprise could not easily assemble large capital sums without the assistance of credit. It is not usually possible to interest more than a very limited circle of people in a new enterprise, and if capital could only be collected from actual cash balances the amount that they could spare would probably be very small. Credit institutions enable the participators to pledge their existing resources even though these are sunk in fixed capital; moreover, the participators can supplement the capital so raised by pledging the growing assets of the new enterprise. They might, it is true, sell their existing capital assets instead of borrowing upon them; but the market for capital assets could itself hardly exist without credit institutions.

The free functioning of a market requires an adequate concentration of liquid resources in the hands of dealers. The daily turnover of the markets must be large in comparison with the greatest single transaction it is called upon to carry through. If there are a hundred dealers in a market with available liquid resources averaging $100,000 each, then without credit facilities the market could buy and hold $10,000,000 worth of the goods dealt in and no more. Once the limit is reached, buying would come to a dead stop. If on the other hand a dealer can borrow $9000 on the security of $10,000 worth of goods, the limit is thereby raised tenfold to $100,000,000 worth. And if dealers, in addition to the capital which they place directly in the market also have other investments, they may increase their dealings

still further by pledging these investments. If, as is usually the case, the dealers as a body do not extend their transactions to anything like the extreme limit of their credit, every offer for sale will find buyers with extensive reserves of purchasing power; the market functions smoothly and quotes a definite price for the goods dealt in.

In the particular case of financial markets, where the dealings are in stocks and shares, foreign exchange or insurance, dealers must be prepared to buy and sell very large units. Even with the most highly organized credit system, it is only possible to establish effective markets of this kind at a very limited number of great centers throughout the world. Without credit facilities there could be no markets, in the strict sense, at all, and every transaction would be the subject of intricate non-competitive bargaining. It is only in virtue of the existence of adequately organized financial markets that enterprise on any great scale is possible, and credit institutions are an indispensable condition of the whole system.

Credit supplies the modern world with its principal medium of payment. Thereby are secured an economy in the use of the precious metals, a saving of the labor and cost which would otherwise be involved in handling, counting and safe keeping specie, and, more important still, the vital advantage of elasticity in the monetary system. It is true that elasticity lends itself to abuses. Thus one of the essential features of the business cycle, with its undesirable recurrences of trade depression, is a credit cycle, an alternation of credit expansion and credit contraction, manifesting itself in periods first of rising and then of falling prices. But it must not be assumed that an alternation of prosperity and depression would not exist in a community on a purely specie system without credit institutions. On the contrary, the elasticity conferred on the monetary system by credit affords the best hope of avoiding monetary fluctuations by scientific regulation of the currency.

R. G. HAWTREY

See: DEBT; FINANCIAL ORGANIZATION; BANKING, COMMERCIAL; MERCANTILE CREDIT; AGRICULTURAL CREDIT; LAND MORTGAGE CREDIT; INVESTMENT; PUBLIC DEBT; LOANS, PERSONAL; PAWNBROKING; INSTALMENT SELLING; CREDIT COOPERATION; NEGOTIABLE INSTRUMENTS; ACCEPTANCE; BILL OF EXCHANGE; CHECK.

Consult: Moulton, H. G., *The Financial Organization of Society* (3rd ed. Chicago 1930); MacLeod, H. D., *The Theory of Credit*, 2 vols. (2nd ed. London 1893–97); Knies, Karl, *Geld und Kredit*, 2 vols. (Berlin 1873–79) vol. ii; Komorzynski, Johann, *Die national-ökonomische Lehre vom Kredit* (Innsbruck 1903); Taylor, W. G. L., *The Credit System* (New York 1913); Hawtrey, R. G., *Currency and Credit* (3rd ed. London 1928); Keynes, J. M., *A Treatise on Money*, 2 vols. (London 1930). See also bibliography following article on BANKING, COMMERCIAL.

CRÉDIT AGRICOLE MUTUEL. *See* CO-OPERATION, section on FRANCE.

CREDIT CONTROL is a term of very recent origin which has come into general use only since the World War in connection with proposals emanating from many different quarters for monetary management, monetary stabilization and similar reforms. It is employed somewhat vaguely, but the general notion underlying all the uses of the term is one in contradistinction to the "automatic" devices for the regulation of credit which were supposed to characterize the working of the pre-war gold standard in its purest form.

Under an "automatic" or "unmanaged" system the quantity of reserve money available for a country's banking system in the shape of legal tender money and deposits at the central bank is determined, according to some more or less rigid formula, by the movement of gold between that country and the rest of the world. Under such a system the authorities of the central bank need, theoretically, do nothing except allow the quantity of credit to be fixed by the movements of gold and the official discount rate to adjust itself to the market rate corresponding to this quantity of credit. The equilibrium of relative price and wage levels and of relative interest rates at home and abroad is thus left to find its own level as the final outcome of the consequences of the fluctuating scarcity or abundance of credit determined by the movements of gold. As contrasted with these methods of laissez faire credit control is used to describe a system in which the central banking authorities deliberately determine, sometimes in anticipation of gold movements and sometimes in disregard of them, both the quantity and the price of credit with a view to the achievement of certain economic objectives, such as price stability or stability of employment and output or stock exchange stability. Although it is admitted that a country under a gold standard cannot persist indefinitely in a policy which disregards gold movements, experience has shown that a financially strong

country or one with large gold reserves can ignore their effects for a considerable time.

This clear cut distinction between credit control and its opposite is, however, merely theoretical. In practise no country which has reached the stage of using representative money and bank credit can employ an automatic system of credit regulation; indeed, no banking system of the modern type, such as has existed for a century past in Great Britain, can avoid some amount of credit control. The contrast between the presence and the absence of credit control in the modern sense reduces itself therefore to a difference in methods and degree. The old fashioned system was wont to regulate deliberately the price of credit, that is, the bank rate or discount rate, but to allow the quantity of credit to be determined partly by the movements of gold and partly by the amount of rediscounting at the central bank attracted by the official rate. Moreover, the main objective of the old system was the maintenance of gold convertibility of the country's representative money at the parity fixed by law, and it was reluctant to admit any primary duty, obligation, responsibility or interest in any other matter. The new fashioned system of credit control, on the other hand, employs not merely bank rate policy but every other weapon in the armory of a central bank in order to regulate the quantity and price of credit. It resorts to open market operations, i.e. purchases and sales of assets, chiefly government securities, on its own initiative rather than that of its customers; moral pressure or disciplinary action directed toward member banks and investment houses, particularly those engaged in floating foreign issues; variation within narrow limits of the official buying and selling prices for gold; and operations in the foreign exchange market, including the use of "gold exchange management" methods. Furthermore, the modern exponent of credit control is apt to regard the maintenance of gold convertibility not as the final crown and consummation of a central banking policy but rather as a somewhat irksome limiting condition. It comes to his notice chiefly as something liable to interfere with the attainment of that particular type of economic stability which he regards as the bank's primary objective.

Some critics of modern methods of credit control have maintained that in the end they come to the same thing as old fashioned bank rate policy, inasmuch as the quantity of credit employed is uniquely determined by the rate charged for it, so that little or nothing is really gained by trying in addition to control directly the quantity of credit. It is, however, generally agreed that open market operations allow a more sensitive and delicate control of the monetary machine than is possible by the use of the bank rate alone, which cannot help working by discontinuous jerks. Moreover, such critics are prone to underestimate the independent efficacy of open market policy as a means of credit control.

The historical evolution of credit control has been briefly as follows. Bank rate policy as a method of control was evolved during the nineteenth century, mainly in London, where it originated in the discussions which followed the monetary crisis of 1836–37 and preceded the Bank Act of 1844. Before 1837 it is difficult to find any trace of such ideas—they are not to be found, for example, in the works of Ricardo—of which it is a sufficient explanation to remark that up to the repeal of the usury laws in 1837 the rate of interest was subject to a legal maximum of 5 percent. By 1844 typical reformers, such as Lord Overstone (*Thoughts on the Separation of the Departments of the Bank of England*, London 1844, republished in his *Tracts and Other Publications on Metallic and Paper Currency*, London 1858, p. 237–84), were emphasizing the importance of bank rate policy as a means of regulating the volume of the note circulation. In 1861 in Goschen's *Theory of Foreign Exchanges* (London) the effect of changes in the bank rate as a means of influencing the foreign exchanges was first expounded in a clear and definite manner. The subsequent evolution of ideas about the bank rate as a means of credit control into the form in which they were generally accepted before the war may be traced through Bagehot's *Lombard Street* (London 1873, ch. v), Giffen's "Gold Supply: the Rate of Discount and Prices" (*Essays in Finance, Second Series*, New York 1886, p. 37–88) and Marshall's evidence before the Gold and Silver Commission of 1877–78 (reprinted in his *Official Papers*, London 1926, p. 17–195). A systematic treatment of the theory of the bank rate is, however, difficult or impossible to find; one will search in vain the works of Marshall, Pigou, Taussig or Irving Fisher.

The creation of the Federal Reserve System in the United States in 1913 opened a new chapter in the evolution of credit control. This system was in certain essentials less like the

British system than perhaps some of its founders had believed it to be; and it soon became apparent that it would tend to develop on lines of its own. In the *First Annual Report* of the Federal Reserve Board (Washington 1915) there is already mention of open market operations, and central bank control of the volume of credit by the purchase and sale of assets on its own initiative has come to figure more prominently in the activity of the Federal Reserve banks than in the traditional British system. Open market operations in the United States have been employed as a regular policy on a large scale since the spring of 1922 and as a systematized policy under the authority of a central committee with definite objectives of credit control in view since April, 1923.

While the United States has been the scene of the most extensive application of the open market policy, a similar evolution has been proceeding in London. Even before the World War the Bank of England was known to employ this device, though at somewhat rare intervals, on a modest scale and for short periods; it sold consols for cash on the stock exchange and simultaneously repurchased them "for the account," which would be anything up to a month later, with the result that the basis of credit was correspondingly curtailed between the date of sale and the date of settlement of the repurchase. Today, however, the Bank of England employs open market operations, usually the sale or purchase of treasury bills, as a regular part of its machinery for the control of credit. Moreover, since the revision of the form of the Bank Return in November, 1928, the assets of the bank are shown in such a way as to render visible the extent of the variations due to open market operations: assets brought to the bank on the initiative of the market are entered as "Discounts and Advances" and assets purchased on the bank's own initiative as "Securities." A treasury bill will thus appear in one category or the other according to its origin.

A central bank, which is free to govern the volume of cash and reserve money in its monetary system by the joint use of bank rate policy and open market operations, is master of the situation and is in a position to control not merely the volume of credit but the rate of investment, the level of prices and in the long run the level of incomes, provided that the objectives it sets before itself are compatible with its legal obligations, such as those relating to the maintenance of gold convertibility or to the parity of the foreign exchanges. This is subject, however, to certain further conditions discussed below.

Central bank control of the basis of credit in the shape of cash and reserve money operates on the economic system not directly but through its influence on the total volume of credit created by the member banks belonging to the monetary system. Credit control depends thus not merely on the control of the basis of credit but also on there being some more or less rigid relationship between the reserve resources of the member banks and the aggregate of credit which each of them is free to create. It is a vital feature of effective credit control by a central bank that it should lie within its power to determine directly or indirectly the total volume of credit created by the member banks.

Modern banking systems are divided into two groups, according as the relationship between reserve resources of commercial banks and their current liabilities is determined by law or by the pressure of custom or convention, the United States being the leading example of the first type and Great Britain of the second. Both the legal provisions which govern the situation in the United States and the conventional practises which rule in Great Britain are very rigid at any given time but have occasionally changed. It happens, however, that at present the legal provisions prevailing in the United States work out very nearly the same in practise as the conventions prevailing in Great Britain. In the United States a lower percentage of reserves is held against time deposits, but till money does not count as a part of the legal reserves; the net effects balance approximately the contrary practises in Great Britain. We may summarize them by taking the percentage of reserves held against the demand deposits as being between 10 and 11 percent in both countries. In some other countries there is a greater variability of practise. According to W. R. Burgess (p. 36) the typical ratios of reserves to deposits are as follows: four French credit companies 11.5 percent; Swiss private banks 8.0 percent; the chartered banks of Canada 11.0 percent. In Germany the reserve ratios are much lower and more variable, with the result that the Reichsbank's control over its member banks' credit policy is far less secure.

Whatever the objectives for the attainment of which the weapon of credit control is or

should be used, a central bank which adheres to an international gold standard must regard the maintenance of the gold value of its money as its primary objective; any secondary objectives which it may desire to pursue simultaneously must necessarily be limited in duration and in degree, except in so far as one bank is powerful enough or persuasive and influential enough for its behavior or its admonitions to influence the action of the other central banks belonging to the same international gold standard system. In an international system the attainment of objectives other than gold parity, such as the stability of prices, of incomes, of employment, or of stock market values, must largely depend not on the isolated behavior of a single central bank but on the average behavior of all the central banks of the system, each contributing its quota to the final result. Nevertheless, an individual central bank, which is in a position to absorb or part with a very large quantity of gold without being deflected from the pursuit of secondary objectives of its own, may in present circumstances profoundly influence the behavior of other central banks and even compel them to follow in its train.

Membership of an international monetary system involves certain obligations. A sound international system will be one which manages to combine a reasonable latitude to its constituent central banks to pursue local secondary objectives within defined limits with sincere collaboration between the constituent banks aimed at controlling their average behavior in such a way that those secondary objectives may be attained which are judged to be most advantageous to the world as a whole. Indeed, those objectives which are regarded as secondary from the point of view of any individual central bank adhering to an international gold standard can and should become primary objectives from the point of view of the *corpus* of central banks acting as a whole. The structure of credit control will therefore be finally completed only when individual central banks are ready to submit to a certain discipline from an international collectivity, analogous to the discipline to which their own member banks must be submitted if their local system is to work with a deliberate purpose.

J. M. KEYNES

See: CENTRAL BANKING; MONETARY STABILIZATION; PRICE STABILIZATION; BANKING, COMMERCIAL; FEDERAL RESERVE SYSTEM; MONEY; PAPER MONEY.

Consult: Keynes, J. M., *A Treatise on Money*, 2 vols. (London 1930) chs. xiii, xxv, xxxii, xxxiv–xxxviii; Hawtrey, R. G., *Currency and Credit* (3rd ed. London 1928) ch. ix; Cassel, G., *Theoretische Sozialökonomie* (4th ed. Leipsic 1927), tr. by J. McCabe (New York 1924) chs. x–xii; Beckhart, H. B., *The Discount Policy of the Federal Reserve System* (New York 1924); Burgess, W. Randolph, *The Reserve Bank and the Money Market* (New York 1927) chs. x–xiv; United States, House of Representatives, 69th Cong., 1st Sess., Committee on Banking and Currency, *Stabilization*, 2 pts. (1927) p. 307–79, 426–27.

CREDIT COOPERATION. Credit cooperatives are cooperative institutions of a banking nature which serve their members. In order to be classed as cooperative the associations must be voluntary, thus excluding compulsory copartnerships; they must have as their aim mutual self-help with a view to some remote social goal of the participating social group, thus excluding commercial joint stock companies; and, finally, they must use as the method for attaining this end a type of procedure generally associated with the term business enterprise, thus excluding farmers' or peasants' unions, agricultural syndicates, trade unions or other forms of mutual interest associations. The legal form of organization is not always indicative of the cooperative character of these institutions. In most countries special legal forms advantageous for cooperatives and sanctioned by special legislation have been adopted, but the cooperative may assume the form of the ordinary joint stock company. Their distinction from other forms of cooperation lies in the fact that credit cooperatives perform banking functions, although they need not necessarily assume all the functions of an ordinary commercial bank. When the services of such societies are highly specialized, as in the cases of building and loan societies, burial funds and mutual insurance societies, the organizations are not considered credit cooperatives. Nor are central banking institutions of consumers' cooperatives to be confused with the credit cooperative; they are designed primarily to serve the banking needs of their constituent consumers' societies. The trade union banks, which in some instances may offer facilities to credit societies as well as to other cooperatives, also originate from different concepts and function in a different way. In the main, credit cooperatives are voluntary mutual aid associations whose functions are to provide credit on a personal basis to the middle class, both urban and rural, for the purpose of carrying on production and business and to workmen and salaried employees for consumption purposes. All of

these functions are often assumed by the same credit society.

The history of credit cooperation discloses great variations in time and place indicative of adaptations to special needs. Credit cooperatives differ in methods of capitalization, principles underlying the division of profits, administrative organization, the degree of centralization of the union or federation of societies and the setting up of a central cooperative banking institution. Considerable differences also exist on the broader questions of the relation of the credit cooperative to other forms of cooperative endeavor, to the church, to the state and to other social and political institutions. In a sense such differences may be interpreted as a reflection of the variation in character and orientation of democratic and reform movements in countries passing through different stages of capitalistic development. When due allowance is made for these variations, however, it is still possible to fix a number of basic characteristics of credit cooperation. For this purpose it is necessary to turn to a consideration of the earliest forms of credit cooperation as conceived in Germany.

The credit movement which developed under Hermann Schulze-Delitzsch's leadership can best be understood in the light of the economic and social development of Germany in the middle of the last century. The factory system in Germany was developed several decades later than in England or France, and unskilled factory labor had not as yet been sufficiently differentiated to justify a separate social grouping. The liberal leaders of the upper middle classes were profoundly interested in the fortune of the lower middle classes—the owners of small or medium sized agricultural enterprises, tradesmen, the humbler members of the various professions, the skilled craftsmen—whose economic position was just beginning to be undermined. Schulze-Delitzsch himself came from the small town of Delitzsch in Prussian Saxony which was typical of this economic and social grouping. He participated in the endeavor to aid these classes through philanthropic loan and provision societies, but his liberal democratic ideals convinced him that a firmer foundation on a cooperative self-governing and self-supporting basis must be laid. Although his plans included also consumers', home building and producers' cooperation, the eventual predominance of the credit union was assured, because the middle class membership which responded to his schemes was most in need of credit for production purposes in manufacturing, trade and agriculture.

The credit cooperative as evolved by Schulze-Delitzsch is the fundamental groundwork on which all credit cooperation, both urban and rural, has been developed. Schulze-Delitszch's plan provided for the inclusion of the rural element, and at least one quarter of the membership in his societies has at all times been agricultural. But in the southwestern part of Germany a rather different type of agricultural economy predominated. It was for the village community of that region, which included along with the peasant owners of small agricultural units a scattering of tradesmen, even a few factory workers and handicraftsmen, that F. W. Raiffeisen evolved that scheme of credit cooperation which has been adopted by countries and communities in a similar stage of rural development. The Raiffeisen movement included important and necessary adaptations of the Schulze-Delitzsch plan but there existed no basic contradictions in the two plans of development: both were based on the concept of mutual self-help operating through the medium of a business enterprise on such business principles as were compatible with the needs, training, traditions and capacities of the membership in whose behalf it was founded. Both movements despite some difference in degree of emphasis stressed in addition to sound business principles the idealistic aspects, which in Raiffeisen's case took on a deeply moral and religious although by no means sectarian character. Both were essentially middle class movements designed for the welfare of the less prosperous of that class and not for the rebuilding or replacement of the existing economic order.

The principles of German experience as developed by Schulze-Delitzsch, by Raiffeisen and later by Wilhelm Haas are fundamentally alike. The difference in methods arises out of special conditions. Schulze-Delitzsch appealed to a city group which had some financial resources and some commercial training. In order to found his banks on a sound basis and to attract capital he based membership on shares sufficiently low to appeal to most of the potential membership but sufficiently large to make the endeavor self-supporting. Both by principle and by policy Schulze-Delitzsch was strongly opposed to state aid. Where liability was unlimited, as it was at the outset in all Schulze-Delitzsch societies, each member could hold one share and one share only, thus retaining a cooperative demo-

cratic principle. In addition to share capital and the capital created through the liability of the membership, funds were secured through the savings and deposits of non-members as well as members, and the bank engaged in the discounting of bills of exchange. In order to attract this capital it was necessary to pay rates of interest approximating current commercial rates; in order to transact the business of the society, which covered a comparatively large territory and included many types of banking transactions, it was necessary to have a compact management and to engage an expert paid staff, which was supplemented, however, by a superior body drawn from the membership. Since the local banks engaged in commercial banking transactions, it was found most feasible for them, after experimenting with the establishment of their own central bank, to utilize a commercial bank, the Bank of Dresden, which created a cooperative department for this purpose. Loans were likely to be larger than in the rural unit, although perhaps not on such long terms. In the division of profits the principle of an indivisible reserve fund for the benefit of the enterprise was maintained, and usually about one fifth of the profit after the first year or two of operation went into this reserve fund. But the balance was distributed as dividends to the membership. While it was often true that not as large a percentage of the membership availed itself of the loans as in rural societies, nevertheless the provision limiting each member to one share, the provision requiring a reserve fund and the tendency to lower dividends on capital (as well as on loans) kept the society from turning into a profit making device for the shareholders.

Raiffeisen, on the other hand, began with an indigent population but slightly educated in business practise or principles. At the outset, in order to attract as large a membership of the poorer classes as possible, membership was not based on the owning of shares, but after the passage of a law requiring such shares a nominal share of about ten marks was created, payable in small instalments. Since the membership was for the most part land owning and the principle of unlimited liability was accepted, it furnished a basis for capital supplemented by the savings and deposits of members and non-members. Loans were made largely on the basis of character as well as of need, and in order to keep adequate supervision over transactions conducted on such a basis the credit society was kept small—within the confines of a parish—and was given a moral basis and moral support, which Raiffeisen found in religion. For such a small unit the credit society could undertake other cooperative functions as well—marketing, purchasing and processing. Since the business transacted by such a small unit was comparatively simple, there was no necessity for a large paid expert staff; its most important decisions were made by a board of directors selected from the membership and functioning on an honorary basis. With shares at a purely nominal figure dividends were hardly feasible. All profits therefore were turned into an indivisible reserve fund, part of which was bound to be used for community improvement and for the development of other types of cooperative endeavor. Savings could be attracted at a lower rate of interest than in the city, and loans, which tended to be smaller than those of the urban credit society, were extended at a lower rate to members. The respect for centralized authority, characteristic of the small religious communities in which the Raiffeisen societies were built, and the variations in credit facilities made feasible the founding of a strong centralized federation and a centralized cooperative bank. Although Raiffeisen stressed as strongly as did Schulze-Delitzsch the element of self-aid, his views on state aid were by no means as pronounced. This factor and the support which the governments of the states extended to rural cooperatives led to the establishment by Prussia of a state bank which extended loans to cooperative societies at a low rate of interest.

The movement spread in the sixties and was adopted in either form or with variations by other communities and other countries. In practically all the countries of its adoption, as in Germany, there was no fundamental rivalry or separation after the first period of experimentation between the rural and the urban credit societies and the general cooperative movement. In some instances the urban credit society established rural branches. Only in Switzerland and Belgium are the city "popular banks" completely separate from the cooperative movement. Almost everywhere, as in Germany, the movement received its first impulse from members of the liberal bourgeoisie, such as Luzzatti and Wollemborg in Italy, Rostand in France and d'Andrimont in Belgium, who were interested in social reform, preferably without state aid, although usually advocating public supervision through auditing functionaries comparable with those provided for commercial banks. In some

countries, however, the movement to establish cooperatives has come from the state and with state aid, as in Japan, the Balkans and for some types of rural societies in pre-war Austria-Hungary; such action has been justified as necessary for the upbuilding of economically backward rural communities in these countries. In India, however, where the government has merely supervised and directed through public officials, the movement has gained greater strength through the absence of state financial aid. In France the attempt to create cooperative credit through the establishment of a state cooperative banking institution failed, and independence of state aid has enabled the credit cooperative to maintain that political neutrality which it deems necessary. In present day Italy and Russia the connection between the credit cooperatives and the state is a peculiar one; in most cases the societies are in complete subservience to the state and in Russia they perform a somewhat different function from that of credit cooperatives elsewhere. Before the World War the credit cooperatives together with other types of cooperatives were looked upon by certain minority nationalistic groups in Austria-Hungary, particularly the Czechs and the Poles, as a weapon in the nationalist struggle; and the credit movements although in fact based on the German schemes were usually named after the national champions or creators of the movement. On the whole, credit cooperatives have also been neutral in religious matters, for Raiffeisen's emphasis on religious influence had no sectarian bias. But in countries where the general cooperative movement tends to be socialistic or where the rural element is profoundly bound to the Catholic church, separate Catholic movements, including credit cooperation as an important division, have sprung up—as in Italy under the direction of Cerutti, in Belgium under the leadership of Abbé Mellaerts and in the Netherlands. Within the movement itself there are the same variations in every country as in Germany regarding share capital, centralization, provision of a central banking system and similar problems of organization. Generally credit cooperatives adopt limited liability for their membership, although at the outset the German movement stressed unlimited liability.

The form which became established in most countries was the rural cooperative. Outside of Germany, the former Austria-Hungary, Switzerland, Italy and the Balkans the city credit cooperatives have been little developed as a means of furnishing credit for production as well as consumption needs. In such countries as England and the United States, where the building and loan societies are widespread, the credit furnished by credit cooperatives is for consumption needs. In the United States the societies are often based on occupational similarity in contrast to the practise of mingling groups and occupations in most countries. Similar credit cooperatives for consumption needs have had a considerable vogue among salaried employees of both public and private organizations in the former Austria-Hungary and in Germany. The failure of the city credit cooperative to find foothold in as many countries as rural cooperation has can be explained by the fact that in most countries with a high degree of urbanization a definite factory class has emerged whose immediate consumption needs are better furnished by consumers' cooperatives, while the small manufacturers and tradesmen are either submerged by "big business" or make use of special facilities provided for them by the private banks.

The rural credit cooperative has been created mainly in those regions in which marketing, purchasing and producing cooperatives have not existed and in which peasant or small landowners have been at the mercy of usurers. In most of these countries, and especially where the credit society is confined to a small area, the credit cooperative has, as in Germany, undertaken supplementary cooperative functions. Particularly striking has been the transplantation of the system to such countries as the Philippines, Japan, India and the Dutch Indies. In the case of Japan the credit system was borrowed directly from Germany; in India this took place indirectly through the suggestions of Henry W. Wolff, who had studied German conditions thoroughly.

At the present time it is estimated that there are about 80,000 societies with a total membership of more than 25,000,000. Russia claims a membership of over 4,000,000 in its credit cooperatives. India has a membership of approximately 4,000,000 in societies predominantly credit in function. In Japan 12,400 societies, representing three fourths of the total number of all cooperatives, have credit functions and probably include over 3,000,000 members out of a total cooperative membership of 4,000,000. Because of the special nature of the Russian credit cooperatives the German credit societies still remain the most important on the European continent with a total membership of over

3,000,000. French credit societies claim a membership of over 400,000, Rumanian of over 700,000, Italy about 500,000. In order of importance there follow Czechoslovakia, Poland, Bulgaria, Jugoslavia and Greece, each with somewhat over 250,000 membership. Switzerland, Belgium and Austria do not lag far behind. The credit societies of the United States exclusive of building and loan associations include about 265,000 members. Other countries or regions with some development of credit cooperation are some of the Dutch Indies, Ceylon and Palestine. Almost 30,000 societies representing a membership of 9,000,000 are affiliated internationally with the International Cooperative Alliance, but owing to disputes in the early part of the twentieth century over the function of cooperation in the capitalistic system many of the powerful credit cooperatives, especially those of Germany, withdrew. Others, such as those of India and Japan, covering a large membership, have never been so affiliated.

In general credit cooperatives are a weapon for the middle class in its struggle for existence. In countries that are not highly capitalistic credit cooperatives are generally the first to create banking institutions, especially for personal credit and thrift. They replace the tradesmen and the usurers in supplying credit to the peasants and craftsmen; they introduce mutual aid and self-help in financial matters among the poorer classes, teach them to keep accounts and to budget and educate them to business responsibility. They eliminate competition for credit facilities and through operation on a cooperative basis reduce business profits by restoring earnings to the membership. In more advanced capitalistic countries they help the urban and the rural middle classes to maintain themselves against big business. They institute personal credit where none existed, they compete with existing banks and force them to show more consideration to small customers. Indeed, when well developed they also crowd out or at least hinder the growth of the smaller private banks by depriving these of their customers. It also often happens that well developed credit cooperatives change into profit banks. Naturally the credit cooperatives as savings depositaries also compete with municipal savings banks, post office savings departments and private banks. Although credit cooperatives are not always linked with government banks, credit cooperatives have in some instances paved the way for public banking by stimulating the organization of government institutions to act as central banks for the credit societies and their provincial federations.

ERNST GRÜNFELD

See: COOPERATION; AGRICULTURAL CREDIT; FARM LOAN SYSTEM, FEDERAL; AGRICULTURAL COOPERATION; AGRARIAN SYNDICALISM; RURAL INDUSTRIES; FINANCIAL ORGANIZATION; MERCANTILE CREDIT; LOANS, PERSONAL; SAVINGS BANKS; BUILDING AND LOAN ASSOCIATIONS; LABOR BANKING.

Consult: Wolff, Henry W., *People's Banks* (4th ed. London 1919); Tucker, Donald S., *The Evolution of People's Banks* (New York 1922); Whitney, Edson L., "Cooperative Credit Societies (Credit Unions) in American and Foreign Countries" in United States, Bureau of Labor Statistics, *Bulletin*, no. 314 (1922); Hirzel, Eugène, *Les sociétés coopératives de crédit agricole* (Lausanne 1922); Raiffeisen, F. W., *Die Darlehnskassenvereine* (5th ed. Neuweid 1887); Schulze-Delitzsch, Hermann, *Schriften und Reden*, 5 vols. (Berlin 1909–13); Finck, Richard, *Das schulze-delitzsch'sche Genossenschaftswesen* (Jena 1909); Fassbender, Martin, *F. W. Raiffeisen in seinem Leben, Denken und Wirken* (Berlin 1902). See also bibliography for COOPERATION.

CRÉDIT FONCIER. *See* AGRICULTURAL CREDIT.

CREDIT INSURANCE is an outgrowth of attempts to meet the recurring business problem of losses from bad debts. With the definite emergence of factors who sold for account of their principals the necessity of making sure of payment by the customer led to the practise in England of paying a *del credere* commission in addition to the regular commission. For this extra commission the agent became surety for the payment of sums due to his principal from the customer, and such practise is embodied in present English law. Not only in cases where an agent is involved, however, but in any economy where the overwhelming majority of direct business transactions are made on a credit basis, confidence in the integrity of the debtor and his ability to pay is a prime necessity for business activity. The fact that annual losses in the United States due to fire are usually less than the annual bad account losses indicates the pressing nature of the problem. There is of course a certain normal percentage of loss which occurs regularly and predictably for various types of business and which must be regarded merely as an overhead cost. For these losses insurance is inadvisable, since the premium charged by an insurance company would have to be high enough to cover the anticipated almost certain loss plus all the expenses involved

in the collection of the premium and the settlement of the claim. But no normal calculations of a single firm can anticipate unusual losses such as those due to a general business depression or the insolvency of a very large individual buyer. It is the attempt to provide socially for this type of loss which has led to development of credit insurance, which provides indemnification to exporters, manufacturers, jobbers and wholesalers for unusual losses arising out of the extension of credit to their customers. Shipments to both domestic and foreign buyers may be covered by credit insurance, although domestic credit insurance developed independently and considerably earlier than foreign or export credit insurance.

A mutual company insuring against insolvency appeared in Paris as early as 1848 and an incorporated joint stock company in 1855, but their existence was brief and no stable successors appeared until 1923. In that year appeared the mutual insurance society L'Assurance Française de Crédit, writing both domestic and foreign insurance. In England and Germany the chief emphasis has been upon foreign credits, and it is in the United States with its vast internal market that domestic credit insurance has had its earliest and greatest development.

Although a successful insurance venture was launched in New Jersey as early as 1889, the real development of domestic credit insurance in the United States is inseparable from the growth of the American Credit Indemnity Company of New York, incorporated in 1893. This company, along with the London Guarantee and Accident Company, Ltd., and the Ocean Accident and Guarantee Corporation, Ltd., were the only underwriters in the field until 1916. Since that time several additional American companies have entered it. Domestic credit insurance has grown very slowly, however, and that it is not even now a major casualty line may be seen in the fact that the total premium income in the United States is only about $5,000,000 annually. Restricted coverage, made necessary by lack of experience and difficulty in obtaining credit information, has limited its progress. Extreme variations in loss ratio, as for instance a loss ratio for the three principal companies doing business of 3 percent for 1919 as contrasted with 89 percent in 1921, create a serious problem of satisfactory premiums and reserves which will enable the insurer to retain clients during years of prosperity and be prepared to pay the heavy losses which occur in years of depression. Since this risk is not controlled by physical causes it is inherently more difficult to estimate than most insurable items. Nevertheless, as the facilities for obtaining credit information have increased and the various companies have pooled their experience, more liberal policy terms have become available. Even so it is not yet possible to provide as full coverage as many firms desire and it may be that such perfection will never be obtained.

At the present time credit losses which are included under the policy are limited in several ways. In the first place, the event insured against is restricted to insolvency as defined in the policy. All policies contain at least twelve to fourteen such definitions, which are legal and technical in nature. Any one of them—for example, the absconding of a debtor—makes the debt eligible for payment under the policy. In addition to these legal definitions other policies make the insurer liable if an account of a customer is past due and is filed with the insurance company for collection, sometimes within a specified period of time. Naturally the cost of the insurance is affected by the varying degrees of liberality of protection.

The only losses which may be considered to come within any definition of insolvency are those arising out of accounts which had an approved credit rating at the time the shipment of merchandise was made and usually for an amount not exceeding the maximum liability agreed upon in the policy for each of the several credit ratings. A table of ratings of customers' credit, usually based upon those of the more important mercantile agencies such as Dun's or Bradstreet's, serves as an approximate index of risk, and the typical policy fixes an individual account limit for each customer's account falling within a certain rating.

Every loss which qualifies under one or more definitions of insolvency and is within the scope of the table of ratings is subject to at least a 10 percent deduction, the percentage deduction being higher on the lower credit ratings. This practise is called co-insurance by the companies and is intended to make the insured a risk taker for a part of each extension of credit. Presumably this tends to eliminate the insurance of profits, or at least a part of the profits, and reduces the moral hazard.

The net amount of the compensable loss is still further qualified by deducting the normal loss from the amount of loss ascertained after the application of the preceding three limita-

tions. The normal loss, or the almost certain minimum credit loss which would in any case be sustained in any given year by the insured, is found by applying a certain percentage to the gross sales of the insured for the period covered by the policy (usually one year). This percentage is not uniform but varies with the total volume of sales and the type of business of the insured. There are about eight classes into which the insurable lines of endeavor have been grouped by the companies, depending upon the normal rate of loss which may be expected in those businesses. Among those lines listed as extrahazardous and not solicited are diamonds and jewelry, furs, scrap iron and junk, patent medicines and jobbing of woolens.

The determination of the premium is complicated and depends upon a number of factors. The more important of these are a charge for the number of thousands of dollars of protection obtained under the individual account limit specified in the table of ratings and a charge for the gross volume of sales. The amount of the charge for the individual account limit varies for the different ratings, and the rate per one thousand dollars of sales is lower if the sales exceed a certain amount.

In addition to serving as a means of indemnification of unusual losses this form of insurance serves as collateral on merchandise accounts financed by banks and as protection for accounts receivable as a business asset. It provides a conservative guide for the extension of credit and through collection service and its assistance in settling overdue accounts makes possible considerable salvaging on bad and doubtful accounts. It sometimes prevents loss when a concern is unable to pay its creditors at once because of inability to collect slow accounts; the insurance company can pay the creditors and wait for the slow accounts rather than allow a costly liquidation to be forced. It has been most frequently used in the following lines: lumber, iron, steel, coal, hardware, textiles, paper, advertising agencies, printing, shoe and clothing manufacture.

The idea of guaranteeing foreign debts goes back to the time of the South Sea bubble, and mutual pooling or sharing of credits has been practised spasmodically for over a century by merchants who found it necessary to combine their resources in order successfully to consummate some kind of commercial venture. The first foreign credit insurance policy is believed to have been written by one of Lloyd's underwriters over thirty-five years ago and was confined to the insurance of commercial bills of exchange. In Germany prior to the war the credit problem in foreign trade was handled by the banks on the basis of information supplied by branch banks and the Schimmelpfeng Information Company. The banks served exporters by discounting without recourse, that is, cashing the bill drawn by an exporter with no further responsibility on his part even though the importer ultimately failed to pay. It is, however, only since the World War that foreign or export credit insurance has shown any great development. The post-war need for restoring confidence in foreign trade, handicapped by currency disorders and unprecedented political transformations, led to experiments in a number of countries. In 1919 Great Britain created an Export Credits Department maintained by the government to promote export trade, but in spite of many revisions and extensions of the original plan it has not been very successful. A private stock company known as the Trade Indemnity Company, Ltd., of London, established in 1917, has been since 1920 a most important factor in obtaining credit information on foreign buyers and guaranteeing the collection of accounts. During the same period the Frankfurter Allgemeine-Versicherungs-A.-G., founded in 1865, and the Hermes Kreditversicherungsbank, A.G., established in 1917, subsidized by the state and cooperating with the ministry of economics, have been the principal export credit insurers in Germany.

In France L'Assurance Française de Crédit, a mutual society founded in 1923, provides both foreign and domestic insurance, and La Nationale, Compagnie d'Assurances Crédit et de Réassurances de Toute Nature, established in 1924, furnishes reinsurance and credit insurance. L'Urbaine Crédit, organized in 1924, does an extensive business and reinsures with the Trade Indemnity Company of London. In Holland there is the Nederlandsche Credietverzekering Mij., established in 1925; in Italy the Società Anonima Italiana per l'Assicurazione del Credito Commerciale, established in 1927; and in Norway the Norsk Aktieselskap Promoter Kredit og Skadesforsikring, founded in 1924.

In the United States the American Manufacturers' Foreign Credit Insurance Exchange, formed in 1921, has been the only underwriting company of importance and all of the development in this country has been through private capital. In sharp contrast is the European situa-

tion, where the governments have usually reinsured the catastrophe hazard and frequently a part of the normal risk. Italy in 1927 organized a national institute of insurance to guarantee for the account of the state certain credits subject to special risks. In Germany the budget of 1926 contained a substantial sum for export insurance to be added to the sum provided for exporters dealing with Soviet Russia. In France the minister of commerce was authorized in 1928 to guarantee in the name of the state up to 60 per-cent of the value of certain exports of national interest. Most of the private companies in European countries are of the stock variety, whereas the American Manufacturers' Foreign Credit Insurance Exchange is a reciprocal mutual which has combined a credit information clearing house with a system of guaranteeing the collection of foreign accounts. The reciprocal form of organization was selected for a definite purpose. It provides the best means for obtaining accurate data relative to the financial status of foreign buyers. No independent bureaus had been able to provide such information satisfactorily; but it has been possible to persuade firms enrolled as members of an insurance organization to supply information regarding their credit experience for mutual benefit at lowest cost of insurance.

In addition to the difficulty of obtaining credit information the guaranteeing of the accounts of foreign buyers is much more complicated than that pertaining to domestic buyers. The trade practises of the different countries vary, the fluctuating rates of foreign exchange affect the value of a bill of exchange, the laws with reference to insolvency are not uniform, and political considerations are frequently of importance.

Because of these hazards forms of policies for individual shipments only have been used extensively, and only a fraction, such as one half or three fourths of the bill of exchange, is insured. Floating policies covering all open accounts of buyers falling within certain territorial and credit restrictions are written now, however, and doubtless will become more liberal as the knowledge of this field increases. The premiums vary with the country in which the buyer is located, the terms of payment and the standing of the exporter himself.

Relatively the growth of export credit insurance has been more rapid than that of domestic credit insurance; and if the governments of the various exporting nations are willing to reinsure the catastrophe hazard, undoubtedly this form of insurance will grow and continue to be of special importance in connection with the search for new markets.

H. J. LOMAN

See: INSURANCE; MERCANTILE CREDIT; INTERNATIONAL TRADE; EXPORT CREDITS.

Consult: Riegel, Robert, and Loman, H. J., *Insurance Principles and Practices* (rev. ed. New York 1929) ch. xxvii; Loman, H. J., *The Insurance of Foreign Credits* (Philadelphia 1923); Ahrens, Heinrich, *Die Exportkreditversicherung*, Hamburger Wirtschafts- und socialwissenschaftliche Schriften, vol. ix (Rostock 1929); Schlesinger, Georg, *Zur Frage des Kredites und der Kreditversicherung* (Berlin 1929); Ancey, César, *Les risques du crédit* (Paris 1926); Bouchet, T., *La guarantie des crédits commerciaux et l'assurance-crédit* (Paris 1925); Great Britain, Department of Overseas Trade, Credit Insurance Committee, *Report* (London 1926); Nixon, F. H., "Credit Insurance" in Insurance Institute of London, *Journal*, vol. xx (1927) 120–35.

CREDIT MEN'S ASSOCIATIONS. *See* MERCANTILE CREDIT.

CRÉDIT MOBILIER. *See* INVESTMENT BANKING.

CREDIT UNIONS. *See* COOPERATION, section on UNITED STATES AND CANADA.

CREIGHTON, MANDELL (1843–1901), English historian and churchman. Creighton was born of a merchant family in Carlisle. He studied at Oxford, entered the ministry and was bishop of Peterborough from 1891 to 1897 and of the See of London from 1897 until his death. He was actively interested in problems of education and was a member of the commission which drew up the statutes of the University of London. Creighton was likewise a potent force in the stimulation of historical studies, especially in ecclesiastical history. He became the first professor of ecclesiastical history at Cambridge in 1884, the first president of the Church Historical Society in 1894 and the first editor of the *English Historical Review* in 1886.

As a historian Creighton's chief importance rests on his *History of the Papacy from the Great Schism to the Sack of Rome* (5 vols., London 1882–94; new ed., 6 vols., 1897). He originally planned this work as a history of the papacy during the Reformation but found it necessary to go back to the weakening of papal power and prestige at the time of the schism. The Reformation was for him the most important event in

modern times. It was, however, not an inevitable outcome of the growth of Protestant evangelical spirit but rather a revolt against the absolutist administration of the papacy that could easily have been avoided by a more tactful and moderate policy of the popes. His work was intended not as a history of the Reformation but rather as an account of the papacy as a factor in European affairs.

Creighton's interest on the whole was more political than religious or social. Hence his complete neglect of the deeper religious forces at work and of the more important social aspects of the Reformation. The force of individual personality too was for him the most important factor in historical development. His history is thus a history of the popes rather than of the papacy as an institution, hence his characteristic method of concluding a period with a brilliant characterization of the leading personality of the time. In contrast to Lord Acton, whose historical writing was motivated and colored by a moral earnestness and passion for modern liberalism and tolerance, Creighton pursued what he called the historical method of progress. He aimed to "understand the past as a whole, to note in every age the thing that was accomplished, the ideas which clothed themselves with power" and above all to estimate these only in reference to the times in which they occurred. It is this which accounts for the moderateness of his treatment of the moral delinquencies of the Renaissance popes, a fact which brought down upon him the attack of Lord Acton. It is this also, perhaps, which accounts for the criticism of his work as dull and lacking in picturesqueness. "I am afraid," he once said, "that I regard history as a branch of science, not of novel writing."

KOPPEL S. PINSON

Consult: Creighton, Louise, *Life and Letters of Mandell Creighton*, 2 vols. (London 1904); Jenkins, Claude, "Bishop Creighton's View of History" in *Church Quarterly Review*, vol. cix (1930) 193–238.

CREMER, SIR WILLIAM RANDAL (1828–1908), British labor leader and peace worker. He was a worker in the building trades. In the period of reviving working class activity beginning in the late fifties and the sixties he was active in organizing unions, promoting industrial arbitration and championing democratic reforms. Out of the Workmen's Peace Association, which he founded in 1871, grew the International Arbitration League. This organization sponsored propaganda, especially among workers, for the negotiation of general arbitration treaties and for the establishment of a permanent international court. Cremer was a working class member of Parliament from 1885 to 1895 and from 1900 to 1908 and was affiliated with the Liberal party, stoutly opposing the independent labor movement. In Parliament he opposed the increase of armaments, imperialism and the Boer War. In 1887 and 1895 he presented to the American government memorials bearing an impressive number of signatures of members of Parliament, urging a general arbitration treaty. An indirect result of the first memorial was the founding of the Inter-Parliamentary Union in 1889, in which he took the initiative. He played a prominent role in its subsequent development. His cooperation with French parliamentarians and labor leaders helped establish the *entente cordiale*. In 1903 he received the Nobel Peace Prize. Cremer's significance is twofold: he was one of the most important leaders in founding a realistic international peace organization and he effected a liaison between the labor and peace movements.

MERLE E. CURTI

Consult: Evans, Howard, *Sir Randal Cremer, His Life and Work* (London 1909); Davis, Hayne, *Among the World's Peacemakers* (New York 1907); Eickhoff, R., "Die interparlamentarische Union (1884–1914)" in *Zeitschrift für Politik*, vol. viii (1915) 452–93.

CRÉMIEUX, ADOLPHE ISAAC MOISE (1796–1880), Franco-Jewish statesman. Crémieux was the son of a merchant who was a town official in Nîmes during the Terror. He entered public life under the Restoration as defense counsel in a series of celebrated political trials. As deputy from 1842 to 1848 he sat with the dynastic opposition and after vain eleventh hour efforts to maintain the July monarchy joined the revolutionary government of 1848, serving as a link between conservative bourgeois and Left elements. Although he helped actively to quell proletarian risings he finally resigned because of his colleagues' increasing counter-revolutionarism. After supporting Louis Napoleon for president he joined the opposition and was imprisoned by the coup d'état. Released, he retired to the bar. He reentered politics as a republican in 1869, was minister of justice in the government of national defense in 1870–71 and in 1875 became a senator for life.

An ardent advocate of political emancipation for Jews, Crémieux refused to take the Jewish

oath (which was subsequently abolished), demanded equal government subventions for all cults, repeatedly proposed diplomatic action on behalf of French Jews subjected to discrimination abroad, defended Jews accused of ritual murder at Damascus in 1840, lectured before the Rumanian parliament on liberalism and the Jewish question and effected the emancipation of Algerian Jewry. In addition he inaugurated a philanthropic and educational program to westernize (which in practise was from a Jewish point of view to denationalize) and fit for full citizenship in liberal national states the Jews of eastern Europe and the Levant and to secure their emancipation. In order to further this program in 1860 he helped establish the Alliance Israélite Universelle, of which he was president for sixteen years, and called for international Jewish support. Despite opposition from Jews in England, Austria and Germany who feared for their local status, he made it an effective instrument.

Crémieux' general political views and his Jewish interests were intimately related. His special status as a Jew made him an unusually liberal bourgeois lawyer, his liberalism defined his Jewish attitudes even to making possible the baptism of his children. While his Jewish achievements are less significant than those of a Mendelssohn, his political than those of a Lassalle, the combination makes him a classic example of the west European Jew at the flood tide of nineteenth century emancipation.

HERBERT SOLOW

Consult: *Réunion convoquée par l'alliance israélite universelle en août 1878* (Paris 1878) p. 50–58; Dubnow, S. M., *Weltgeschichte des jüdischen Volkes*, 10 vols. (Berlin 1925–29) vol. ix; Leven, N., *Cinquante ans d'histoire: l'alliance israélite universelle*, 2 vols. (Paris 1911–20); Blanc, Louis, *Pages d'histoire de la révolution de février 1848* (Paris 1850).

CRÈVECOEUR, MICHEL-GUILLAUME JEAN DE (1735–1813), Franco-American essayist. Crèvecoeur was born near Caen in Normandy of an aristocratic family and was educated partly in England. He served under Montcalm in New France and between 1759 and 1769 traveled widely in the English colonies. From the latter year until 1778 he lived the life of a small farmer in Orange county, New York. Because of his loyalist sympathies he became a refugee in New York City in 1778. Two years later he was permitted to return to France, where he remained until the end of the war. He was French consul at New York from 1783 to 1790, when failing health compelled him to leave America for the last time. His later years were spent for the most part in retirement.

Crèvecoeur's significance for his own age has several aspects. He gave to Englishmen and Frenchmen through the two books published during his lifetime a pleasantly written and accurate description of American fishermen, farmers and frontiersmen. The *Letters from an American Farmer* gave its author a place, although a minor one, among American men of letters. As consul at New York during the period of reconstruction which followed the revolution Crèvecoeur was active in a significant movement to improve American husbandry. Visioning the development of the republic as an agricultural and commercial nation such leaders as Robert R. Livingston and George Washington turned for counsel to England, where an agricultural revolution was under way. Crèvecoeur, throwing himself enthusiastically into the new movement, sought to bring French influence to bear on American agricultural thought. He assisted in introducing sainfoin, lucerne (alfalfa), the vetches, *vignon* and *racine de disette* to American agriculturists. He aided the American scientific pioneers who were establishing botanical gardens. Over the signature Agricola he addressed through the press a series of letters to American farmers.

The suppressed writings published in 1925 have made possible a clearer understanding of Crèvecoeur's mind. The farmer essayist had a deep sympathy for the common people while he remained at heart an aristocrat. His description of the struggle against nature of the American husbandman is the work of a man who was almost equally interested in natural and social phenomena. His discussion of the rewards of life for the independent American farmer is part of a philosophy which seems to have had its origin in a desire to escape from the artificialities of French life. A further development of the Crèvecoeur philosophy of life may be found in the essay *Liberty of Worship*, describing the religious vagaries of an American frontier community where no established church exercised a restraining influence.

The American Revolution stirred Crèvecoeur. He was impressed by the tragedy and moral desolation which it brought to the common people. He recorded the sufferings of patriots and loyalists alike. Mercilessly he portrayed the baser motives of many patriots of the less privi-

leged class in a vigorous and unfinished dramatic piece called *American Landscapes*. For the twentieth century investigator of social history Crèvecoeur's writings make available an almost unique picture of the life in peace and war of the common people of the northern provinces in the second half of the eighteenth century.

RALPH HENRY GABRIEL

Important Works: *Letters from an American Farmer* (London 1782, new ed. 1793); *Voyage dans la haute Pennsylvanie et dans l'état de New York*, 3 vols. (Paris 1801); *Sketches of Eighteenth Century America*, ed. by H. L. Bourdin, R. H. Gabriel, and S. T. Williams (New Haven 1925), containing a large number of Crèvecoeur's writings hitherto unknown; "Crèvecoeur on the Susquehanna" ed. by H. L. Bourdin and S. T. Williams in *Yale Review*, n.s., vol. xiv (1924–25) 552–84, and "Hospitals" in *Philological Quarterly*, vol. v (1926) 157–65, and "Sketch of a Contrast between the Spanish and the English Colonies" in *University of California Chronicle*, vol. xxviii (1926) 152–63.

Consult: Parrington, V. L., *Main Currents in American Thought*, 3 vols. (New York 1927–30) vol. i, p. 140–47; Mitchell, J. P., *St. Jean de Crèvecoeur* (New York 1916); Crèvecoeur, R. de, *St. Jean de Crèvecoeur, sa vie et ses ouvrages* (Paris 1883).

CRIME. A social group, small or large, possesses a vast number of beliefs, traditions, customs and institutions which are implicitly accepted by its members as relatively immutable and as conducive to their well-being. Conduct which is believed to be in accord with these beliefs, traditions and institutions is praised and encouraged as socially beneficial, while that which is believed to threaten or to injure them is condemned as antisocial. The conformist participates in the rewards distributed by the group for desirable conduct and the nonconformist is brought into line by coercion which ranges from mild disapproval and ridicule to threats of expulsion from the group or of extinction.

Antisocial conduct may be regarded as a universal phenomenon, a function of group life; but the extent thereof, the particular forms it takes and the nature of the reaction it provokes are variables which are intimately dependent on the cultural status and the social organization of the group. In some social groups today theft, infanticide, cannibalism, killing a policeman, cheating at cards or selling stock backed by imaginary assets are considered good and praiseworthy conduct. In other contemporary groups some or all of these activities are more or less severely castigated.

In preliterate groups no conduct is more severely condemned than that which is believed to offend supernatural powers. Even such acts as breaches of the hunting rules are associated with magical and religious concepts and therefore partake of the nature of sacrilege. In modern times the Inquisition and the witchcraft trials are evidences of the strength of religious concepts. As late as the middle of the seventeenth century the Quakers who came to the Massachusetts colony were punished corporally and capitally as "blasphemous hereticks," and executions for the crime of sacrilege occurred in France a century later during the age of Rousseau and Voltaire. With increased knowledge of natural phenomena the social reaction to offenses against the deities has grown weaker, but even today the teaching of scientific theories which contradict the Scriptures is in many communities regarded as antisocial and in some states is even a punishable offense. Laws prohibiting blasphemy also remain on the statute books of many modern states and are still occasionally enforced.

In some preliterate groups the exposure of female infants and the burial alive of the old and infirm are held to be socially desirable forms of conduct. The taking of the life of an enemy under certain circumstances is today generally regarded as a meritorious act. In some groups it is also considered justifiable for a father to kill the seducer of his daughter or for a betrayed husband to kill his wife or her paramour or both. Private property is today held almost as sacred as life, and thrift is a social virtue. In some contemporary groups and in many primitive societies, however, hoarding is an antisocial act. Standards of good and of bad behavior are not constant; on the contrary, they are in a state of flux, some changing imperceptibly, others appearing, disappearing and reappearing with relatively great freedom, depending on the rate of social change. The greatest divergence of standards is found in comparison between the master and the slave, the conqueror and the conquered, the rural and the urban dweller, the capitalist and the worker, the old and the rising generations and even between the stages in the development of an individual's personality.

The concept of antisocial conduct has not been defined or developed to the degree of precision which would make comparative scientific research possible. The criminologist studies such conduct only in one of its mani-

festations, crime, assuming that crime is an adequate sample of it. Crime is a legal concept, although some writers have used the term indiscriminately to denote antisocial, immoral or sinful behavior. According to law crime is any form of conduct which is forbidden by the law under pain of some punishment. The extent to which crime and antisocial conduct may coincide depends on many factors. In preliterate society the tribal tabus and customs, which bind together relatively small groups with essentially common desires, perform in part the functions of a penal code. With the evolution of the state and the growth of governmental machinery for the regulation of social relations by force and the adjustment of conflicts between individual and group interests, the relative identity of crime and antisocial conduct disappears. This is especially true where the criminal law establishes norms of conduct for large and complex communities where social differentiation is great and the number of different and conflicting interest groups is very high. What the law calls crime is merely conduct which is declared to be socially harmful by the group or groups in a state which are powerful enough to influence legislation. The concepts of crime and of antisocial conduct may vary so greatly in a feudal society, where these groups are small, and in states where social life is highly organized and differentiated, such as in modern industrial democracies, that crime ceases to be a reliable index of antisocial conduct.

Treason, murder, certain sexual offenses and some serious offenses against property are fairly constant in the criminal laws of the world, with relatively similar definitions. The criminal law in the case of some of these offenses (felonies, crimes, *Verbrechen*, *delitti*) may furnish a good index to the standards of antisocial conduct current in the group. In addition to these offenses, however, the increasing complexity of social life has led to the creation by the state of a vast number of laws which strike at forms of conduct peculiar to some particular type of social organization. Roscoe Pound in his *Criminal Justice in America* has found in analyzing the criminal laws of Rhode Island that the revised public laws of 1822 defined 50 crimes while the title, "Of Crimes and Punishment," of the general laws of 1923 defined 212. More than half of the offenses that may be prosecuted by the state and punished by fine and imprisonment or both are contained in special laws passed since 1872 dealing with such problems as the protection of workers in industry, the regulation of motor vehicle traffic, the regulation of selling of securities and of merchandise and the enforcement of liquor prohibition laws. He concludes that during the last hundred years the number of crimes for which one could be prosecuted in Rhode Island has multiplied by eight. This criminalization of conduct has come as a result of the social growth and differentiation of an industrial civilization. Many of these crimes are not considered antisocial by large groups within the state. The sale of intoxicating beverages, for instance, although a crime in the United States is not, as has been shown in recent political elections or referenda, considered as antisocial conduct by all groups. In the case of such offenses the usefulness of criminal law as an index of antisocial conduct completely breaks down.

There is a close relation between the cultural environment and the technique of crime. The thugs of India strangle their victims; any other method would be contrary to group custom. In some groups poison, in others the stiletto, the blackjack, the revolver or the machine gun, is used by the murderer. The professional safe blower is not only a product of a mercantile society but his technique has kept step with the development of science. Organized crime is no modern phenomenon, but it is in the contemporary United States with its highly centralized business enterprises, its mergers and its trusts that such crime has reached its supreme development by utilizing for its execution the techniques of modern business.

Inadequate as the legal definition of crime may be, a vast amount of data has been collected by those agencies which are entrusted with the enforcement and the execution of law. These data, mainly statistical, have been used by students for three main purposes: the determination of trends in crime, the determination of the composition and characteristics of the criminal class and the objectification of administrative processes. Of these only the first two will be discussed in this article.

The extent of crime in modern society and the trends evident in the various types of crime cannot be determined without examining the nature of criminal statistics. A very few nations have gathered statistics of crime for a century, some for half a century and most nations for only a quarter of a century or less. The statistics are gathered by official agencies which come into direct contact with the crime, the criminal

or both, and they make possible tabulations which mark definite steps from the occurrence of the crime to the final discharge of the convict. The earliest of these steps is the report of the offense to the police and the arrest of the suspect; one of the last is prison statistics culminating in statistics of discharge after punishment. On the basis of this or that step crime rates have been instituted to indicate the extent and the trend of crime in a given community, but the value of these rates as crime indices varies considerably with the type of rate used.

Criminal statistics deal only with recorded crimes, for in no society is it possible to detect all criminal acts committed. Even murder, which is perhaps the most difficult to conceal, is not always detected. Only a very small proportion of such offenses as burglary or petty theft are likely to reach the attention of the authorities, and the proportion of offenses against public order known to the police are probably extremely small.

If the rate used as an index of crime conditions in the community is to be of any value it must be assumed to remain in a constant proportionate relationship to those conditions. In general, it may be said that the value of a crime rate for index purposes is in inverse ratio to the procedural distance between the commission of the crime and the recording of it as a statistical unit. An index based on crimes reported to or known to the police is superior to others, and an index based on statistics of penal treatment, particularly prison statistics, is the poorest. But the very nature of the offense may render even the first type of index invalid. When the offense seriously injures accepted social values, is of a public nature and prompts the injured party to bring it to the attention of the authorities it is likely to afford the basis for a good crime index. If it is not considered serious, is private or secret or of such a nature that the victim wishes to conceal it, any index based upon it will be of doubtful value.

The human equation represented by those who enforce and execute the law must also be taken into account in the interpretation of criminal statistics. The police, the prosecutors, the judges and the pardoning authorities, to whom the application of the law is entrusted, are themselves the products of a given cultural milieu. The percentage of arrests to crimes in Cleveland fell from 38 in 1922 to 21 in 1929. The total complaints for principal major offenses in Baltimore fell from 11,261 in 1923 to 7950 in 1929, while the total arrests there increased from 5097 to 5153. In 1875 512.7 persons per 100,000 population in Pennsylvania were charged with crime in the courts and there were 86.6 convictions; in 1924 the corresponding figures were 483.5 and 248.4. In Indiana in 1908 77 percent of all arrests resulted in conviction, while in 1928 only 59 percent were found guilty. An annual average of 255.67 indictable offenses per 100,000 population was known to the police in England and Wales between 1900 and 1904, and 172.71 persons were tried for these offenses; in the period from 1922 to 1926 the corresponding figures were 298.12 and 158.71, showing diametrically opposed trends. These illustrations show that the efficiency of the agencies of the law and their administrative policies are important elements in determining the trends of recorded crime.

Finally, since changes in such factors as age, sex and race distribution in a population occur over a period of time, the statistical refinement of even the best crime rate is impossible unless the general population statistics of the community permit it.

Offenses reported to or known to the police have not hitherto been published except by a few countries or localities. Great Britain leads the world in this respect, and within the last few years Finland and the United States have followed its example. The United States, however, due to lack of mandatory power, relies entirely on the voluntary cooperation of police officials. The statistical data offered in this article are therefore drawn largely from judicial criminal statistics. Although both American and foreign data are given they do not permit of comparison. Statistics cannot be used in their present state, if ever, as indices of the comparative criminality of nations, due to great international variations in social conditions, legislative practises and administrative policies.

Only the most serious offenses against the law cause a stigma to be attached to the offender. Were it otherwise, the psychic burden of criminality carried by the average community today would be immense, for the multiplication of legal prohibitions has made it difficult for any one of its members to lead a completely law abiding life. Fortunately, the serious offenses compose but a relatively small part of the sum total of violations of the law. In Los Angeles, for instance, with a population in 1930 of 1,238,048 there were, during the fiscal year 1929–30, 9618 arrests for felonies, 50,901 arrests

for state misdemeanors, 10,540 arrests for violations of city ordinances and 247,083 traffic citations. Of major offenses reported to police departments of the United States in October, 1930, a typical month, 70.8 percent were larcenies, 18.3 burglaries, 5.8 robbery, 3.8 aggravated assault, 0.9 murder and manslaughter and 0.4 rape. In Massachusetts in 1929 there were 7508 arrests for offenses against the person, 14,143 for offenses against property and 184,348 for offenses against public order. During the same year in Canada 89.1 percent of the convictions were for minor offenses. In 1927, 161.39 persons per 100,000 population were tried in England and Wales for indictable offenses and 1,572.47 for non-indictable ones. In Italy in 1926 there were 502 charges per 100,000 population for thefts, 293 for assaults, 178 for defamations and insults, 104 for offenses against public order, authority and trust, 79 for frauds, 13 for robbery and allied offenses and 8.7 for murder and manslaughter. In Germany in 1927, 41.5 percent of those convicted of offenses against the law of the Reich were offenders against property, 35.8 offenders against state, public policy and religion, 22.3 offenders against the person and 0.4 offenders against public trust. In Japan in 1926 the police disposed of 668,644 minor violations by fine or detention, and courts of first instance found 47,451 persons guilty of violations of special criminal laws, such as health and industrial laws, and 104,368 of violations of the criminal code, the last group including 62,317 gamblers.

Recent decades have seen a tremendous increase in minor offenses against public order, a fairly general increase in offenses against property and a reduction in violent crimes. The World War and the demobilization period caused great social disturbances, which were reflected in temporary increase of crimes against property in particular and also in offenses against trust, such as frauds and embezzlements. While the crime rates in most countries show much parallelism, a consideration of the data indicates great divergences. Indictable offenses known to the police in England and Wales decreased from 448.75 per 100,000 population in 1857 to 298.12 in 1922–26; the lowest figure, 251, was reached in 1915–19 and the highest since 1885–89 in 1922–26. The number of persons tried for these offenses fell uninterruptedly from 276.76 in 1857–66 to 158.71 in 1922–26. Of indictable offenses known to the police, from 1900 to 1926 a considerable increase is noted in burglaries, larcenies, sex offenses and frauds; the greatest decrease occurred in offenses against the person. In the case of persons tried for non-indictable offenses the period from 1857 to 1866 showed an annual average of 1788.51 per 100,000 population, which rose to 2331.43 in 1872–76 and fell to its lowest figure, 1457.43, during 1915–19. The rate for 1922–26 was 1481.02. The fluctuations were largely due to corresponding changes in the rate of assault, which fell from 419.70 to 88.21. Malicious damage offenses also dropped from 86.42 to 38.69, and thefts from 59.98 to 9.12. On the other hand, offenses against highway acts rose from 42.57 to 498.10.

In Germany during the period 1882–86 the annual average of persons convicted for offenses against state, religion and public order was 119 per 100,000 population of punishable age. The corresponding figure for 1923–27 was 358. The number of those convicted for offenses against the person fell from 377 to 261, while the figure for offenses against property rose from 505 to 751; woundings, assaults and petty thefts showed a significant decline. A slight increase was noted in the homicide rate, and a great increase in abortions, frauds and forgeries. The years 1918–25 showed a temporary abnormal rise in convictions for practically all offenses.

In Japan the number of convicted offenders rose from 262.7 per 100,000 population in 1882–86 to 413.9 in 1892–96 and fell to 152.2 in the period 1922–26.

In Norway the number per 100,000 population convicted on felony charges fell from 177 in 1872 to 115 in 1907 and after a rise to 314 in 1918 fell to 139 in 1926. The misdemeanor rate rose from 942 in 1872 to 3020 in 1916 and has fluctuated in later years at a little above 2000.

In Canada convictions for serious offenses rose from 206 per 100,000 population in 1876 to 395 in 1914, fell to 231 in 1917 and again rose to 359 in 1929. Of these offenses those against the person declined from 125 in 1876 until the end of the century, then rose to a peak of 157 in 1914 and reached a new low, 81, in 1922. Since that time a gradual increase has been noted; in 1929 there were 106. During the period in question convictions for offenses against property rose from 78 to 212, the highest figure of the series. Convictions for minor offenses increased steadily from 508 in 1876 to 2928 in 1929. The greatest increase from 101 to 1850 was noted in offenses against the municipal acts and by-laws. Convictions for

liquor law violations and drunkenness rose from 318 to 593, the year 1913 showing the high peak of 889. The conviction rate for both major and minor offenses rose from 714 in 1876 to a climax of 3286 in 1929.

In the United States no nation wide judicial statistics exist, and while national police statistics are now being collected they are of too recent origin to be of any value for comparative purposes. One is forced, therefore, to rely upon statistics from a few states. In Massachusetts, which alone publishes state wide arrest figures, the total number of arrests rose from 106,428 in 1903 to 205,999 in 1929. The population of the state increased from 2,805,346 in 1900 to 4,250,104 in 1930, indicating that the rise from 11,465 to 14,143 in the total arrests for offenses against property represents a relative decrease per population unit. Arrests for crimes against the person fell from 8260 to 7508 and those for crimes against public order rose from 86,703 to 184,348, a relatively great decrease and increase. In Connecticut, which publishes annual statistics of prosecutions, the gross number for sex offenses increased from 59 to 207 between 1904 and 1928. Prosecution for offenses against property rose from 489 to 559; murder and manslaughter cases increased from 23 to 37, and assault cases dropped from 244 to 143. Cases of breach of peace and similar offenses rose from 96 to 233, drunkenness and vagrancy from 180 to 325, and motor vehicle violations from none to 498. The total of prosecutions increased during that period from 1316 to 2259, while the population increased proportionately from 908,420 to 1,606,903 in 1930. The peak of the total gross rate was reached in 1925, and that for serious offenses was reached in 1917. The peak of prosecutions for liquor law violations came in 1924, and motor vehicle offenses have been steadily rising.

In Indiana one out of every 53 citizens was charged with a criminal offense in 1908; in 1928 one out of 35. During these decades felony charges rose 103 percent and misdemeanor charges 46 percent per population unit. The charges of robbery, burglary, rape, assault, homicide and larceny altogether increased 54 percent, the greatest increase occurring in the first and the smallest in the last mentioned offense.

In New York state the annual average of felony convictions per 100,000 population in 1903–07 was 60.06. This figure rose to 87.03 in 1913–17, fell to 76.68 in 1918–22 and increased slightly to 77.34 in 1923–27. During these periods convictions for offenses against the person steadily increased from 11.1 to 16.8, while those against property fell from 36.49 to 26.44. Intoxication convictions rose from 204.96 to 290.20 in 1913–17, fell after the war to 117.74 and rose in the last five-year period to 143.53. Convictions for misdemeanors rose steadily from 177.46 to 372.84, while convictions for minor assaults, thefts, vagrancy, liquor and tax law violations fell from 164.5 to 81.0. The rate for convictions as a whole rose from 607.5 to a peak of 792.92 during 1913–17, fell to a low point, 503.34, in the subsequent period and increased to 674.66 in 1923–27.

In Pennsylvania total convictions per 100,000 population fell from 86.6 in 1875 to 66.1 in 1910 and then rose rapidly to 248.4 in 1924. Comparing merely the first and the last years of the series, convictions for offenses against the person are seen to have risen from 22.9 to 27.2, those for gainful offenses against property from 32.5 to 71.1, for offenses against sex morality from 8.0 to 19.1, against the administration of government from 1.5 to 5.2, against public health and safety from 1.1 to 23.3, against sobriety and good order from 6.9 to 8.3 and against public policy from 7.0 to 76.9. The only decline, from 2.8 to 0.2, occurred in gainless offenses against property.

In California the number of persons per 100,000 population charged with criminal offenses rose from 251 during the two fiscal years 1904–06 to 367.6 in 1914–16 and 435.1 in 1924–26. The corresponding figures of persons convicted were 156.8, 246.6 and 241.4. The increase appears to have been largely in minor offenses, since the average number of persons per 100,000 population sentenced to institutional punishments was 133.7, 143.4 and 145.5 respectively.

In Iowa from 1849–1927 the rate of convictions for criminal offenses per 100,000 population by five-year periods rose from 92 in 1850 to 557 in 1925. The high peak of 502 was reached in the five-year period 1873–77, after which a steady decline occurred to 254 in 1908–12. For the 1901–26 period, during which the population rose from 2,231,853 in 1900 to 2,419,927 in 1925, the gross number of felony convictions increased from 471 to 831, while those for misdemeanors rose from 758 to 2596. Of the total number of 1229 convictions in 1901 liquor offenses accounted for 95 and automobile offenses for 1. In 1926 out of a total of

3427 convictions the corresponding figures were 989 and 482.

Claims have been frequently made that since the World War the United States has been engulfed by a crime wave. The data cited above do not wholly support these claims; except where this wave reached its peak during the war years it began before the war and is still rising. In many of the states studied, recorded serious crimes have been declining since the war, but the increased use of motor transportation and the passage of the Eighteenth Amendment have contributed to a mounting rate of minor offenses against public order. Public agitation, which has expressed itself in a wave of ill considered repressive legislation, may be due to an increase in professional crime which unfortunately is not measurable by the aid of present criminal statistics. The current belief in a crime wave may perhaps be understood if one considers the publicity which has been provoked by the spectacular nature of modern organized crime and the sinister shadows it has thrown on the agencies of law enforcement.

Criminal statistics have also been used to throw light on the composition of the criminal class. It is difficult to say to what extent the criminals who are arrested, convicted or sent to prison, particularly the last group, are fair samples of the criminal class. Statistical data from judicial and prison sources indicate that in most countries today crime is largely committed by youths, the age groups from 18 to 25 yielding the highest proportion of offenders, particularly in crimes of violence. Here again the nature of the criminal law must be taken into account. In Japan, for instance, the age groups from 30 to 40 show the highest conviction rate, probably because over half of those found guilty are gamblers. There are more male than female recorded criminals; the proportion is approximately 9 to 1, although the entrance of women into occupations hitherto closed to them is tending to increase their recorded crime rates. Rural areas seem to contribute less to criminality than do urban districts, and it is apparently from the lower social ranks of the urban dwellers that most apprehended criminals are recruited. The relatively high recorded crime rates of Negroes, emigrants and economically unfortunate people are no doubt artificially raised by such factors as prejudices against races or nationalities and the inability to obtain competent legal advice.

The desire to find a rational explanation of crime has led to the development of a host of theories about its origin. Evil spirits, sin, disease, heredity, economic maladjustment and a number of other causative factors have been advanced, singly or together. The growth of science has tended to discourage monogenetic explanation of human conduct, and today most criminologists adopt a frankly eclectic viewpoint, although some of them are inclined to lay greater emphasis on heredity, others on environment. As the social sciences have thrown into bolder relief the cultural determinants of personality, many behavior forms which were assumed to be biologically determined have become adequately and perhaps better understood in terms of the social situation. The high rate of crimes of violence in south Italy has frequently been explained in terms of racial inheritance, as has the high homicidal rate of the Italian immigrant in the United States. It seems to have been adequately proved, however, that the Americans born of south Italian parentage show a criminal distribution much more like that of the native stock than that of their parents. The low Jewish crime rate, particularly for crimes of violence, has frequently been explained on a racial basis, but it would be difficult to interpret the high crime rate of the Jewish diamond cutters of Amsterdam except in cultural terms. The individual's biological capacities for development must express themselves through social life which constantly molds and directs the process of expression. Antisocial conduct and crime are likely to flourish in heterogeneous groups where rapidly changing and conflicting standards of conduct exert a disorganizing influence upon the personalities of their members.

The existence of crime in a community is a challenge to its members, for on the whole its effects on ordered social growth may be regarded as deleterious. The waste in misdirected energy and the economic burden are enormous. It has been asserted, however, that to some extent crime serves a useful social end; that it creates solidarity in the group which is injured by it; that it is essential for the maintenance of a moral code; and that in some forms of crimes one may see the signs of a new morality which in the future will govern social relations on a higher ethical plane. There is undoubtedly a measure of truth in these claims. On the other hand, it may be said that the solidarity of the law abiding group provokes in turn an opposing solidarity in the criminal group; that while good

behavior and bad behavior are essential correlates, a relatively small amount of the latter will suffice to provoke a social reaction; and that the concept of the so-called evolutive crimes is largely based on retrospective rationalization.

The progress of the sciences of human behavior has in recent decades increasingly centered attention on criminal behavior. The last half century has seen the beginning of a criminological science, and official and private agencies for the study of the criminal and his treatment have been rapidly multiplying. The disastrous results of the World War have caused most countries to realize that a new orientation of penal agencies is necessary. In Europe many countries have already reformed or are in the process of reforming their criminal codes and penal administrations, and in the United States the work of the American Law Institute and of numerous state and local crime commissions testifies to the growing belief that the task of dealing with crime is one which demands a knowledge of facts upon which an intelligent program of study and treatment may be constructed.

THORSTEN SELLIN

See: LAW; MORALS; CUSTOM; LAWLESSNESS; OBEDIENCE, POLITICAL; JUSTICE, ADMINISTRATION OF; POLICE; PENAL INSTITUTIONS; PUNISHMENT; CRIMINAL LAW; CRIMINAL STATISTICS; CRIMINOLOGY.

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CRIMINAL LAW may be defined as the body of precepts and practises which a community employs to protect itself by the use of force against acts which impair or endanger its internal peace and security. No human community has yet been found which has lacked such precepts and practises. All law is a growth, a matter of accretion and of development out of custom and habit. This is as true of the law embodied in the Mosaic and Babylonian codes and in the Twelve Tables of Rome as of that which is usually called the customary law. For this reason no scientific study of the law of today can be justified, nor can modern law be accounted for without harking back over the trail of its history to its beginnings. But the beginnings of modern European and American law in what is known as "primitive law" are undiscoverable. The cave man—if he was, indeed, the ancestor of modern man—left no legal records on the walls of his cave. Even Maine's *Ancient Law* goes back no further than to what he calls the "era of codes," of which the Twelve Tables of Rome were the outstanding example, and the code admittedly belongs to a relatively advanced stage in social and legal evolution. Even Maine's reference to the trial scene described by Homer as pictured on the shield of Achilles remains far short of primitive law. The same picture, under the name of the "blood feud," is found in mediaeval codes. It is possible that certain obscure Sanskrit texts may yet be translated and throw light on the problem

but in the meantime, although direct evidence is lacking, there are certain clues as to the origins of law. These are found in comparatively recent, first hand studies of contemporaneous primitives, such as certain Eskimo tribes, the Indians of North America, the inhabitants of Samoa and of other Pacific islands and some African tribes. If it may not be assumed that these people are, in their mental and social characteristics, much like the primitive ancestors of modern man, there are in fact to be found in their present social attitudes and practises many of the reactions and procedures which found expression in the codes from which modern criminal law derives.

Primitive Law. The first thing that strikes one in contemplating these diverse groups of primitives, with their wide diversity in social organization, is the emergence of similar methods of dealing with an offending member. In some groups there is no headman nor tribal organization nor anything that savors of a court of justice. The law, which is nothing but custom, is rarely violated and, when violated, may in extreme cases be self-executed by the voluntary exile or the suicide of the offender; more frequently he is subjected to public humiliation. Among other tribes, however, the offender, if recalcitrant, may be brought before the headman or the council of elders—not for trial, in the modern sense of the term, but for judgment. His guilt is known or assumed. The only question is as to the measure of punishment to be suffered and this is usually fixed by custom but may be modified by bargain, except where the injured party or his group insists on full payment. The latter case, indeed, leads to the threshold of the blood feud, which plays a major part in mediaeval law. The identification of the individual with his group is so close that a crime, for example a killing, committed by a member of one group (which may be a tribe or village community of considerable size, all the members of which are bound by ties of blood) on a member of another group, becomes a group offense and any member of the injured group may, unless due compensation is made, retaliate on the offender's group by killing any member of it. The compensation to be paid is determined by the social importance of the victim of the crime. For a crime committed within the group the death penalty is rare and is inflicted only for the violation of a tabu, as incest. But there is no "strict law" in the modern sense of the term. Nearly every legal liability, even for the violation of a tabu, if not too aggravated, may be compromised or waived.

The most striking, as it is the most obvious, fact in primitive life is the insignificant role of law, even of customary law. Maine notes the strange preponderance of criminal over civil law in rude as compared with mature jurisprudence. But this is due not to the magnitude of the criminal law but to the all but complete absence of civil law in a kindred community where property and personal relations are of the simplest and are automatically regulated by custom. One may go further and accept the conclusion of Lowie and other recent students that, however minute the regulations as to individual conduct might be in primitive society, they were rarely violated. So compelling is custom in such a closely integrated community—for every custom has a sacred character—that it may be believed that primitive society was far more law abiding than any modern community has managed to be.

What may be described as the second stage in the development of criminal law is perhaps best represented in the Visigothic, the Anglo-Saxon and other Germanic codes which form the immediate background of the criminal law of western Europe. The law embodied in these codes has come down only in fragmentary form but enough survives to demonstrate their heritage from the more primitive law which preceded them. What they disclose is the primitive practise of compensation, elaborated, systematized and enforced by the legal authority of the state in the interest of the injured party. This is most clearly shown in the Anglo-Saxon law under which, as Kemble writes, "a sum was placed on the life of every freeman according to his rank" (this was the wergild or man-price of Anglo-Saxon law) "and a corresponding sum on every wound that could be inflicted on his person, for nearly every injury that could be done to his civil rights, his honor or peace." But this, as Maine points out, is not in the modern sense of the term a true criminal law but a law of delict or tort. A crime is an act which violates the peace and dignity of the state, which the state punishes for its own protection in the general interest and which accordingly cannot be waived or condoned by the individual who happens to be the sufferer from it or by his immediate kin. A tort is a personal injury with which the state has no further concern than to see to it that the injured party or his kindred receive due compensation. This principle of

compensation was, in the society out of which it emerged, an essential device to avert the devastating consequences of the *lex talionis*. The same end was later more effectually attained by the development of a true criminal law in which the interest of the state in the common security became the dominant, if not the sole, factor.

While this result was not fully attained until what may be called the historical period, it is not to be assumed that the community, however primitive, was ever indifferent to the common weal. Public and sacral offenses are so dangerous that collective action has to be taken against them. This has been noted above in the group punishment of certain offenses, such as the violation of a sacred tabu, which was essential to the integrity of the community as a whole or protected it from the vengeance of the deity. So parricide or matricide, or an attempt at the usurpation of authority over the tribe or any one of a variety of offenses recognized as atrocious sins against the deity was summarily punished, almost invariably by death. These may well have been extremely rare in primitive society but with the development of the larger, less integrated community they became frequent enough to call for more drastic repression. It was doubtless the predominantly religious character of the Israelitish and Babylonian codes that caused the prescription of the death penalty for a variety of offenses denounced by the tribal deity which, in the western world, were more leniently dealt with.

In a mature criminal law the intent to commit the criminal act, the *mens rea*, is an essential element in guilt. This is, however, totally lacking in the conception of crime in early law. In the blood feud it is not to be expected that the avenger will pause to determine whether the homicide was premeditated. Thus, too, the composition was payable whether the deed was wilful or accidental. It marked a great mitigation in sentiment when, as in the Mosaic law, cities of refuge were provided to which an offender who had killed someone inadvertently or otherwise without malice might flee and thus escape the avenger of blood. Primitive society had no penalties but death or exclusion from the community and the latter, as Cain reminded the Almighty, was the equivalent of death. The principle of exact retribution—an eye for an eye, a limb for a limb, a life for a life—which we find in some of the earlier codes, was an obvious mitigation of the earlier uniform rule of death for all offenses of a serious character and marks a distinct stage in the long process of supplanting private vengeance by public law. But traits of self-help survive long after orderly retaliation has become established. It is evident directly in the hue and cry of the Germanic law, in the throwing of offenders from the Tarpeian rock in ancient Rome. The greater license in dealing with an offender caught in fresh pursuit is readily understandable on the basis of private vengeance. It was less likely to be restrained in such a case. The right of self-help is to be seen indirectly operative in the increase of the fine allowed at a later stage in the case of a thief caught in the act. Thus in the Roman law the penalty in the case of *furtum manifestum* was doubled. (The Twelve Tables had provided that a thief caught in the act might be slain but the law had been changed by praetorian edict.) This was not at all because detection in the act was an aggravation of the offense; the increased penalty was intended to induce the injured party to refrain from taking the law into his own hands.

State Law. The assumption by the state of the right and the duty of punishing criminal offenses was generally a long and uneven process. It began as a legislative or as an executive rather than as a judicial procedure. Dangerous malefactors, aiming at unwarranted power or themselves too powerful to be dealt with by the ordinary community processes, could be reached only by the arbitrary action of the king or by a special bill of pains and penalties duly enacted by the legislature. Attainder is the term by which this process was known in England. It was employed in Athens in the classical era and later in Rome, in the Anglo-Saxon kingdoms and finally in England. Maine asserts that the earliest criminal tribunals were only subdivisions or committees of the legislative assembly appointed to investigate and report on a given case and that these in the long course of time became standing committees to try all offenses of a given type, as parricide, for example, and ultimately all criminal offenses.

In Rome the process employed in the exercise of criminal jurisdiction was the clumsy one of creating committees to inquire into all cases of a given type, the so-called *Quaestiones perpetuae*. For other types of offenses which seemed to need repression other *Quaestiones* were created or the jurisdiction of an existing *Quaestio* was enlarged to include the new offense. In this

haphazard way the system developed until, as Maine declares, "twenty or thirty different criminal laws were in existence" (comprehending, it may be assumed, a far greater number of criminal offenses) "together with exactly the same number of legislative commissions, *Quaestiones*, to administer them."

Notwithstanding the awkwardness of this procedure and the resulting lack of symmetry in the criminal law of the republic, it gave permanent expression to two pregnant conceptions which have ever since governed the thought and practise of the civilized world. The first of these is that it is the function of the sovereign legislature to define by law the crimes of which it will take cognizance, and the second that it is the function of the governing authority of the state to enforce the law so enacted. The empire, which soon succeeded the republic, had no need to usurp the authority to define and administer the criminal law of Rome. It had only to take it over, and with its expansion it carried these conceptions to the ends of the world.

In all matters not involving the imperial supremacy the Roman governors in the provinces, whether of the East or of the West, were wise enough to administer the imperial law in reasonable conformity with the local custom. This was, indeed, the policy of the empire and accounts in large measure for its success in maintaining itself for so many centuries in communities representing wide diversities of culture and of political development. But the law of Rome was a system far more developed than that of any of the provinces and its imperial prestige gave it immense influence. For these reasons the Roman law profoundly, although in varying degrees, imposed itself on the local law, in its precepts, in its organization and in its authority. The princes that took over the lordship of the provinces after the withdrawal of the legions found themselves invested with much of the glamour of the imperial lordship and, as the emperor's successors, were easily recognized as the guardians and dispensers of justice.

It is not easy to say to what extent the criminal law of the provinces of the empire shared in this Romanizing influence except in the matter of promoting the centralizing processes of law making and of law enforcement. The influence varied greatly according to the longer or shorter duration of the Roman occupation and the stage of social development of the subject population. Spain appears to have been completely Romanized and France and Belgium only less so. The more remote and perhaps more backward Germanic tribes were far less affected in their customs and consequently in their criminal law and the English hardly at all. But all the countries that had felt the iron hand of Rome had learned the worth of centralized power to hold a fretful realm in awe.

In England, however, there was another conception at work, which might, without the help of Rome, have developed a national criminal law: the doctrine of the king's peace. The royal court and its environs were of course under the king's exclusive protection but he could extend his "peace," the pledge of his protection, to any person, a bishop or a nobleman, or to any place, a church or a town, at his pleasure. He thus assumed the responsibility of dealing with any serious breach of the peace that might be committed against such person or in such a place. So the king's peace grew until it was extended to the whole of England, to all his dominions, and the king became the fountain of justice to all his people.

This conception was naturally taken over by the American colonies when they achieved their independence and thus the new national government, in the limited field in which it exercised a criminal jurisdiction, and the several states, in their more general control of criminal misconduct, set up the same centralized system of criminal law and procedure on the principles to which their experience as colonies of Great Britain had accustomed them. It is true that in the expansion of the new nation into regions to which the law had not yet been effectually applied there was, here and there, something like a reversion to primitive justice. Where there is no overruling state law the law of self-help revives. But these cases were only sporadic and have left no trace on the legal structure, although they may in part account for certain traits in the American character which make for a casual indifference toward the law and a rough lawlessness in methods of law enforcement. So indictments today read that the offense charged was committed "against" or "contrary to" the peace and dignity of the state and, although there are still torts, every offense committed with malice prepense is a crime and the law defining it and prescribing the penalty therefor is a true criminal law.

Civil and Canon Law. The influence of Rome on the law of the western world did not end with the decline and fall of the visible empire.

That was succeeded by a new and greater empire which claimed, it is true, only a spiritual authority but which enforced that authority by stringent secular penalties. Both the growth and the authority of the law of the church, which came to be known as the canon law, were promoted by the legal chaos which resulted from the barbarian conquest of the Roman world. Law became personal or tribal rather than territorial. The barbarian lords, in Italy as elsewhere, ruled over a mixed population and there was one law for the *Romani* and another for the *barbari*, as the Burgundians or the Ostrogoths. The only unity in Christendom was that of the church and the only universal law was the law of the church. The concept of a single law, both Roman and Christian, ruled the imagination of Europe for many centuries; and so it came to pass that the canon law vied with the law of the empire, the collected "constitutions" of the dead emperors embodied in the civil law, as the chief study of the scholars of western Europe. Both these codes profoundly affected the criminal law of the western world. Striking evidence of the influence of the canon law in England is furnished by the savage punishments inflicted, not in the name of the pope but of the English king, on sorcerers, soothsayers, witches and heretics and in the curious provision of the criminal law exempting "clerks," i.e. clerics, from the punishment of death for felony. Blackstone, writing in the middle of the eighteenth century, opens his enumeration of the crimes punishable by English law with a list of eleven specific "Offences against God and Religion." Doubtless it was the penitential doctrine and practise of the Anglican Catholic church that inspired the shocking provision of the English and American criminal law which fixes the age of responsibility to its procedure and penalties at seven years.

The Growth of Law. During the long period of history that has just been reviewed the substance of the criminal law, the precepts defining prohibited misconduct and prescribing the penalties therefor, changed with the mutations of the social order. Theoretically law is still custom, a thing to be recognized and defined, not something arbitrarily imposed by sovereign authority. But custom is not, as it was in the primitive community, a uniform body of folkways, all but universally conformed to. Modern society is a congeries of customs, habits and practises of widely differing groups and social classes. For "custom" is now written "public opinion," but there is no one uniform public opinion in any modern community. Even in the Roman Republic there was one public opinion of the equestrian order, represented by the Comitia Centuriata, and another of the plebeian order, represented by the Comitia Curiata. When power shifted from the former to the latter the spirit and complexion of the criminal law underwent a marked change in the direction of a greater leniency. So in the England of the Stuarts and the Georges, the excessive severity of the criminal law persisted until the growing power of the Commons reformed and humanized it. So too in France it was the people's revolution which, to even a greater degree, mitigated the severity of the *ancien régime* in dealing with the common offender. Similar mutations of feeling and attitude have been displayed in the United States toward the criminal offender in response to waves of democratic or of conservative opinion.

Subject to the fluctuations of public opinion above described there is a singular uniformity in the substantive criminal law of most of the peoples comprising the civilized world. The old crimes of murder, robbery, burglary and the like, which were the staples of the law of the eighteenth century, are still dominant in the criminal codes, but with the development of a predominantly industrial and commercial civilization the emphasis has in varying degree shifted from Blackstone's felonies and misdemeanors to the much greater number and variety of more modern crimes of the acquisitive type. These have, indeed, increased the volume of criminal legislation to such a degree as to render the problem of law enforcement today far more complex and difficult than it was even a century ago. Coincidently with this development there has, particularly in the western world, been an immense increase in the number and variety of petty offenses not involving serious moral turpitude which, under the complex conditions of modern life, demand legal repression. This disposition to regulate by law types of conduct formerly left to be dealt with by informal social pressure is, more in the United States than elsewhere, still further extended to a multitude of cases in which the community seeks by legal penalties to protect the general welfare by social legislation respecting health, the sale of habit forming drugs and of liquors, and the like.

The Code. But if the criminal laws of the several states of the civilized world display, as has been said, a marked uniformity, it is not to be inferred that the summaries or codes in which

they are collected have a characteristic form or any considerable resemblance. Reference has been made to the chaotic condition of the criminal law which evolved during the later period of the Roman Republic. Nothing was done then or under the empire to simplify or classify the heterogeneous mass of criminal statutes. The constitutions of the emperors now appeared as the only active source of law and these constituted a disordered mass, to be collected rather than digested. Dicey, speaking of a much later era, remarks that "the classification of crimes which are contained even in the *Corpus juris* of Justinian are remarkably capricious." This is notoriously true of all of the earlier codes, whether Hindu or Babylonian, Israelitish or Greek or Saxon, which were a compound of religious and moral maxims with a miscellaneous assortment of crimes denounced and punishments prescribed. The French penal code of 1810 appears to have been the first compilation of criminal law to attempt anything like an orderly arrangement and classification of crimes and penalties and this, in its turn, was taken as a model for Edward Livingston's Louisiana code, *A System of Penal Law*, largely deriving from the Spanish as well as from the French but predominantly Anglo-American, which greatly bettered its example and, indeed, furnished a model for the better type of legislative codes which are now in the making in western Europe and the United States.

Perhaps too much has been made of the importance of classification of criminal offenses. That some orderly statement of the body of the criminal law should be made for the purposes of the student is obvious but this is not to say that it will have any value to the legislator, the judge or the practitioner in the criminal courts. For these the alphabetical arrangement of the New York criminal code, which begins with *abduction* and ends with *woman* (abduction being a crime and woman the possible victim of crime), absurd as it may seem, may be the most convenient. Blackstone's classification of crimes from their object—as crimes against the state, against the person, against property, against public morals, etc.—has a certain logical consistency which may be of assistance to the student, but serves no public purpose. This is the arrangement employed in the French code and by Livingston in his Louisiana code and it has been generally adopted in recent legislative codes as well as in modern treatises on the criminal law.

The English classification of crimes according to their seriousness or their menace to the public weal, as felonies or misdemeanors, had practical value at a time when all felonies and no misdemeanors were punished with death. Today when the death penalty is imposed only for wilful and premeditated murder, for treason, piracy and a few other offenses of rare occurrence, and when the usual penalty for felony as well as for misdemeanor is a sentence to imprisonment, the distinction has all but lost its meaning. All felonies and most misdemeanors are indictable offenses and, with few exceptions, are triable only in the ordinary courts of criminal jurisdiction by a jury.

There remains in the British Commonwealth and in the United States a third class of offenses, ordinarily triable by summary process, by courts of petty sessions or by a local magistrate. In some of the American states the term misdemeanor is employed for cases of this type. Convicted petty offenders are punished by fine or by commitment for short terms to a local prison or jail. The only practical distinction between felons and misdemeanants in most states of the United States is that the former may be sentenced for a year or more to a state prison or penitentiary, while the latter may expiate their crimes by a sentence, usually of shorter duration, served in a less formidable type of prison. In the French *Code pénal* the division of punishable offenses is into *crimes*, *délits* and *contraventions*, which correspond roughly to the felonies, the indictable misdemeanors and the petty offenses of English and American law. These are in France dealt with by different tribunals, the first class by a judge and jury, the second class by a bench of three judges and the third by a *juge de paix*, or police magistrate. Substantially the same threefold classification of criminal offenses obtains in all other European countries.

The limited criminal jurisdiction enjoyed by the federal government of the United States has militated against the development of a criminal law calling for the graded classification which obtains in the several states of the union, although that classification is latent in the language of the federal constitution which guarantees the protection of a grand jury indictment to every person held to answer for "a capital or otherwise infamous crime." In the District of Columbia and in the limited territories which are administered directly by federal authority the central government has enacted criminal laws and set up a machinery for their administration substantially like those of the several

states. Apart from these rare cases of territorial jurisdiction the criminal legislation of the federal Congress has to do almost exclusively with offenses arising out of the violation of income tax, tariff, bankruptcy and national banking laws and the like and, more recently, with the enforcement of national prohibition of habit forming drugs and intoxicating liquors. But most of these are of the class of offenses against the state and show too little variety in type or character to fit into any formal scheme of classification.

Fundamental Principles. Out of this heterogeneous mass of prescriptions, written or unwritten, which make up the criminal law of the western world, there emerge a few general principles in the nature of limitations on arbitrary power, whether of the sovereign or of the law itself. The most important of these, inherited by the United States from the English law, may be stated in the language of the Bill of Rights of the American constitution, viz.: that no person shall "be deprived of life, liberty or property without due process of law," "nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb"—a provision which has been extended to every type of penalty for crime. Analogous to these are the "rule of certainty," which prescribes that every act made punishable by law shall be so clearly defined as to leave no penumbra of uncertainty as to its applicability to a given case, and, finally, the rule denying any retroactive effect to a penal law. The last of these, embodied in the maxim *nullum crimen nulla poena sine lege*, was the first rule laid down by Livingston in his draft codes for Louisiana and the United States.

There appears to be no warranted derogation from these principles in any modern state except in the Soviet Union, where an act deemed socially dangerous, although not specifically denounced by law, may be punished on the ground of its analogy to conduct prohibited by law. Further constitutional guaranties of English and American law to the effect that no one shall be held to answer for a capital or other infamous crime unless on a presentment or indictment of a grand jury, and that no person shall be compelled in any criminal case to be a witness against himself, seem to be peculiar to the Anglo-American system.

It is the rule of certainty which has caused the modern tendency in America to embody the criminal law more and more completely in statute form. As has already been observed, the criminal law of the later years of the Roman Republic and, even more completely, that of the empire were built up by legislation. This has continued to be true of the European countries that were most profoundly affected by the Roman tradition. It is only in England that this influence was rejected and that the law, criminal as well as civil, continued, as it still continues, for the most part, to be a common law, whose principles and prescriptions are formulated by judicial decisions; and it was this common law which became the heritage of all but a few of the American commonwealths. But a common law is a matter of slow growth and, in a modern social order of increasing complexity, needs constantly to be supplemented by legislative enactments. Adding to this circumstance the further fact of uncertainty in the common law due to differences in judicial interpretation and the vagueness with which it is often infected, a sufficient explanation is found of the demand of the community for the certainty which is to be secured only through a legislative reenactment of the entire body of the criminal law. England has thus far successfully resisted this tendency but it has all but completely triumphed in the United States. In only a few of the states is the misdemeanor still left to the common law, while the felony is everywhere defined and punished by statute.

Procedure. Reference has been made to the substantial uniformity of the criminal law of the civilized world at the present time, but it is only in the substantive law that this condition obtains. In the matter of criminal procedure there is a marked difference between the theory and practise of continental countries and of those that owe allegiance to the English common law. The imperial tradition of Rome has to a considerable degree maintained itself in the former, while the latter still employ the more popular forms of procedure which had their origin in the Anglo-Saxon community. The archaic practises of the ordeal and of trial by battle were, indeed, widely employed as a test of guilt or innocence, but it is to English law that the United States as well as the British dominions owes the grand jury as an accusing body in cases involving grave offenses, and the petit or trial jury as the only instrumentality for determining the question of the guilt or innocence of the accused. It is true that the trial jury has, during little more than a century, come to be adopted in most if not all conti-

nental countries, but it is an official of the government, a prosecutor in fact, who conducts the investigation and becomes the accuser. The Anglo-American plan has this merit, at least, that it gives a semblance of reality to the presumption of innocence which invests the accused up to the moment when, by the unanimous verdict of the trial jury, he is convicted on evidence establishing his guilt beyond a reasonable doubt. The importance of these fundamental safeguards has been seriously impaired, although by no means wholly destroyed, by the growing power of the prosecutor in American criminal procedure during the last generation. As the official adviser of the grand jury he can usually secure an indictment in cases where he deems it necessary and he may, as ex officio adviser of the court, secure the dismissal of pending cases or the acceptance of pleas of guilty, usually in a lesser degree than the crime actually committed.

These conditions, which have exhibited the prosecutor as the principal factor in the actual administration of criminal justice in the United States to the virtual exclusion of the jury in by far the greater number of cases which it is its peculiar function to try, combined as they are with the uneasiness of the public over an excessive crime rate, have caused widespread dissatisfaction with the administration of criminal justice in the United States.

This dissatisfaction, predicated on the doubtful assumption that the problem of crime control is mainly one of procedural law, has found its most effective expression in the reaction of the legal profession. Under the auspices of the organized bar, surveys of the actual operation of the processes of criminal justice have recently been conducted in a number of states and cities and, what is of even greater significance, such a survey on a national scale, directed by a commission of eminent jurists and others appointed by the president of the United States, is now under way. These painstaking inquiries have indicated the existence of an incredible looseness and lack of efficiency in the administration of criminal justice in the United States, especially in the great urban communities, due not so much to defects in the law (these, indeed, seem almost negligible) as to the political and social influences which control the selection of the law enforcing agencies and determine their official action. This indictment of a system may be summed up with the statement of an obvious truth, namely that a community which is itself indifferent to the law of the land cannot fail to find that indifference reflected in its administration of the law. In the conditions described the American community but displays the characteristics of a people which has, for better and for worse, not yet wholly outgrown its wild and turbulent youth, a stage of development through which the more staid and settled communities of western Europe have also passed. In so far as America is still the land of opportunity and high adventure it is likely to continue, along with a high crime rate, to manifest the qualities which reveal themselves in an attitude of superiority to law and of reckless indifference to law enforcement.

The Outlook. Reference has been made to the influence of a changing public opinion in stiffening or mitigating the rigors of the penal law. Lecky remarks on the growing humanitarian sentiment of England, far behind that of the France of Rousseau and Voltaire, in the closing years of the eighteenth century, and it was to this new humanitarianism that Beccaria so successfully appealed in his argument against torture and the death penalty. This sentiment soon became a tide which, in the course of a half century, all but transformed the penal law and practise of the whole western world. But sentiment, however generous, is a parlous thing unless buttressed by doctrine, and Beccaria's doctrine, however acceptable to the intelligentsia of his time, was of the flimsiest sort, based as it was on Rousseau's social compact and arguing nothing more than the unfairness of a punishment which the criminal had not bargained for.

Beccaria had no quarrel with the fundamental concept of the criminal law of his time and of modern times, namely that of the moral responsibility of the offender. A criminal act is primarily sin. This accounts for the persistence of the retributive element in penal legislation and practise. Sir James Stephen, the historian of the criminal law of England, asserts with approval, the approval of a judge of the High Court of Justice, that "the criminal law is mainly a system of licensed revenge." What is more frequently asserted as the aim of punishment is its deterrent effect on the community at large as well as on the culpable offender. This doctrine, which received its most complete statement from Bentham, was the basis of Beccaria's argument for moderation but in practise it results in the infliction of "exemplary" punishments, such as will create dread in the mind of

the potential offender. A third aim of punishment, frequently claimed for it, is the reformation of the offender. Plato and the wide and powerful stream of philosophy which has flowed from his writings assume the reformation of the criminal as a mystical operation of retributive justice, like the penitential discipline of the Catholic church. But modern legislators and judges are not philosophers, and it is more likely that they will reflect the vindictive sentiments or the fears of an unphilosophical community.

This description of the processes which determine the type of present day criminal justice needs to be supplemented by a consideration of two antagonistic principles between which the actual administration of the law has oscillated. The first of these is the principle of "strict law," so-called, which demands a fixed penalty for every criminal offense and the infliction of that penalty in every case to which it applies; and the other is the principle of the individualization of punishment, which assumes a sufficient discretion to be vested in the court to permit an adjustment of the penalty to the circumstances of the individual case. Beccaria, shocked by the vagaries and partialities of the courts of his day, demanded a criminal law in which every crime should have a fixed penalty unalterable in the discretion of the judge. But, in the exact sense of the term, there has never, in fact, been a regime of strict law strictly enforced. Always there have been loopholes, discretion, warranted or unwarranted, exercised by the judge or the jury or, in the last resort, by the executive head of the state. The nearest approximation to strict law that now obtains is, in England or the United States, the mandatory penalty of death or of life imprisonment for murder and a few other offenses, and even in these cases the rule is more often honored in the breach than the observance. Assuming crime to be sin it is still necessary to look into the heart of the sinner to ascertain the degree of his sinfulness, and this is explicitly recognized in the French *Code pénal*, which permits the jury to find mitigating circumstances (*circonstances attenuants*) and thereby require the judge to impose a lighter sentence than he might otherwise inflict. In all modern communities today the court is invested with a considerable discretion in most types of cases to determine the penalty to be imposed within wide limits fixed by statute or even to suspend sentence altogether and release the offender on probation, subject generally to the supervision of an official or agent of the court.

These practises are based on the true principle of individualization, that the crime is not the measure of the man, that among offenders of the same type there may be marked differences of character and personality and that many of them are reformable or, at least, deserve another chance; the same tolerant principle inspired the widespread use of the indeterminate prison sentence, usually only for first offenders, on the further assumption that it should be possible for the prison authorities or an official parole board to determine the date when such a prisoner, having learned his lesson, might safely be released into the outside community under such supervision as an official parole officer might supply. These convictions, swept along on the tide of humanitarianism which characterized the nineteenth century, further manifested themselves in the institution of protectories, or houses of refuge, as they were generally called, for child offenders under the age of sixteen, and of state reformatories for still youthful criminals from sixteen to twenty-five or even thirty years of age whose sentence was almost wholly indeterminate. But the movement whose achievements have thus been recorded did not reach its culmination until the dawn of the present century when, by an act of the Illinois legislature, the juvenile court came into being. This, for the first time in the long history of society's unequal warfare against crime, introduced a wholly new note, that of protection rather than punishment for the delinquent of tender years. This it effected through the inspired device of committing every type and case of juvenile delinquency to the more tender mercies of a court exercising not a criminal but a protective jurisdiction, modeled after the chancery courts of England and the United States.

It thus appears that the principle of the individualization of treatment has come in large measure to be the accepted policy of the law in dealing with offenders of all grades, but that it is, as yet, a selective process based on such knowledge of human nature and on such a philosophy of life as the individual judge may happen to be endowed with. It does not carry far enough. It must be reinforced by a new doctrine of sufficient authority to command the appropriate treatment for every offender. Such a new doctrine is emerging in a new conception of the individual based on the clinical psychol

ogy of the present century. It was not Lombroso but the Viennese physician and phrenologist, Franz Joseph Gall, who at about the beginning of the nineteenth century argued on the basis of his psychological studies that the individual criminal must be studied to be understood and that he must be understood to be wisely dealt with. Lombroso carried Gall's doctrine further —too far, perhaps—and in so doing gave the principle a commanding position in criminological science. It has by now become the conviction of every criminologist worthy of the name and it is rapidly making its way into the consciousness of the great community. The criminal may or may not be a sinner. That may concern the Almighty or it may concern the church, but it does not concern the general community or the law. What does concern citizens and their law is the fact that he has somehow, perhaps as the result of an unfortunate heredity or of the chances of life or for any other reason, disclosed himself as a nuisance or a menace in an orderly society. Manifestly something must be done about him; to know what to do society must know him, and to know him it must get to know how he has come to be the nuisance or the menace that he has proved to be. Law will still be needed, although not perhaps a criminal law, to exercise such restraint as may be necessary. Perhaps as the new wisdom increases it may be found that the equity, or chancery, jurisdiction with which the typical juvenile court is invested will answer the purpose. Or perhaps the psychiatric clinics and the staffs of social investigators with which criminal courts are equipping themselves may in the course of time transform those hoary institutions from courts of criminal justice into courts of social and personal amelioration. Dean Pound has told how Sir Edward Coke, in the dawn of the seventeenth century, bewailing the savagery of the criminal law and procedure of his time, made an impassioned plea for a preventive instead of a punitive justice and invoked the blessing of God upon him "that layeth the first stone of this building." The first stone is being laid.

GEORGE W. KIRCHWEY

See: CRIME; CRIMINOLOGY; PUNISHMENT; COURTS; PROCEDURE, LEGAL; JUSTICE, ADMINISTRATION OF.

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CRIMINAL PSYCHOLOGY. *See* ABNORMAL PSYCHOLOGY.

CRIMINAL STATISTICS. If ideally constituted, criminal statistics would include statistics relating to crimes and criminals collected at all the important stages of criminal procedure. They would begin with the statistics of crimes known to the police, would follow the procedure step by step through arrest, preliminary hearing, grand jury action, the work of the prosecuting attorney and the trial court and would conclude with statistics of probation, imprisonment, parole and action of the pardoning power. They would encompass all minor infractions of the law as well as the serious crimes. Such criminal statistics would be invaluable not only to those interested in the workings of the machinery of government and in the practical results of legislative action but also to those who are seeking to understand the phenomenon of crime itself. The contributions which the various parts of the machinery of criminal justice are making to the work of controlling crime could be estimated. The statistics would also throw much light on the value of any law designed to control or regulate human conduct through resort to criminal procedure. Statistics of crimes known to the police not only indicate the activity of criminals but also reveal, in part at least, the extent of the injury which society has suffered therefrom. Gradually, as the statistical tale unfolded, the outlines of the criminal group would begin to appear. Through proper correlation with population statistics the characteristic features of criminal groups could then be determined and the way prepared for intensive studies of a non-statistical character.

In criminal statistics three different units—the crime, the case and the criminal—are used, depending partly on the particular purpose in view and partly on the necessities of the given situation. The crime must necessarily be used as the unit in the statistics of crimes known to the police, for at this stage nothing is known about the perpetrators. One individual may commit many crimes or several people may combine to commit a single crime. If the investigator is interested solely in the problem of space in institutions or in the number of cases handled by probation or parole officers, the criminal is the unit used. From the point of view of sociological investigations the two units—the crime and the criminal—must be used in close coordination. The case consisting of one or more crimes and of one or more possible criminals is the important unit when criminal statistics are considered as an instrument for measuring the efficiency of police and court activity.

Criminal statistics relate to a period of time and not to a point of time. Furthermore, a crime known to the police one year may have been committed by a criminal caught and convicted the next year whose final release from prison may not take place for many years to come. Since many offenders are caught soon after their crimes and sentenced for short terms, they and their crimes may appear more than once in the statistical tables of a single year. These statistical difficulties are not always recognized in the compilation and analysis of the figures and lead to false conclusions.

No nation possesses well rounded and well organized criminal statistics. Those of England and Wales approach the ideal more closely than do the statistics of any other nation. They cover the entire range from the statistics of crimes known to the police to prison statistics. Police statistics are as a rule less developed than any other branch. The collection of statistics relating to convictions in courts of record has received most attention in Europe. In the United States only prison statistics and a few police statistics have been collected by the federal government. The collection and the compilation of criminal statistics are in the several countries carried on by different bureaus or departments. In France, Germany, Belgium, Austria and Italy the work is located in the departments of justice, which have broad administrative powers. In England the Home Office carries on the work. In the United States the Bureau of the Census in the Department of Commerce handles the prison statistics and the police statistics are compiled in the Department of Justice. The criminal statistics of Canada, Australia and New Zealand

are collected and compiled by general statistical bureaus unrelated to departments of justice and corresponding somewhat to the Bureau of the Census in the United States.

International comparisons of the results of criminal statistics are fraught with great difficulties. The legal and administrative setting varies with the country. Crimes of the same name are defined differently; acts which are crimes in one country are not crimes in another. Prohibition and its train of consequences illustrate the difficulty of any comparison of United States criminal statistics with those of a country which merely restricts the sale of intoxicating liquors. Efforts have been made in vain to work out an international classification of the important crimes.

The collection of criminal statistics in the United States is still in the embryonic stage. Reformatories, juvenile courts, indeterminate sentences, parole, probation, psychiatric and psychological examinations develop and ramify, but almost nothing is known officially about the results of these various innovations, and the crime rate seemingly remains high. The dearth of statistical information may be ascribed to the fact that in the making of laws relating to crime and criminals each state is supreme within the limits imposed by the federal constitution. Uniformity of culture is sufficient to insure that the essential features of criminal justice are similar in all of the states, but differences in matters of detail create genuine obstacles to the collection of criminal statistics. A crime in one state may not be a crime in another, and the punishment decreed for a given crime in one state may be greater or less elsewhere. Differences in details of court organization and procedure render difficult the collection and analysis of comparable statistical data. Police departments are organized and run on diverse plans, and penal systems vary from state to state. Other reasons for the existing situation with respect to criminal statistics are the spoils system of governmental administration, the opposition of law enforcement agencies whose ineffectiveness might be exposed and the general indifference, broken only by spasmodic severity, which has characterized the national attitude toward crime.

The first collection of criminal statistics in the United States was made in 1829, when the clerks of courts of record in the state of New York were asked to send the secretary of state a record of the convictions obtained in their respective courts. The purpose of collecting these data was to make available the evidence of former convictions in dealing with offenders suspected of being recidivists. In 1838 the senate asked the secretary of state for an abstract of these records, and his report, covering the years 1830 to 1837 inclusive, did not relate solely to recidivism but analyzed the materials carefully. Massachusetts since 1832 has required the attorney general to present a report to the legislature on the suits and prosecutions which he attended together with an abstract of reports made to him by local district attorneys. A number of other states now require similar reports. The purpose behind such legislation is not the scientific collection of criminal statistics but the desire to keep an account of the activities of the attorney general, the prosecuting attorneys and the more important courts. These data have for the most part been badly collected and except in Massachusetts have been of little or no value. Many states make efforts to supervise their penal and correctional institutions and provide fiscal and legislative control by calling for statistics from sheriffs, wardens and keepers. These are usually of poor quality.

The federal government began in a tentative way to collect statistics relating to criminals in connection with the census of 1850 by means of both the general population schedule and the schedule for social statistics. The results were fragmentary and useless, owing to the haphazard method of collection through assistant marshals. The inquiries of 1860 and 1870 were likewise of little value. These collections of criminal statistics had unfortunately been combined with the decennial population census. In enumerating the population the object is to discover how many people are in the country at a given point of time. Even in 1850 this was not considered the proper procedure for the collection of criminal statistics, and the Bureau of the Census attempted to count as convicts not only those who were in prison but also those who, although released, had been convicted of crime within the year. The assistant marshals were asked to get this information from court records, but there was no machinery for that purpose and the effort failed. Frederick H. Wines, who was appointed in 1880 to direct the division of social statistics relating to pauperism and crime, also recognized that mere enumeration of the prison population was inadequate and sought to obtain additional information from court dockets, justices' returns and police reports. The figures which he collected and analyzed, however, re-

lated largely to the individuals found in prison on the day of the enumeration. In 1904 the Bureau of the Census under the direction of John Koren made a special inquiry, dissociated from the general enumeration of the population, which emphasized the collection of figures for crimes committed during that calendar year. This procedure was also followed in the investigations of 1910 and 1923. The Bureau of the Census tried again in 1907 to collect data on crimes and criminals from court records, but the attempt met with complete failure. The bureau has made no further efforts in this direction but since 1926 has undertaken to obtain statistics annually from state and federal prisons and reformatories, omitting the figures for county and city penal institutions compiled in the decennial enumerations. Statistics derived from prison records alone are, however, obviously insufficient and may be very misleading. For example, no probationers are represented by prison figures and those who pay fines are not included. Until the federal government can obtain data from court records, many of the most important facts with regard to crimes and criminals will escape collection.

Discontent with the machinery of criminal justice has led to investigations which have thrown additional light on the problems of collecting statistics from court records. In certain states and cities (Missouri, Illinois, Pennsylvania, New York, Cleveland) determined efforts have been made within the last few years by means of crime surveys or commissions to measure the work of the courts and the police by the statistical method. Temporary organizations were developed to ascertain the number of arrests made, the number of cases heard by justices of the peace or police magistrates, the number thrown out by public prosecutors and by grand juries, the number tried and the number of individuals sentenced, placed on probation, fined or sent to prison. In all cases these statistics had not been previously available. The life of the commissions was limited and their reports, while invaluable in portraying the workings of the machinery of criminal justice, had no permanent results as to practises of compiling criminal statistics where new state machinery was not created to carry on their work.

Progress has recently been made in the field of police statistics. At the 1927 convention of the International Association of Chiefs of Police a Committee on Uniform Crime Records was appointed. Under the direction of Bruce Smith with the assistance of the Detroit Bureau of Governmental Research a comprehensive investigation was made, including a study of police records and the diverse systems of criminal law in the forty-eight states. The committee first published a tentative guide for preparing annual police reports and a tentative uniform classification of major offenses. In 1929 the committee published a volume on *Uniform Crime Reporting*, which deals primarily with the fundamentals of police statistics and is also a contribution to the science of criminal statistics. Its system of uniform classification of offenses, based, with some changes, upon that employed by the Bureau of the Census, has already been widely adopted. The committee issued in January, 1930, its first monthly bulletin of offenses known to the police covering an area with a population in excess of twenty millions. An act authorizing the National Division of Identification and Information of the Bureau of Investigation of the United States Department of Justice to collect and compile crime statistics was approved the following June, and beginning in September this bureau assumed the work of the Committee on Uniform Crime Records and has since published monthly bulletins. This promising development is hampered by the fact that the contributions of the police departments to the Bureau of Investigation are entirely voluntary, and while the size of the registration area more than doubled in eight months many important regions have as yet made no returns. Moreover, the reporting is limited to seven classes of grave offenses: felonious homicides, rape, robbery, aggravated assault, burglary, larceny and automobile theft. The fact that police departments had already cooperated with the Bureau of Investigation in recording fingerprints determined the decision to place this statistical work in that bureau instead of in the Bureau of the Census. It is suggested that the state bureaus of identification, now twenty-four in number, should take up the work of collecting criminal statistics. A plan is needed for the collection of court statistics similar in scope to the plan for police statistics worked out by the Committee on Uniform Crime Records. State bureaus need scientific direction, for without it systems differing in essential details and unsuitable as the basis of a unified system for the whole country will develop.

LOUIS N. ROBINSON

See: CRIME; CRIME SURVEYS; CRIMINAL LAW; JUSTICE, ADMINISTRATION OF; POLICE; PENAL

INSTITUTIONS; LAW ENFORCEMENT; RECIDIVISM; STATISTICS.

Consult: Mayr, Georg von, *Statistik und Gesellschaftslehre*, 3 vols. (Freiburg i.B. and Tübingen 1895–1917) vol. iii, pt. iii, ch. iii; Scheel, H. von, and Hesse, A., "Kriminalstatistik" in *Handwörterbuch der Staatswissenschaften*, vol. vi (4th ed. Jena 1925) p. 1–7; Wassermann, Rudolf, *Die Entwicklungsphasen der kriminalstatistischen Forschung*, Kriminalistische Abhandlungen, vol. v (Leipsic 1927); Morrison, Douglass, "The Interpretation of Criminal Statistics" in Royal Statistical Society, *Journal*, vol. lx (1897) 1–24; Robinson, L. N., *History and Organization of Criminal Statistics* (Boston 1911); National Crime Commission, *Criminal Statistics and Identification of Criminals: on Pardons, Parole, Probation, Penal Laws and Institutional Correction* (New York 1927); Lannoy, Charles de, "Influence du choix de l'unité sur les résultats de la statistique criminelle" in Institut International de Statistique, *Bulletin*, vol. xiii, bk. i (1903) 325–33; United States, Bureau of the Census, *Instructions for Compiling Criminal Statistics* (1927); Crossley, F. B., "Report of Chairman of Committee on Criminal Records and Statistics of the American Institute of Criminal Law and Criminology, from April 10, 1922, to March 1, 1923," and Warner, S. B., "New Federal Criminal Census" in American Institute of Criminal Law and Criminology, *Journal*, vol. xiv (1923–24) 75–90; Warner, S. B., and Bates, Sanford, "Information Concerning Adult Male Criminals Which Should Be Published by Reformatories, Penitentiaries and State Prisons" in American Institute of Criminal Law and Criminology, *Journal*, vol. xv (1924–25) 177–238; Robinson, Louis N., "The Need for Adequate Criminal Statistics," and Truesdell, L. E., "The Problem of Collecting and Standardizing Statistics of Crime in Forty-Eight Sovereign States," and Upson, L. D., "Crime Statistics As a Police Problem" in American Statistical Association, *Journal*, vol. xxiii (1928) 123–41; Gehlke, C. E., "Statistical Studies of Crime and the Administration of Justice," and Marshall, L. C., "The Beginnings of Judicial Statistics" in American Statistical Association, Committee on Social Statistics, *Statistics in Social Studies*, ed. by Stuart A. Rice (Philadelphia 1930) chs. vi–vii; International Association of Chiefs of Police, Committee on Uniform Crime Records, *Uniform Crime Reporting* (rev. ed. New York 1929), and *A Uniform Classification of Major Offenses (Tentative)* (New York 1928), and *A Guide for Preparing Annual Police Reports* (rev. ed. New York 1929); *Uniform Crime Reports*, a monthly first published by the International Association of Chiefs of Police and continued by the United States, Department of Justice, Bureau of Investigation (1930–).

CRIMINAL SYNDICALISM is a legal concept which owes its origin to the growth of syndicalist and other revolutionary labor movements in the United States. The concept is embodied in a series of state laws known as criminal syndicalism laws, the essence of which is the prohibition of doctrines and activities involving the use of violence as a means to social change.

For a number of years immediately preceding the World War the activities of the Industrial Workers of the World among the miners, lumber workers and agricultural workers of the western and northwestern states had aroused the fears of employers and of the middle class and had resulted in attempts by local authorities to stamp out the organization. The coming of the World War added the fear that the I. W. W. would obstruct the war activities of the government as it allegedly had in other countries, especially Australia, where the government in 1916 had found it advisable to pass an Unlawful Associations Act making membership in the I. W. W. a criminal offense punishable by six months' imprisonment.

The first criminal syndicalism law in the United States was enacted in the state of Idaho in 1917. It defined criminal syndicalism as "the doctrine which advocates crime, sabotage, violence, or other unlawful methods of terrorism as a means of accomplishing industrial or political reform." The law declared that "the advocacy of such a doctrine, whether by word of mouth or writing, is a felony" and set the maximum penalty at imprisonment for ten years or a fine of $5000 or both. Minnesota followed in the same year and five other states in 1918. Most of the criminal syndicalism laws, however, were passed during 1919 and 1920, inspired not by the necessity of safeguarding war activities but by the fear of revolution aroused by the post-war social upheavals, especially in Russia.

As a result of the legislation from 1917 to 1920 there are at the present time twenty-one states and two territories which have laws covering criminal syndicalism. In sixteen of the states the acts are worded almost exactly like the Idaho law of 1917. Arizona and North Dakota do not mention the words "criminal syndicalism" but cover the same activities under the word "sabotage," while Kentucky and West Virginia mention neither term in their general sedition laws, which cover the same field. Sabotage is defined in some statutes, such as that of Minnesota, as "malicious damage or injury to the property of an employer by an employee." The penalties usually provided in the laws are imprisonment from one to ten years or a fine of from $1000 to $5000 or both. The highest penalty is in the state of South Dakota, which provides a maximum penalty of twenty-five years' imprisonment or a fine of $10,000 or both. State supreme courts, when called upon to pass on the constitutionality of the laws, have

uniformly upheld them, with the exception of Montana, where the law was declared void on the technical ground that its title was defective.

The enforcement of the criminal syndicalism laws has given rise to important issues of law and public policy, involving the conflicting problems of freedom of speech and public safety and the methods which may be employed for securing political and social reform. The trend of the decisions has been to hold that mere membership in an organization formed to advocate violence for effecting any economic, social or political change is sufficient basis for conviction. In the case of Fiske *v.* Kansas [274 U. S. 380 (1927)] the Supreme Court of the United States held that it was necessary to prove that the organization actually advocated "crime, violence, or other unlawful act as a means of effecting industrial or political change." For this purpose a mere reading of the preamble of the constitution of the I. W. W. was insufficient, and the conviction of Fiske, based only on that evidence, was reversed as violating the due process of law clause in the federal constitution. The same day the Supreme Court handed down a decision in the Whitney case [274 U. S. 357 (1927)], which had attracted nation wide attention. Miss Charlotte Anita Whitney, a Wellesley graduate active in philanthropic work, had been arrested and convicted under the California criminal syndicalism law on the basis of her membership in the revolutionary Communist Labor party. At her trial a considerable part of the evidence against her consisted of citations of activities of the I. W. W. with which she had never been connected but which had been endorsed by the Communist Labor party. Her conviction was sustained by the Supreme Court on the ground that although she herself favored only peaceful political methods she had continued as a member of the California branch of the Communist Labor party after that party had adopted a platform advocating social revolution and endorsing the activities of the I. W. W. In rendering the decision Mr. Justice Sanford emphasized that the act could not be held invalid on the ground that it restricted the rights of free speech, assembly and association because the constitution does not confer the right of unrestricted use of language; that conspiring with others in an association for the accomplishment of desired ends through the advocacy and use of criminal and unlawful methods partakes of the nature of criminal conspiracy; and that, as such association involves greater danger to the public peace and security than the isolated utterances and acts of individuals, it is not an unreasonable exercise of the police power of the state to prohibit such associations. Mr. Justice Brandeis and Mr. Justice Holmes, while concurring in the decision on the ground of the court's limited power of review, took the occasion to restate the doctrine that, while the right of free speech is not absolute, a definite test for restricting it should be applied—the test of "clear and present danger," which had been applied by Mr. Justice Holmes in a previous decision under the Espionage Act [Schenck *v.* U. S., 249 U. S. 47 (1918)].

From 1919 to 1924 prosecution under the criminal syndicalism laws was fairly active in various states, especially in California. In that state 531 individuals were indicted under the law between the years indicated. Of these 264 were actually tried, 164 convicted and 128 sentenced for terms ranging from one to fourteen years. In the California trials the same prosecution witnesses, especially two former I. W. W. members, appeared time after time. Defense witnesses who admitted membership in the organization while on the witness stand were in many cases arrested on leaving the courtroom and convicted under the criminal syndicalism law. A peculiar feature of the administration of the law in California was a state wide injunction, issued by Judge Charles O. Busick in 1923 and upheld by the Supreme Court of the state [*in re* Wood, 194 Cal. 49 (1924)], which enjoined the very acts classed as crimes under the law. I. W. W. offenders were thus removed from the control of juries, which sometimes showed reluctance to convict, to that of the judge, who could sentence them for contempt of court. In California as in other states practically all prosecutions were directed against members of the I. W. W., although a few cases involved members of the Communist Labor party, organized in 1919.

It is impossible to say whether these prosecutions and indictments had the desired effect. There is no doubt that the I. W. W. and the Communist organizations declined after 1921. But other labor organizations which were not affected by the criminal syndicalism laws also suffered losses in membership and strength. The radical and revolutionary movements in America during the last few years have been adversely affected by general economic and political conditions and would probably have declined even if no special law had been passed against them.

Many of the sentences under the criminal syndicalism laws have been reversed by higher state courts. In other cases the executive authorities have pardoned those convicted under the laws; Miss Whitney was pardoned by Governor Young of California shortly after the Supreme Court's decision in her case, and the last of the California prisoners were released in 1928. By January, 1929, there were no persons in the United States in prison under the criminal syndicalism laws. This would indicate that in times of social calm such laws tend to become a dead letter. As long as they remain on the statute books, however, they represent a potential weapon which may be used again under conditions of social stress. Thus the Ohio criminal syndicalism law was revived and employed successfully against two Communist propagandists in 1930.

LEWIS L. LORWIN

See: ANTIRADICALISM; WAR PSYCHOLOGY; POLITICAL POLICE; CONSPIRACY, CRIMINAL; SEDITION; SABOTAGE; VIOLENCE; DIRECT ACTION; SYNDICALISM; INDUSTRIAL WORKERS OF THE WORLD; COMMUNISM; LABOR DISPUTES; INJUNCTION; CIVIL LIBERTIES; FREEDOM OF ASSOCIATION; FREEDOM OF SPEECH AND OF THE PRESS.

Consult: Chafee, Zechariah, Jr., *The Inquiring Mind* (New York 1928), and *Freedom of Speech* (New York 1920); Kirchwey, George W., *A Survey of the Workings of the Criminal Syndicalism Law of California* (Los Angeles 1926); Callahan, Daniel F., "Criminal Syndicalism and Sabotage" in United States, Bureau of Labor Statistics, *Monthly Labor Review*, vol. xiv (1922) 803–12; Brissenden, Paul F., *The I. W. W.: a Study in American Syndicalism* (2nd ed. New York 1920).

CRIMINOLOGY deals particularly with the criminal himself, giving special emphasis to the problem of the causation of crime. Scientific interest in the study of the criminal came late because the criminal was classed with the sinner as a theological problem. Both were considered perverse free moral agents who had deliberately violated the will of God. The criminal had also defied the law of the land, and savage punishment was therefore believed to be thoroughly deserved. The full responsibility of the criminal for his own conduct was assumed, and the persons who prescribed and executed punishment were believed to be serving God as well as man. Hence there was little basis for restraint in punishment or little incentive to look into the problem from a naturalistic or human point of view. The rise of scientific criminology had to wait upon the development of a new intellectual perspective and the accumulation of scientific knowledge which would undermine the ancient theological approach to the criminal and his treatment. Criminology is therefore distinctly a product of the nineteenth century although its foundations run back into the first half of the eighteenth.

The origins of a scientific interest in the nature of the criminal were derived from biology and physiology. Aristotle in his treatise on physiognomy anticipated the criminal anthropologists to some extent, and by the time of Grataroli and Della Porta physiognomics had reached a fairly high state of development. With Lavater (1741–1801) and Gall (1758–1828) scientific criminology begins. There is a real filiation of doctrine running through the physiognomists to Gall, Morel and Lombroso. These men drew upon the early physical anthropologists and physiologists and tried as far as possible to use scientific methods in clearing up the mysteries of human behavior. To this group rather than to the criminal law reformers must be assigned the credit for establishing scientific criminology.

Another impetus to criminology and the improved treatment of the criminal was derived from criminal jurisprudence, which strove to abolish torture and to eliminate the barbarous punishments that characterized European procedure. Montesquieu in his *Lettres persanes* (1721) in the form of satire and irony ridiculed the prevalent barbarism in the treatment of criminals. The abuses also attracted the stinging criticism of Voltaire. But the most influential work of the eighteenth century was that of Cesare Bonesana, Marchese di Beccaria. Beccaria's essential doctrines were: the criterion for all reform must be the greatest happiness for the greatest number; the seriousness of a crime must be measured by its injury to society; prevention of crime is more important than the punishment of crime; punishment is to be justified through its power to deter from crime and not as social revenge; torture must be abolished and a fair trial insured; more use should be made of imprisonment in the place of corporal punishment as the mode of handling criminals. To Beccaria's work may be traced, in part at least, the reform of the criminal law of Austria, the penal code of the French Revolution, the reforms of Romilly and Bentham in England and the transformation of the criminal law in the United States following the Revolutionary War.

The leader in the reform of the criminal law in

England was Jeremy Bentham (1748–1832). Bentham applied the principles of his felicific calculus to the reform of the criminal law and proposed that penalties be moderated and that the penalty for each crime be so fixed that the pain imposed would be sufficiently in excess of the pleasure derived from its commission to deter men from committing crime. He recommended a greater use of imprisonment as a means of punishment and outlined an ideal prison structure—the Panopticon—and a rational system of prison discipline. Samuel Romilly (1757–1818) led in the practical reform of the brutal criminal code of England, aided by James Mackintosh, Thomas Foxwell Buxton and Robert Peel. In 1800 there had been more than two hundred capital crimes; by 1861 there were but three: murder, treason and piracy. The early prison reformers John Howard (1726–89) and Elizabeth Fry (1780–1845) also directed attention to the personality and special treatment of the criminal. The humanizing of the criminal code in the United States was due to the Pennsylvania Quakers who, shocked at the bloody scenes attending the corporal punishments of the period, worked for legislation which would substitute imprisonment for corporal punishment. They were aided by William Bradford, who attacked the savage criminal codes of colonial days and drafted the revised codes of Pennsylvania, which by 1794 had substituted imprisonment for corporal punishment and made murder in the first degree the only capital crime.

The originators of modern criminology are Cesare Lombroso (1836–1909), Enrico Ferri (1856–1928) and Raffaelle Garofalo, who together are designated as the Italian school. Lombroso's work became the point of departure for the science. Lombroso was early convinced that the criminal constituted an unmistakable abnormal type, distinguishable by characteristic stigmata, anatomic, physiological, psychological and social. His theories grew in comprehensiveness and acumen as he became older and more experienced in his investigations. His first theory was that the criminal type was explainable by the principle of atavism, or reversion to a more primitive type of the species. Lombroso attempted to prove his theory of atavism by a comparison of the anatomical and organic characteristics of the criminal and primitive man and by showing that the actions of the savage were normally criminal. The first of these proofs is not difficult, if one accepts the doctrine of analogy as sufficient for scientific purposes and admits Lombroso's description of the criminal. To demonstrate the normal delinquency of the savage is, on the other hand, an impossibility. Lombroso soon saw the incompleteness of the theory of atavism and introduced the theory of Esquirol, Pritchard, Despine and Maudsley that many of the criminals were to be accounted for on the basis of moral insanity. Not satisfied with this he finally advanced the third theory that at least all born criminals could be accounted for on the basis of being epileptics. But Lombroso never abandoned his main theory of atavism. He regarded moral insanity and epilepsy as simply secondary manifestations of atavistic characteristics.

Lombroso recognized other classes and gradations of criminal besides the typical born criminal with which his above theories are mainly concerned. He carried out with considerable completeness a detailed classification which included criminals by passion, linked with a subdivision of political criminals accentuated by excessive patriotism; insane criminals, further divided into alcoholic criminals, hysterical criminals and the criminal mattoid; occasional criminals, with subclasses of pseudo-criminals, criminaloids and those who are normal organically but have drifted into crime through lack of or failures in education or from evil associations primarily caused by a defective social environment. Lombroso was therefore not so narrow as some of his critics, who claim that he recognized only the born criminal, would try to show. His great contribution to criminology was his general point of view, not his specific doctrines. His doctrine of a born criminal and his dogma that the criminal can be detected by definite physical stigmata are no longer taken seriously. The physical stigmata he enumerated are found in connection with degeneracy and feebleminded-ness generally, while there are a large number of criminals of high intelligence and excellent physique. Moreover, there are numbers of law-abiding citizens who possess many of his criminal stigmata. But by taking the discussion of crime out of the realm of theology and metaphysics and putting it on the positivistic basis of a consideration of the characteristics of the criminal, he may be said to have founded modern criminology.

Lombroso was followed by Enrico Ferri, who presented a comprehensive theory of criminal factors and a widely adopted classification of criminals. He conceived of the penal function in

terms of the social body defending itself and sought to replace and transform criminal jurisprudence by sociologic science. The factors of crime he classified as individual or anthropological, physical or natural, and social; the anthropological factors comprising age, sex, civil status, profession, domicile, social rank, instruction, education and the organic and psychic constitution; the physical factors including race, climate, the fertility and disposition of the soil, the relative length of day and night, the seasons, meteoric conditions, temperature; and the social factors covering the density of population, emigration, public opinion, customs and religion, public order, economic and industrial conditions, agriculture and industrial production, public administration of public safety, public instruction and education, public beneficence and in general civil and penal legislation. Ferri's classification of criminals differentiated between the habitual and the occasional criminal and finally included five classes: born criminals, criminal lunatics, habitual criminals, occasional criminals and emotional criminals. Ferri sounded the keynote of modern penology when he demonstrated that the function of penal institutions and criminal jurisprudence is to defend society from parasitical organisms. In addition he proposed an elaborate series of what he called penal substitutes which, preventive in their nature and designed to do away with crime, avoid the necessity of punishment.

Garofalo's theories were founded on the distinction between the *jus naturae*, on the one hand, and the *jus gentium* and *jus civilis*, on the other, and revolved around his fundamental doctrine of the "natural crime." Natural crimes he defined as crimes against the law of nature—i.e. the rules of right conduct revealed to man through his reason—and he interpreted offenses "that have been considered punishable at all times and in all places" as offenses "against the fundamental altruistic sentiments of pity and probity in the average measure possessed by a given social group." Crimes other than those which make up the natural crimes were those which constitute a violation of positive (man made) laws, which do not comprise a codification of the principles of natural law. He believed that both types must be punished but that the main interest of the criminologist should be in natural crimes. Garofalo's classification of criminals was based largely upon the nature of their crimes: namely murderers (offenders against humanity), thieves (offenders against property), cynics (sexual criminals) and violent criminals. He described the first three classes as morally color blind and the violent criminal as totally blind morally. All classes were to be explained upon the basis of moral anomaly or ethical degeneration. Garofalo denied that there had been conclusive demonstration of a criminal type distinguishable by anatomical abnormalities, but he asserted that all true criminals as abnormal types had an inherent tendency toward crime and that no normal man committed a natural crime through the influence of the environment alone. Garofalo advocated a great extension of the application of the death penalty, contending that society must accomplish by artificial means what nature does in the biological world, by eliminating those criminals who would not be adjustable to any physical or social environment. All those in whom there is a considerable lack of pity and probity, although not enough to warrant their execution, were to be expelled from free society. Garofalo defended the principle that reparation for damages be made by all those criminals whose abnormality was not sufficient to justify their elimination.

The points of agreement in the theories of the pioneers of criminology are that the criminal is not a normal person who commits crime simply from perversity; that the true criminal is an abnormal type; and that his offense is the result of manifold influences operating upon an abnormal personality. They established the fact that the criminals are of different grades, gradually shading off into normal individuals. They held that those classes which are distinguishable by organic differences and distinct offenses must be differentiated in the process of treatment as well as for purposes of study. Finally, they introduced the new idea of social defense in the methods of penology, thus abandoning the old idea of purely retributive justice.

There are three main types of theories or schools in recent criminology: the first, which stresses the anthropological influences, the anthropological school; the second, which emphasizes the social forces working upon crime, the sociological school; and the third, a group which can hardly be called a school, which lays particular stress upon the influence of the physical environment, such as climate and weather. The anthropological theories deal especially with the alleged individual characteristics of the criminal classes and hold that the environment, especially the social environment, is less important as a factor in criminality than the per-

sonality of the criminal. While most criminal anthropologists have laid emphasis upon the assumed anatomical characteristics of the criminal, some have disregarded these and have given the most attention to the psychic traits conducive to criminality.

Of all the anthropological theories the most spectacular has been that of atavism, which traces its development in its modern connotation from the works of Lombroso. Contemporary with Lombroso a Frenchman, Bordier (1841–1910), also formulated a rudimentary theory of criminal atavism from a comparison of the skulls of murderers with those of prehistoric men; and an Austrian psychiatrist, Benedikt (1835–1920), who examined the brains of beheaded criminals, reached the conclusion that their brains showed a departure from the normal which approximated the brains of the quadrupeds and that therefore the criminal exhibited an inferior cerebral equipment which made his adaptation to the social environment impossible. Colajanni (1847–1921) rejected all claims for evidence of anatomical reversion and maintained that the atavism which explained criminality was to be looked for in the moral realm, where the criminal exhibited the rudimentary morality of the savage. Extensive researches in the field of primitive culture and of mental testing have revealed the erroneous nature of these theories. More recent adherents of the atavistic theory have revised the cruder statements of the earlier leaders. Ferrero asserts that the main truth in the theory of atavism is the possession by the criminal of certain psychic characteristics common to primitive man, the most important of which are laziness, impulsiveness and physio-psychic excitability which makes them unable to adapt themselves to the uniformity and regularity of civilization. Closely allied with atavism is the theory of arrested development of the criminal as advanced by Havelock Ellis, which is based upon the theory that the life history of the individual offers a recapitulation of the development of the species.

After atavism the most famous anthropological explanation of crime is that of degeneration, or retrograde evolution. The origins of this view must be attributed to Franz Josef Gall (1758–1828), the father of phrenology and physiological psychology, whose doctrine was based on the theory of the localization of brain functions and who held that crime was due to the degenerative effects of the hyperfunctioning of certain brain centers. Morel in 1857 advanced a theory of degeneration to account for the criminal on the basis of retrogressive natural selection, and Despine in 1868 described the criminal as a moral anomaly. There are few if any adherents to the theory of degeneration who would claim the absolute identity of degenerates and criminals, but all maintain that a close relationship exists between the two types. The Frenchmen Magnan, Féré, Corre, de Montyel and Dallemange established the foundations of this general relation between degeneracy and criminality. In addition the Italian Marro after patient microscopic investigation presented the theory that crime may be traced to the defective nutrition of the central nervous system, which leads to an imperfect functioning of the directing and controlling force in the human mechanism. The Italian Bonfigli and the Russian Kovalevsky (1840–1901) attributed crime to the defective development of the inhibitory centers of the brain. The theory of moral insanity, which had its origin with Esquirol, Pritchard, Despine and Maudsley (1835–1918) and has had many English adherents including Francis Galton, attempts to correlate degeneration and crime. Ribot, Bleuler and Virgilio have all supported this theory. Näcke and Bernaldo de Quirós have criticized it on the ground that moral insanity does not usually go with a sound intellect. The epileptic nature of the criminal has been extensively dwelt upon and has received its main support from the Italians Roncoroni, Ottolenghi, Tonnini, Cividalli and Capano and from the Englishman Lewis. Just as epilepsy is the typical pathological clue of the Italians, neurasthenia as an explanation of the criminal claims most of its support from the German speaking authorities, chiefly the Austrians Benedikt and Vargha and the German Liszt. Some writers have seen the difficulty and danger involved in attempting to reduce the various pathological bases of crime to that of a single pathological characteristic and have indicated the many factors that are involved in typical criminality. Of these analytical writers the most distinguished is the Argentinean Ingenieros, who in 1907 classified the psychopathic states related to criminality under the headings of intellectual, volitional and moral anomalies and discussed the relative influence of individual and external factors among the different types of criminals. From the multiplicity of anthropological theories two main conclusions may be drawn: that it is impossible to reduce the many physio-psychic factors to a single explanation of criminality and that a multiplicity of

abnormalities are found among the typical criminal class, although all are rarely if ever combined in a single individual. The contribution of criminal anthropology has been to distinguish between typical and occasional criminals and to argue for the fact that the former is an abnormal being, marked off from the rest of society as much by personal defects as by the deviation of his actions from the accepted forms of conduct.

Criminal sociology emphasizes the external factors in the production of crime which are supplied by the social environment. Sociological theories vary all the way from those which represent a combination of the anthropological and sociological factors to those which regard the anthropological elements as either negligible or simply the resultant of social causes. Of the exponents of the socio-psychological theories the most eminent has been Gabriel Tarde. Tarde's general doctrine of the paramount importance of the social environment has been applied in many special social theories. Émile Durkheim held that crime is a natural and inevitable incident of social evolution, that a minimum amount of individual freedom is necessary for social development and that a fringe of society is bound to take advantage of this freedom and flexibility to commit crime. He held that any society sufficiently repressive to cut off all crime would produce such a degree of social and cultural rigidity that there could be no progress and that therefore a certain price must be paid for the evolution of our culture and institutions. The anthropo-sociologic theories of criminology of the Frenchmen Lacassagne, Dubuisson and Aubry did not deny the influence of the anthropological factors in producing crime but claimed that they are of little importance if considered apart from social surroundings—the sanest of all views. The Italian Vaccaro contended that criminality was the result of the lack of adaptation of the individual to the social environment. His theory is based upon the principle of the struggle for existence, and he maintained that those who are left behind in this struggle are likely to become criminals from exhaustion and degeneration and from their tendency to rebel against those who have outdistanced them in the strife for supremacy. Crime appears to Vaccaro as an act which the winners in the struggle, who constitute the ruling power, consider dangerous to their interests; the criminal appears to him as a rebel against the complicated system by which the winners try to develop only the aptitudes which they can better utilize for their ends. The theory of the psychic segregation of the criminal as advanced by the Frenchman Aubert ascribes to the criminal an exhausted nervous system, through which he becomes subject to the feeling of a frustrated life and a fear of poverty and ignominy leading to a differentiation from the human center and producing a life of organized hostility to it known as crime. An ingenious theory concerning the social factors in criminality is that of the social and economic parasitism of the criminal put forward by the Spaniard Salillas (1855–1923) and developed by Max Nordau. They held the criminal, especially the habitual criminal, to be one who is out of adjustment with his social environment and who readjusts himself to it in the abnormal manner which constitutes crime. Socialist writers attribute crime to the exploitation of the laboring class, which leads to poverty and incomplete development. They consider the present system of penal justice to be one designed to protect the interests of the usurping capitalistic class and contend that if socialistic reforms are effected the causal conditions of crime will be removed and delinquency will tend to disappear. This socialistic school has been mainly supported by a group of Italian writers, the most important of which areTurati, Colajanni and Loria. Ferri, who at first was an opponent of the socialistic theory, became more and more attracted by it and in 1894 declared his conversion. The main contribution of Ferri is his attempt at synthesis and the resultant theory that socialism and criminal anthropology and sociology supplement each other and harmonize thoroughly. Bonger, the Dutch criminologist, is also an advocate of the socialist interpretation of the cause of crime.

A group of writers have considered the immediate relation between criminality and varying conditions of the physical environment. The pioneer exponent of this doctrine was Montesquieu, who derived many of his ideas on climate and legislation from an English writer, John Arbuthnot. Montesquieu laid down a law, which is pure conjecture, that criminality increases in proportion as one approaches the equator and drunkenness as one approaches the poles. About a century later Quételet put forward his "thermic law of delinquency," that crimes against persons were prevalent in the south and crimes against property in the north. Ferri called attention to the influence of the physico-environmental factors influencing criminality.

The American statistician Mayo-Smith maintained that later investigations had tended to confirm Quételet's law and that crimes against property were most numerous in winter and those against persons in summer. Dexter more recently has studied the direct influence of meteorological conditions such as barometric pressure, heat, humidity and air currents upon the commission of crime and has reached the general conclusion that the percentage of crimes committed declines in direct proportion to an increase in heat and humidity and a decrease of barometric pressure. While all writers in this field recognize that these meteorological conditions alone cannot make a criminal, they hold that these factors exert a considerable influence upon the occasional and habitual criminal and may determine to a certain extent the time of their outbreaks of criminality.

The character of criminology varies in different countries. In Italy, the parent country of criminology, divergent theories of criminology prevail; but the majority of the Italian criminologists are numbered among the anthropological school and the socialistic branch of the sociological school. France probably ranks next to Italy in the extent of the development of the older criminology. Its writers are numbered chiefly among the sociological school, with Tarde occupying the same preeminent place among French scholars that Ferri occupies among the Italians. In Germany the study of criminology has been pursued with scientific exactness. The doctrines of Lombroso were presented to the Germans by Kurella, who translated his works into German and who has been the persistent defender of Lombrosian theories in that country. These ideas have also received more qualified support from Sommer and from Bleuler. The general trend of thought in Germany upon this subject has, however, been decidedly anti-Lombrosian, although biological theories of crime have been popular. Lombroso's main opponents have been Kirn, Baer, Koch, Näcke and Aschaffenburg. In Spain much able work has been done. Among the most important critical criminologists are Montero, Aramburu and Bernaldo de Quirós, the latter being probably the greatest of modern critics. The leader of constructive Spanish criminology was Rafael Salillas, the head of the official school of criminology of Spain. In England Mercier (1852–1919) was particularly active in studying the relation between insanity and criminality. In Austria Bleuler, Benedikt, Gross, Vargha and Gumplowicz are best known. Holland has three very able scholars in van Hamel, Bonger and Winkler. Denmark has in Geill a capable opponent of the doctrines of Lombroso, while Switzerland manifests its interest in the crime problem in Stoos' *Zeitschrift für Strafrecht* and *Revue pénale suisse*. Prins (1845–1919) has done notable work in Belgium. In the United States the development of criminology has been slow but is rapidly gaining ground. Both MacDonald and Drähms, the first scholarly contributors to criminology in the United States,were conservative and critical followers of Lombroso. Frederick Wines (1838–1912), Parmelee and Masten summarized existing criminal theory and McKim urged the extermination of degenerate and habitually criminal types. Advances in the application of psychiatry, mental testing and the sociological approach to the criminal have recently put the United States among the foremost in the science of criminology. In the Argentine Republic the most noted writers on criminology are Ingenieros, Drago, Piñero, Megía, Gacitua, DeVeyga and Arreguine, and the organ of criminology is the *Revista de criminología, psiquiatría y medicina legal*. In Mexico Macedo, Guerrero, Roumagnac and Vergara have been authors of important works on criminology. Latin American criminology work has reacted upon the criminal codes, which in Chile and Mexico embody the principles of modern criminology and stand far in advance of the criminal practise and penal methods of the United States.

Down to the second decade of the present century criminology was chiefly dogmatic and theoretical. It rested more upon generalized doctrines than upon a careful study of individual criminals by scientific methods. It was still chiefly absorbed in the discussions and controversies created by the classical Italian school and their followers and critics. Europe is in fact still greatly influenced by Lombroso and the biological school. The work of Adolph Lenz may be regarded as an effort to bring Lombroso up to date and give the biological school a new vogue. But in the active scientific criminology of today the doctrines of the classical school and of criminologists prior to 1910 have little more than historical import. The deathblow to the Lombrosian dogma of a definitely hereditary type of criminal and of a complete biological interpretation of criminality was given by Charles Goring after extensive observation of numerous types of prisoners. But the epoch making work was

the product of a psychiatrist and criminologist, William Healy, which marks as great an achievement in the second stage of the development of criminology as Lombroso's did in the first. It was Lombroso's great contribution to indicate that the criminal must be studied by scientific methods. Healy was the first to do so in a comprehensive and satisfactory manner by using the psychiatric method and analyzing and defending his methods. He made it clear that dogmatizing about the criminal as a unified type or a collection of arbitrary classes must cease, that the criminal must be studied and dealt with as an individual and that he can never be reformed until treated as such. Healy's work established the case study and psychiatric methods in criminology. The effort of the biological determinists to capture the psychiatric school, through maintaining that although crime must be interpreted in terms of mental diseases the latter are definitely hereditary, was definitely repelled by Abraham Myerson, who proved the slight degree of specific hereditary taint in any major form of mental disorder. Twenty years ago H. H. Goddard popularized the view that the greater part of criminality could be traced directly to mental defects. But the army mental tests proved conclusively that the intelligence of the convicts in the country matched that of the general population as tested in the army sample of 1917–18. Carl Murchison, W. T. Root and others have carried on extensive studies of convict intelligence and have proved that feeblemindedness is no more marked among convicts than among non-convicts. A new effort to revive the biological interpretation of crime has very recently appeared, due to the influence of the science of endocrinology. In the works of such writers as Pende, Vidoni, Papillault, Mariano Ruiz-Funes and M. G. Schlapp crime is interpreted as the product of endocrine deficiencies, excesses and disturbances. Doubtless this school has a very important contribution to make, but the exclusive biochemical theory of crime must be relinquished and its findings fused in a broad psychiatric conception of delinquency. Since the World War there has been a notable development of criminological laboratories. The labors of Vervaeck in Belgium and Viernstein in Bavaria have been outstanding in this field. Of great interest also have been the recent Russian innovations in the scientific study of the criminal and in radical experimentation with new and more liberal methods of prison administration. Criminological institutes have been established in connection with prisons in various parts of the Soviet Union, which function as experimental clinics. The largest is the Moscow institute, which is organized into four divisions: the socio-economic, the bio-psychological, the crimino-political and the criminalistic. These institutes, manned by specialists, study crime causation and penal methods and formulate practical preventive programs and research methods in studying and treating prisoners. Indeed, these developments together with the new empirical criminology in America constitute the chief dynamic factors in criminology today.

Criminal law and criminal practise are still overwhelmingly dominated by prescientific views of crime and punishment, yet criminology has not been without some influence. There have been some concessions to psychiatry. Massachusetts in 1921 passed the Briggs law, which ordered a mental examination of prisoners held for trial and of convicted prisoners, and by 1928 Overholser discovered that about half of the courts of the United States make some, if only minor, use of psychiatry or medical psychology in their court procedure and disposition of the criminal. It is in the juvenile courts that the chief advances have been made. In such a court as that of Judge Cabot in Boston, maintained by the Judge Baker Foundation, the procedure is in accord with the most rigorous criminal science; psychiatrists and social workers investigate each case and determine its disposition. Criminology has had some influence on the methods of classifying prisoners in courts and prisons; the state of New Jersey, for example, now bases its penal policy and discipline on a scientific classification of convicts. Through the influence of criminology probation has made great strides, at least on paper. As early as 1878 Massachusetts passed a law permitting probation. Rhode Island adopted the practise in 1899 and many states quickly followed. All states now have some kind of probation work with juveniles, and nineteen states have adult probation. The chief defect has not been the tardiness in legislation but the inadequacy of the probation service. As yet probation workers have rarely been scientifically trained, well paid or sufficient in number to carry out their work effectively. The indeterminate sentence conception was first introduced in practise in this country in connection with the Elmira Reformatory in 1876. The American Institute of Criminal Law and Criminology promoted a campaign for the further adoption of

a modified indeterminate sentence, but although indeterminate sentences have been adopted for juveniles they have not been widely applied to adult convicts. Maximum and minimum laws are more common for adults. A maximum and a minimum sentence is prescribed by law and the convict is eligible to parole as soon as his minimum sentence has been served, provided his behavior has been satisfactory. The parole system could be one of the most valuable adjuncts to our reformatory system of dealing with criminals, but unfortunately it is chiefly a paper system today. The parole officers are far too few and too ill trained to handle paroled prisoners properly, and the public authorities are too timid in making thorough use of the parole privileges inhering in the laws of the state. New York and Illinois have parole boards and a parole system which may establish parole as a scientific actuality—perhaps the most important practical step taken since prisons were established a little over a century ago. Laws for the sterilization of the feebleminded, conceived of as measures for crime prevention, have been adopted in thirteen states. The first sterilization law passed in 1905 in Pennsylvania was vetoed by the governor, but the law passed in 1907 in Indiana was sustained. California has been the chief state to enforce such laws, having had performed some six thousand sterilization operations between 1909 and 1929. The United States Supreme Court has sustained the legality of sterilization laws.

Among the important factors promoting the growth of criminal science and its application in criminal and penal practise have been the organizations designed to further the development of criminology in its various phases. The first to be organized were the various prison reform societies, the earliest of which was the Philadelphia Society for Aiding Distressed Prisoners, founded in 1776—the parent of the Pennsylvania Prison Society. The Boston Prison Discipline Society was organized in 1826 by Louis Dwight. The two societies respectively were the protagonists of the Pennsylvania and Auburn systems of prison discipline. International organization began with the first International Prison Congress, held in Frankfort on the Main in 1845. A new series was started with the Congress of 1872 at London, engineered chiefly by E. C. Wines (1806–79), an American prison reformer. The greatest movement for the reform of penal methods in Europe came in 1889 when the International Union of Criminal Law was founded by Liszt, Prins and van Hamel. The by-laws which were drawn up at that time embodied the attitude of the modern reformers. They were: that criminality and the means of repression must be examined from both the social and the juridical point of view; that the mission of criminal law is to combat criminality regarded as a social phenomenon; that penal science and penal legislation must therefore take into consideration the results of anthropological and sociological studies; that punishment is one of the most efficacious means the state can use against criminality, although not the only one, and that punishment can never be isolated from other social remedies nor must preventive remedies be neglected; that the distinction between occasional and habitual criminals is essential in theory as well as in practise and must serve as a basis for criminal law regulations; that since repressive tribunals and penitentiary administration have the same ends in view and since the sentence only acquires value by its mode of execution the distinction which the modern laws make between the court and the prison is irrational and harmful; that since punishment by deprivation of liberty justly occupies the first place in our systems of punishments special attention must be given to all that concerns the amelioration of prisons and allied institutions; that so far as short sentences are concerned the substitution of more efficacious measures is not only possible but desirable; that so far as long sentences are concerned the length of the imprisonment must depend not only upon the material and moral gravity of the offense but on the results obtained by the treatment in prison; that so far as incorrigible habitual criminals are concerned, independently of the gravity of the offense and even with regard to the repetition of minor offenses, the penal system ought before all to aim at putting these criminals for as long a period as possible under conditions where they cannot do injury. An international congress of criminal anthropology was organized as a result of the impetus given to criminal anthropology by Lombroso and his followers. The American Prison Society was founded in 1870 at the prison congress in Cincinnati of that year, where many modern criminological doctrines were enunciated. The American Institute of Criminal Law and Criminology, founded in 1909, is through its organ, the *Journal of Criminal Law and Criminology*, probably the most powerful organized body representing criminal science in the United

States. It has had translated into English and published nine of the most important European criminology classics. Law and medicine in relation to crime have been drawn together in the American Society of Medical Jurisprudence. Psychiatrists interested particularly in the social applications of mental hygiene have founded the American Ortho-psychiatric Society, which is especially devoted to the problems of crime and probably does more to advance modern methods in the treatment of crimes than any other American organization. The National Society for Mental Hygiene, founded in 1909, has taken a real interest in the problems of crime, especially in crime prevention. The Commonwealth Fund, a foundation interested especially in mental hygiene, has contributed liberally to research in the borderland between psychiatry and criminology. Organizations such as the federal Children's Bureau have done much to introduce modern methods in juvenile courts and probation. More effective work is being done by these specialized organizations than by the older official organizations in criminology and penology.

HARRY E. BARNES

See: CRIME; JUVENILE DELINQUENCY; CRIMINAL LAW; PUNISHMENT; CORPORAL PUNISHMENT; PENAL INSTITUTIONS; DEGENERATION; PSYCHIATRY. See also biographies of important criminologists.

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CRIPPLES. A cripple is a person whose natural bodily movements are in some way restricted or impaired. The social status of the cripple and the treatment accorded him have varied from group to group and from time to time and have been interrelated with general social attitudes and with concepts of his actual or potential economic role. Among some primitive and ancient peoples the crippled child was exposed

to die and adult cripples were banished or abandoned. Early religious thought ascribed physical deformity to divine punishment for sin or accepted it as an affliction to be endured, attitudes that persist today in backward communities. It is to be noted, however, that the first endeavors to alleviate the misfortunes of cripples came from charitable societies of a religious nature. Throughout the Middle Ages cripples occupied the status of mendicants and children were mutilated to make them valuable as beggars, a practise which dated back to the Romans. The exploitation of crippled children as mendicants roused St. Vincent de Paul to establish in 1634 the first haven for their protection and one of the first institutions for child care.

Beginning with the nineteenth century there has been an incipient recognition of society's responsibility for cripples and an attempt at their constructive rehabilitation. The science of orthopedics by its discoveries of the causes of deformity and by its success in rehabilitation has dissipated the attitude that the cripple must surrender hopelessly to his fate. But everywhere the cripple still suffers not only from economic handicaps due to physical impairments but also from a social attitude which sets him apart in a special class, to be pitied, patronized and tacitly excluded from many of the experiences and privileges of life. As a natural consequence the cripple often develops a special psychological attitude, sometimes of self-pity, sometimes of bitterness, which still further complicates his social relations.

The first cripples to receive constructive treatment were children. For them Jean André Verrel founded the first orthopedic institution at Orbe, Switzerland, in 1780, and institutions for the care and education of crippled children were established in Munich in 1832, in Paris in 1853, in New York in 1863 and later in all parts of the world. In the United States the first state to provide for crippled children at public expense was Minnesota in 1897, and activities or institutions organized in their behalf are now provided by legislation in twenty-four states. Exact figures are not available but it is conservatively estimated that there are over 350,000 crippled children in the United States, chiefly victims of infantile paralysis, bone and joint tuberculosis, congenital deformities, rickets, traumatic conditions, osteomyelitis and accidents. A field canvass made in 1924 in Chicago found 4609 cripples under the age of twenty-one or six in every thousand of that age group in the population. The same percentage had been found in a previous study in Cleveland and a higher percentage in a New York investigation.

The imperative need of early treatment is revealed by the fact that 83 percent of the cripples examined in Chicago were crippled before the age of six. According to a recent estimate 90 percent of those crippled in early childhood would have escaped deformity if treatment had been given in time. In addition to medical treatment the rehabilitation program for crippled children involves vocational training, and the first school for this purpose was established in Boston in 1893. The contemporary scientific approach to the problem of crippled children includes not only adequate and early medical treatment and vocational training for those already crippled but also elimination of the causes of congenital deformities and the diseases of childhood that bring deformity in their wake. Efforts are also being made toward the promotion of child labor laws that will prevent the employment of children at dangerous trades, and of traffic regulations that will decrease the number of children crippled by accidents. The International Society for Crippled Children, organized in Ohio in 1921, is at present carrying on an agitation for the betterment of the condition of the crippled child.

More than 7,000,000 participants in the World War were crippled. Germany and France each had 1,500,000 disabled, Great Britain 900,000, Italy 800,000, Russia 775,000 (including persons disabled in industrial accidents), Poland 320,000 and Austria, the Kingdom of Serbs, Croats and Slovenes and the United States around 160,000 each. In times of peace workers are crippled through industrial accidents at an appalling rate and public accidents are increasing yearly. The control and prevention of crippling accidents is one of the imperative tasks of modern society. Adequate compensation laws are needed to provide for the victims of these accidents, and medical treatment, occupational therapy, assistance in procuring proper artificial appliances, vocational training and job placement should be afforded the cripple. The last two are especially important if the cripple is to reestablish himself on a sound economic and psychological basis.

The use of insurance compensation for vocational purposes has recently been advocated as the most economical and the swiftest method of rehabilitation. According to one estimate the

cost of such vocational retraining is about one hundred dollars. An actual experiment showed that it was possible to multiply the weekly stipend 400 percent during the period of training and yet to reduce by three fourths the total compensation due at the time of the accident. To overcome the helplessness of the cripple and his tendency to exhaust his compensation before voluntarily seeking occupational training an insurance agency in Wisconsin has instituted a curative workshop, where skills are tested, trades taught, men placed and where the effectiveness of such a plan has been demonstrated. The capacity of industry to absorb handicapped men is not uniform in all trades or all forms of handicap. The employment, for instance, by Henry Ford of large numbers of crippled men is dependent on highly mechanized processes.

In the United States the federal government inaugurated in 1918 through the Vocational Rehabilitation Act an extensive program for physical and vocational rehabilitation designed to reestablish in civil life soldiers, sailors and marines crippled in the World War; and by June, 1926, 90,000 disabled ex-service men had been aided. The Federal Vocational Rehabilitation Act of 1920 extended the scope of the work of the government and provided means for the vocational rehabilitation of civilian disabled persons whatever the cause of their disability, under the direction of the Federal Board for Vocational Education which had been established by the Smith-Hughes law of 1917. By June, 1929, forty-four states were cooperating in joint rehabilitation programs; the federal and state governments share equally the expenses of the work and the states carry out the work under federal supervision. The personnel directing the work ranges from a single director of rehabilitation, as in North Dakota, to a score of highly trained persons, as in New York state. The plan and character of the work also vary from state to state. Disability resulting from industrial accidents accounts for approximately 90 percent of the rehabilitation cases in Pennsylvania and 70 percent of those in New Jersey, while in Minnesota not more than 13 percent of the rehabilitants are classed as industrial cases. Wisconsin teaches cripples between fifty and sixty kinds of craft work in its vocational schools. Virginia has divided the state into a number of orthopedic centers through which it carries on its work. Iowa uses its institutions of higher learning to train its cripples, and other states, such as New York and Ohio, use social agencies. Most of the rehabilitants are between the ages of twenty and thirty-five years. The Federal Vocational Rehabilitation Act has, however, enabled but a small percentage of disabled persons to occupy remunerative positions. The director of the Board for Vocational Education has conservatively estimated that there are some 225,000 persons permanently disabled in the United States annually and that of this number about 112,000 are vocationally handicapped. With due allowance for those who are too far advanced in years for successful rehabilitation and for those who are hopelessly disabled he estimates a total of 84,000 possible cases for rehabilitation in the United States annually. Only from 1 to 5 percent of these are being rehabilitated. One difficulty lies in the necessity for highly individualized work in each case.

In England and Wales there are some twenty-five orthopedic centers receiving support from public authorities and from a large number of voluntary organizations. The Central Council for the Care of Cripples was established in 1919 to supervise the work for the prevention, treatment and education of crippled children. In Germany the Deutsche Vereinigung für Krüppelfürsorge, formed in 1909, supervises all work in the seventy-eight public and private institutions for cripples. Legislation has been passed requiring employers whose establishments employ more than fifty men to recruit a certain percentage of workers from among trained crippled men. The child welfare law passed in Germany entitling every child to an education "according to his physical, mental and social capacity" has resulted in special provision for the crippled child. Similar legislation is being proposed in Norway, where the handicraft school for cripples, started in Oslo in 1892, has developed into the central institute for cripples, which directs the work throughout the country.

Sweden has a central committee for the care of cripples to coordinate the work of four associations which have three institutions receiving state aid in different sections of the country. Denmark has one institution for the care of cripples founded in 1872. Austria has converted a rehabilitation center for disabled soldiers in Vienna into one for civilians. Holland has a central society for cripples and four private institutions giving treatment and training. The first vocational project for crippled adults in Europe was established in Charleroi, Belgium, in 1908. There are several private institutions for cripples

in France, all under state supervision, and a law passed in 1919 requires the segregation and treatment of cases of articular tuberculosis, which is the chief source of crippling in that country. In Italy, where rickets cripples many children, there are five principal centers for treatment and training as well as several hospices. Spain has an institute for cripples near Madrid and four asylums for crippled children elsewhere. In the Soviet Union the government is carrying out an extensive program for the rehabilitation of crippled children and adults. An international conference on crippled children was held in Geneva in July, 1929.

The program for the prevention and care of cripples is intimately related to the general economic and social movement. Progress in the work is dependent upon the advance in preventive and therapeutic medicine, upon an elimination of pessimistic and indifferent attitudes, upon a recognition on the part of employers of their responsibility for the safety of their employees, upon preventive measures to eliminate public accidents and upon the active participation of the state in extensive rehabilitation programs which will enable cripples to function in society.

JOAN ROSE CUSHMAN

See: BEGGING; ACCIDENTS; CHILD; VETERANS; INDUSTRIAL · HYGIENE; MEDICINE; REHABILITATION; INSTITUTIONS, PUBLIC; WORKMEN'S COMPENSATION.

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CRISES. A crisis may be defined as a grave and sudden disturbance of economic equilibrium. In a dynamic society the equilibrium between the supply and demand of products and services and between the supply and demand of capital is necessarily unstable, and hence price movements occur. But from time to time a grave and sudden disturbance upsets this complex equilibrium, causing a decided slump in securities and prices. These phenomena are termed crises by economists and the general public.

Scientific research at the end of the nineteenth and the beginning of the twentieth century established the fact that the crisis occurs at the point of transition from a period of expansion to a period of contraction. Certain economists have thereby thought themselves justified in speaking of cycles. But this term labors under the disadvantage of exaggerating the regularity of the phenomenon under consideration. Economic life, like life in general, can hardly be confined within equations and statistical curves. One may speak of cycles, but with the reservation that not all the years of the period before the crisis are prosperous years and not all those after the crisis are years of depression. It is undoubtedly more correct to speak of industrial fluctuations or of alternations of expansion and contraction.

In reality it is the periods of crisis that present the greatest similarity: a sudden fall in prices of commodities (especially metals), credit stringency, suspension of payment by large banks, crashes in the stock market, failures, exceptional gold movements, followed by a decline in production and by unemployment, with repercussions on marriage and birth rates, criminality and political developments.

All crises have one essential feature: one or two rapidly expanding industries find their progress interrupted by reason of a too rapid rise in the cost of production or through an insufficient demand for their products—most often from a combination of these two factors. A decline in prospective profits and a check to expansion follow. Textile industries (at the beginning of the nineteenth century), the railroads (during most of the nineteenth century), electric and automobile industries (at the end of the nineteenth and the beginning of the twentieth century) and the construction industry have been the focal points of crises. For a certain number of years the new industries produce the wished for results. At the end of the period of expansion the costs rise and production meets with a slackened demand. A slowing down is

inevitable, hence there is less demand for equipment and a particularly intense crisis arises in metal industries which extends in concentric waves to other industries.

Crises have occurred in all periods of history. But whereas in antiquity and even as late as the eighteenth century the type of crisis most prevalent and most dreaded was that due to a shortage of goods brought about by natural and extra-economic factors, such as crop failure and political disturbances, for the last century and a half crises have been fundamentally due to superabundance or overproduction caused by forces which seem to inhere in modern economic organization. The former type was marked by a considerable rise in prices, the latter is associated with an abrupt and widespread fall in prices. Like that of shortage, the crisis of overproduction is recurrent although not periodical. The date of the preceding crisis is at the most but one element in any forecast of the next. During the whole of the nineteenth century and in the beginning of the twentieth, parallel with the development of capitalism, successive crises are recorded for 1825, 1836–37, 1847, 1857, 1866, 1873, 1882, 1890, 1900, 1907, 1913–14, 1920, 1929.

In the eighteenth and at the beginning of the nineteenth century the crisis was still a "flash in the pan." Speculation played a preponderating role: in the event of new markets for trade, scarcity of products and rising quotations of securities people bought because everything was going up in the hope that the up trend would continue. This would go far and fast. The slump was equally abrupt. In the eighteenth century in France the most typical crisis of this class was that caused by Law's banking scheme, a crisis confined to the stock market but already a perfect type of speculative crisis. In England in 1763, 1772–73, 1783, 1793, 1796, 1810, 1815 and in the war periods (Seven Years' War, wars of the revolution, Napoleonic wars) there was a general anticipation of an unlimited demand for commodities. Prices rose only to come crashing down. Goods were manufactured but found an insufficient outlet. Such crises are very aptly styled by economists periods of commercial crises, for they were chiefly the work of merchants who had become speculators, and the effects of the crises were confined to relatively small social groups. There was another significant feature: the exaggerated rise in the prices of securities would have been impossible without the aid of the banks, which advanced to merchants the necessary funds for their purchases at the enhanced prices. The banks of issue did not as yet regard themselves as regulators of economic activity. They consented to very large advances since the issue of banknotes was not monopolized. The central banks of issue, such as the Bank of England, founded in 1694, or even the Banque de France, founded in 1800, did not have the sole right to issue banknotes. Thus the crises were marked by the failure of great numbers of banks unable to redeem the notes issued during the upward trend of prices. These huge issues of notes, while not the cause of higher prices, were their indispensable condition and support. They furnished those speculating on a rise with the necessary funds for margin. Caught by a sudden decline of prices insolvent speculators found it impossible to pay back their banks. Notes were presented for redemption and could not be redeemed. In the midst of this disorder, however, one bank although as yet having no legally privileged position assumed the leadership: in England the Bank of England, in France the Banque de France. And the logic of facts caused it to assume more and more decisively the role of a reserve. In case of a crisis all turned to it; to it the government conceded advances to help liquidate crises. Crises have had a profound influence upon the development of the functions of banks of issue. The act of 1913 creating the Federal Reserve System in the United States was passed as a result of the crisis of 1907.

After 1825 crises ceased to be commercial, i.e. confined to relatively small groups of speculating merchants, and became industrial, involving ever widening spheres of productive forces. The year 1825 marked the advent of the railway, upon which depended the growth of the iron, coal and steel industries. The equipment used by the textile industry (the first of the great industries) was soon far outstripped by the requirements in metal and coal of the new means of transportation. Thereafter crises ceased to affect consumption goods and their raw materials (cotton, wool, silk) in particular and were extended to the heavy industries providing the means of production (mines, foundries, rolling mills, machinery). Speculation, no longer confined to products, extended to securities on the stock exchange. Heavy industry and the railroads could be financed only through joint stock companies. It was the period in France when the great private banks, such as Rothschild's and Hottinguer's, were no longer rich enough to

furnish manufacturers with the necessary capital. In 1852 the Crédit Mobilier, the first great French business bank, was created in Paris. From the beginning of the nineteenth century the banks in England had founded industrial stock companies, whose shares fed the stock market speculation and declined promptly and heavily in value in time of crisis. The banks, which frequently had kept the companies' shares in their portfolios, suffered losses which sometimes proved fatal. From that time onward all crises have been accompanied by the failure of banks whose capital has been invested in enterprises embarrassed by the crisis. They are the victims of runs by their depositors or of losses on their loans or the shares they hold.

Among the banks that have failed through such losses may be mentioned: the Royal Bank of Liverpool in 1847; the banks of Maryland and of Pennsylvania, the Western Bank of Scotland, the City Bank of Glasgow in 1857; Overend Gurney in 1866; the Crédit Mobilier in 1867; Jay Cooke and Company, Fisk and Hatch in 1873; the Union Générale in 1882; Baring's Bank in 1890; the Leipziger Bank in 1900; the Knickerbocker Trust Company (and many others) in 1907; the Société Centrale des Banques de Province, the Banque Industrielle de Chine, the Banca Italiana di Sconto in 1920. On the other hand, in 1929 and 1930 there was no failure of any bank of great significance despite the serious stock exchange crises and a number of lesser bank failures.

It was in the beginning of the nineteenth century that crises began to occasion very large international movements of gold, notably in England in 1825, 1836 and 1839. The excessive imports of commodities at the end of the period of expansion and the sales of securities in London had to be settled with metal once the decline had set in. In 1825 England was in debt to the continent, in 1836 and 1839 to the United States. In 1836 and 1839 the Bank of England raised its discount rate and protected its gold reserve. The act of 1833 had authorized it to fix its discount rate at a level higher than that of the legal interest rate of 5 percent. In 1839 it raised its rate to 6 percent. Crises are accompanied by credit stringency: the merchants have bought but cannot sell at all or must sell at a loss. The manufacturers have produced but they too cannot sell or must sell at a loss. Individual accounts are in arrears. To meet the difficulty recourse is had to credit. The central banks of issue, now the supreme reserve of a country's credit in case of crisis, advance to the embarrassed trade and industry the funds for payments indispensable if too drastic a liquidation of stocks is to be avoided. The indispensable sales are distributed over a longer period of time or delayed. But to assume this role successfully the central bank must be in a position to increase its banknote circulation. Of all the nations which have had to face general crises, France was long the only one to enjoy adequate legal provisions for central banking. Even today the Bank of England is still limited by the Bank Charter Act of 1844, and it was not until 1913 that the United States established its Federal Reserve banks. The great crises of the nineteenth century have led both theorists and practical men of affairs to discern the significance of elasticity as applied to the currency. A country's reserve bank lends elasticity to its currency and credit system.

As capitalism expands, as crises recur and as their industrial character is accentuated, the industries themselves attack this problem and concern themselves with the stabilization of business. The crisis is now seen to be a concomitant of overproduction: the supply exceeds the demand. Thus, as Juglar pointed out, the crisis ceases to be regarded as a result of the abuse of credit. It has its roots more deeply in supply of, and in demand for, goods. The abuse of credit is itself grafted upon other excesses less apparent but more decisive: upon the excessive development of the means of production and of production itself. The sudden and abrupt drop in prices is not the result solely or chiefly of bull speculations, whose standard dénouement is expressed by a slump and often by a crash. One should distinguish crises of overproduction from speculative crashes. The crisis is distinguished from the crash by its widespread character, by the period of depression that accompanies it and the period of expansion that precedes it. The crisis ceases to be an accident and becomes a link in the chain of the evolution of capitalistic societies. From the middle of the nineteenth century crises have had this aspect.

With the recognition of the economic character of recurrent crises the problem of finding means for their prevention or attenuation came to occupy the attention of the business world. As early as the beginning of the twentieth century the great banks of issue looked upon the discount rate as something more than a mere means of protecting the reserves: the raising of the discount rate became a warning to the business world of the approaching dangers of a

crisis of overproduction. In the years following the war the policy of preventing crises by the instrumentality of credit was designated credit control. The central banks now give warnings to the market irrespective of any modification in the rate of discount; they intervene more directly still by means of open market operations.

The remedial efforts go beyond the organization of credit and the manipulation of the discount rate. Industry attempts to help itself by eliminating competition and by the formation of combinations, thereby gaining a more or less complete control of production and sale. By a rational policy of production and prices it aims to minimize if not eliminate crises of overproduction. The formation of cartels was considered a step in the direction of eliminating crises. As early as 1857 the coal mines of Yorkshire had attempted to check the decline in prices by entering into agreements, but it was the crisis of 1890 that stimulated the multiplication of such cartels, chiefly in Germany, in the industries most affected by conditions of overproduction, namely, mining and metal industries. From their very beginning the cartels sought to minimize crises by a policy which was inspired by the modern conception of this phenomenon. The crisis marks the end of a period of expansion and ushers in an era of depression. The cartels seek to check both the abnormal rise during prosperity and the decline in times of crisis by stabilizing prices, regulating production in accordance with demand and thus avoiding overproduction. The German cartels remained faithful to this policy which inspired their creation. The trust has more complex origins, but it too aims to control and regulate the market. American legislation has made the trusts more discreet as regards the policy to be pursued in case of crises. But very often they maintain prices at a high level after the crisis has arrived. In 1909 and 1929 they based production on demand as did the cartels. The cartel and the trust appear today nearly everywhere as useful instruments for the control of markets. But the stabilization of business by industry itself presupposes a conception of the phenomenon of crises and a theory regarding their nature and cause. The policy of cartels elaborated half a century ago starts with too naïve, empirical and shortsighted an idea: in a crisis they limit production, check the decline of prices and even have recourse to "dumping."

As a matter of fact the phenomena of overproduction are bound up with the shrinkage in the demand. This shrinkage bears a close relation to the fact that at the end of the period of prosperity costs have risen and the increased production meets less intense needs. To revive the demand, to stimulate it, costs must be reduced; needs that have grown less intense must be met by lowering prices. There is but one means: to reduce the prices of equipment, the prices of raw materials, the selling prices to the consumer. The policy practised by the cartels in Germany and adopted very frequently in the United States in the domain of selling prices in case of a crisis is contrary to economic rationale. Again and again the American trusts have maintained their prices in a crisis, in 1907 and in 1929–30; while the German cartels similarly resisted a decline in the crises of 1900, 1907, 1913 and 1930. This error seems to be of capital importance. In order to reduce costs the prices of iron, steel and equipment must be reduced. This reduction will permit of a reduction in the price of automobiles, rails, cars, turbines. Consumers will be again attracted in spite of the reduction of savings and reserves occasioned by the crisis. The affected industries will recover. Credit is but an element of cost, and cheap credit by itself is ineffective.

Besides the general crises of overproduction there are crises that affect the market for a single product, e.g. coffee, sugar, copper, coal; isolated stock exchange crises; banking crises independent of the general crises; monetary crises (decline in the value of a metal, inflation, deflation). But the general crises in a way synthesize the principal types of crisis. Even the disorders provoked by inflation and deflation are reminiscent of the phenomena found in a period of expansion and a period of depression.

Being a part of a dynamic economic society there is no fixity attached to the characteristics and the behavior of crises. They change with the change in economic organization. In comparing the crises of the beginning of the nineteenth century with recent ones it will be noted that they have affected wider industrial and geographical areas but declined in acuteness.

The changed character and particularly the diminished acuteness of the crises is to be explained by the elaboration of a better credit policy, by the creation of monopolies of production, by a better knowledge and a keener observation of the movement of business. Errors, however, are still possible; the facts are not all discovered. Moreover, dynamism and equilibrium are two antinomic terms, and as long as

economic society remains dynamic its development will be subject to fluctuation. Nevertheless, it would seem that for the term crisis one may henceforth substitute that of depression; it is reasonable to speak today of a world depression rather than of a world crisis.

JEAN LESCURE

See: BUSINESS CYCLES; CONJUNCTURE; BUBBLES, SPECULATIVE; BOOM.

For bibliography see article on BUSINESS CYCLES.

CRISPI, FRANCESCO (1819–1901), Italian statesman. During his youth Crispi, a Sicilian by birth, was an ardent republican and follower of Mazzini. He took an active part in the Neapolitan revolutionary movements of 1848–49 and was exiled from Italy. Returning after the war of independence in 1859 he prepared and directed with the help of Garibaldi the "Expedition of the Thousand," which liberated Sicily and made it a part of the Italian kingdom. He accepted the monarchical implication of Garibaldi's slogan, "Italia e Vittorio Emanuele," and later, in 1865, as a member of the Italian parliament abandoned completely his republicanism, alienating Mazzini by his famous statement, "La repubblica ci divide, la monarchia ci unisce," in which he subordinated all other considerations to his zeal for unification. Although during the first twenty years of his parliamentary career Crispi was an outstanding champion of liberal measures he was too uncompromising an individualist to form and direct a strong party of the Left. After 1887, however, he occupied a most active and influential position in the political life of Italy, being twice president of the Council of Ministers (1887–91 and 1893–96). Crispi's imperious temperament and the opportunities which he had of manifesting it with only slight opposition in decisive moments of his country's history gave a strong Jacobin cast to his democracy. If in theory he recognized the parliamentary state and the right of the people to govern themselves, in fact he was led to place his own personality above the constitutional powers and to distort *tout par le peuple* into *tout pour le peuple*. His two administrations represent in Italy that stage of political evolution in which democracy is beginning to give way to dictatorship and Caesarism. This tendency is evidenced by Crispi's continuous efforts to carry still farther the process of state centralization and to strengthen the executive at the expense of the legislative, as well as by the severity with which he repressed in the so-called *fasci* of Sicily the embryonic forms of Italian socialism. Like Mazzini he had a deep hostility to the socialist movement, which to him was synonymous with barbarism, tyranny and egoism and which he was particularly anxious to stamp out because of his suspicion that the movement in Italy was being fostered by France, a country with which for many reasons he felt little sympathy. His policy toward the church alternated between extreme anticlerical measures, on the one hand, prompted by his Masonic sympathies and his resentment at French influence in the Vatican, and, on the other hand, attempts at reconciliation between church and state. Crispi's authoritarian views and his ideal of a strong state, heightened by his friendship with Bismarck, ally him with the expansionist and imperialistic groups which at the close of the nineteenth century were making their influence widely felt throughout Europe. Nourishing dreams of Italian greatness amounting at times almost to megalomania, he advocated the creation of a colonial empire on a scale far beyond the vision and resources of his contemporaries. His spirited but rash ambitions for an empire in Africa came to nothing, resulting instead in his overthrow. The defeat at Andowan in 1896, marking the close of the unfortunate Abyssinian campaign which he had favored and promoted, brought to an end his political career.

GUIDO DE RUGGIERO

Works: Crispi's letters and other writings, as well as the documents relating to his public career, have been arranged and edited by Tommaso Palamenghi-Crispi in the following volumes: *Carteggi politici inediti 1860–1900* (Rome 1912); *I mille* (Milan 1911); *Politica estera* (2nd ed. Milan 1912); *Questioni internazionali* (Milan 1913); the last three tr. by Mary Prichard-Agnetti as *The Memoirs of Francesco Crispi*, 3 vols. (London 1912–14); *Ultimi scritti e discorsi; extra-parlamentari* (Rome 1913); *Lettere dall' esilio, 1850–1860* (Rome 1918); *Politica interna* (Milan 1924, 2nd ed. 1924). His parliamentary speeches may be found in *Discorsi parlamentari*, 3 vols. (Rome 1915).

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CRITICISM, SOCIAL. The development of human society has been conditioned by social criticism, which in defending or attacking the status quo has postponed or accelerated change. The most potent social criticism, however, has

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often come as a secondary product. In religion such leaders as Confucius, Buddha, Jesus, Mohammed, St. Francis, Luther, were critics of society. Even the ivory tower is not immune to social considerations. Indeed, the practise and appreciation of art depend on certain attitudes toward life which imply social criticism. It is true that the fine arts which have a specialized technique lend themselves to a criticism purely technical or impressionistic—notably music, the most immediately "aesthetic" and abstract. Such criticism applies to other arts in proportion as they approach this ideal, as in abstract painting and sculpture or "pure" poetry. It will be remembered, however, that Matthew Arnold defined poetry as the criticism of life; and even in music the modern masters, Beethoven, Wagner, Chaykovsky, Strauss, have dealt with the meaning of life. Architecture and literature of necessity abound in social implications. Historical criticism of any art involves consideration of the social environment which fostered it; and with the increasing importance of social concepts contemporary criticism, even when aesthetic in intention, has become permeated by social thought.

Science employs the term criticism to denote the selection of data and their impartial interpretation. The complete detachment implied in such a process may often exist in the investigation of nature, but seldom in dealing with aesthetic or social phenomena. Criticism by definition implies judgment, and historically it has been effective through the fervor of its bias more often than by its impartiality.

In the great period of Greek literature the drama, with Aeschylus, was an instrument of aesthetic and social control, becoming an organ of innovation and protest with Euripides and Aristophanes. Socrates in the dialogues of Plato appears as a revolutionist, forcing men to examine the basis of fundamental concepts. Plato himself in *The Republic* initiated a form of social criticism, the imaginary commonwealth, which has had abundant progeny, from the *Utopia* of More to that of William Morris, of Edward Bellamy, of H. G. Wells. Aristotle's criticisms have been constantly invoked in the interest of social and aesthetic conservatism. The relative importance which both Plato and Aristotle attached to social and aesthetic considerations is shown by Plato's exclusion of poets from his republic and Aristotle's dictum that a work of art must be judged by its ethical effect. To the Greeks also we owe two schools of ethics, stoic and Epicurean, opposed in practise but agreeing in acquiescence in the social order. To these forms of social criticism handed down by the Greeks must be added the orations of Demosthenes, the histories of Herodotus and Thucydides, the biographies of Plutarch and the fables of Aesop.

The Romans took over from the Greeks various types of social criticism: ethics, in the stoicism of Marcus Aurelius and Epictetus and the Epicureanism of Horace and Lucretius; history in Livy and Tacitus; oration and dialogue in Cicero. They developed another form of social protest in the poetic satire of Juvenal and Persius, who became models for the Renaissance and the eighteenth century. The most subversive social criticism under the empire emanated from Christianity, which, however, became conservative through alliance with political government.

Christianity remained the chief form of social control during the Middle Ages. Its fundamental philosophy, enunciated by Augustine and Boethius, encouraged abstention from social interests, and theologians devoted themselves to deducing ecclesiastical authority from divine will. Dante was in substantial agreement with this theology, but his political theory, expressed in *De monarchia*, placed secular empire above the church; and his drastic criticism of the latter institution in practise relegated even popes to hell. Mediaeval social criticism, outside the official and intellectual classics, appeared in the songs of wandering students, the *novelle* of popular story tellers and mock epics such as *Reynard the Fox*, grossly irreverent toward the ruling clergy and nobles. The realistic spirit of this proletarian criticism is present in Chaucer's *Canterbury Tales*. Protest against the ecclesiastical alliance with secular tyranny, anticipating the Reformation, animates the sermons of Wycliffe and the anonymous mass of poetry called *Piers the Plowman*.

The Renaissance involved both a revival of classical culture and the discovery of individual personality. The first aspect manifested itself in scholarly and aesthetic criticism; the second, in curiosity about life and society. To the latter tendency we must attribute the creative literature of the age, the fiction of Boccaccio, Rabelais, Cervantes, the drama of Shakespeare, Ben Jonson and Molière, the revival of history and biography, the rise of autobiography. Among forms involving direct social criticism the most important were the essays of Montaigne and

Bacon, the *Maximes* of La Rochefoucauld, the letters of Madame de Sévigné, the *Caractères* of La Bruyère, the *Fables* of La Fontaine. As modern concepts of the state emerged in the Italian cities political criticism passed from the idealism of *De monarchia* to the realism of Machiavelli's *Prince*. The theory of absolute monarchy called forth a school of apologists, of which Hobbes' *Leviathan* remains a monument. The struggle for parliamentary government in England was carried on by pamphlet and speech as well as by arms. Grotius expounded the recognition of mutual relations between states. The Reformation and the Catholic reaction gave to the church a new social vitality, emphasized by Erasmus and the later reformers. The rise of the Jesuits set in motion a social force felt throughout modern culture. The sermon became a vehicle of social criticism, in France with Bossuet and Fénelon, in England with the long line of churchmen from Hugh Latimer to Jeremy Taylor.

Necessarily education in its adaptation of classical culture to contemporary experience was a leading interest in the Renaissance. In theory it was aristocratic. Castiglione's *Il cortegiano*, Fénelon's *Télémaque*, the long list of English works including Sir Thomas Elyot's *The Boke named the Governour*, Ascham's *Scholemaster*, Lyly's *Euphues*, envisage education as the privilege of the well born, who were to be fitted by training for service to the commonwealth. John Comenius, however, outlined a system of modern education, realistic and democratic.

In general the social criticism of the Renaissance tended toward social stability. Shakespeare's dramas were conservative in their nationalism and their acceptance of the status quo; Luther opposed the peasants in their revolt. Milton's radicalism, however, was indicative of a new trend in criticism which developed in the seventeenth century. He advocated dissent, divorce, revolution, tyrannicide, and wrote the magna carta of the press in the *Areopagitica*. Social protest also characterized many dissenting sects—Quakers, Anabaptists, Levellers. John Bunyan in his sketch of Vanity Fair in *Pilgrim's Progress* set the theme for countless dissertations on bourgeois morality.

The problems of man's life in society dominated intellectual inquiry during the late seventeenth and the eighteenth century, bearing fruit in Montesquieu's political science, Adam Smith's political economy and the social philosophy of Locke and Shaftesbury. The chief subject of poetry in England was social life, signalized by the revival of satire in Butler, Dryden, Pope and Johnson. Interest in social organization is shown by the popularity of *Gulliver's Travels* and Mandeville's *Fable of the Bees*. The outstanding social phenomenon of this period is the rise of the middle class, which in England found a teacher and prophet in Defoe. For the civilization of this class Steele and Addison in the periodical essay and Richardson in the novel gave models to Europe. The great exemplar of the eighteenth century spirit is Voltaire, to whose influence may be ascribed the philosophic rationalism which found expression in the French *Encyclopédie*, the political experiments of the French Revolution, the utilitarianism of Bentham. The emotional force behind the revolution is found in the romantic criticism of society by Rousseau. Both motives were blended in Diderot and in William Godwin, whose *Caleb Williams* added the emotional appeal of fiction to the formal attack on the British constitution embodied in his *Political Justice*. The example of Richardson and Rousseau in making fiction a vehicle of social reform through education was followed by a school of educational novelists. Mary Wollstonecraft (Mrs. Godwin) was a leader in the movement for feminine emancipation. To the Godwins Shelley owed in part the social theories of *Queen Mab* and *The Revolt of Islam*. Against this revolutionary thought the defense of established institutions was led, for all Europe, by Burke, under whose guidance Wordsworth, Coleridge and Southey swerved from revolution to reaction. This revolutionary period also saw America's active contribution to social criticism. Her mere existence gave plausibility to the romantic conception of the "noble savage" as opposed to "civilized" society. Franklin seems to unite the rationalism of Voltaire and the utilitarianism of Bentham. In the Declaration of Independence Jefferson asserted the principle of revolution, while in the constitution the Federalists embodied the political thought of Burke.

The nineteenth century is distinguished by extended control of nature through science and the rise of the industrial system. Industry called into being an immense working class which gave to social problems a new and menacing character. Science in dealing with this situation fell behind its success in dominating natural forces; nevertheless, it provided the intellectual background and the method of approach to

social problems, notably in the inductive school of political economy and the department of sociology. The resultant of science and industry is seen in the socialism of Fourier and Saint-Simon and more clearly in the communism of Karl Marx and Bakunin, the syndicalism of Sorel, the anarchy of Kropotkin.

In Great Britain, which felt the first impact of industrial revolution, the theory of the democratic state, in which classes should share control according to numbers through representatives elected by universal suffrage, was put forward as a social solvent by the Liberals and received general acceptance throughout Europe. This theory, expounded by John Stuart Mill in his essay *On Liberty*, with its corollary of the abstention of government from interference with private enterprise, was bitterly opposed by Carlyle, whose doctrine of the responsibility of a ruling class, feudal or economic, was set forth in *Past and Present*. Carlyle's eloquence in picturing the misery of the poor and the failure of democracy and laissez faire to relieve it made him the chief influence on English literature during the middle years of the century, especially the poetry of Mrs. Browning and Tennyson and the school of social fiction which included Disraeli, Kingsley, Dickens, Mrs. Gaskell, Charles Reade. Carlyle's philosophy of power had its concomitant in Germany in the individualism of Fichte and Nietzsche and in Hegel's doctrine of the absolute state.

The direct influence of science on social thought is seen in the dominance of realistic literature throughout Europe, especially in the grandiose attempts at social survey by Balzac and Zola. Realism in the English form supplied the background of social criticism in Butler's *Way of All Flesh*. The stage became once more with Ibsen and Shaw a platform of social discussion. The conscious subordination of aesthetic to social criticism is seen in the doctrine of Ruskin and Morris that worthy art can exist only in a good society. Matthew Arnold in *The Function of Criticism at the Present Time* emphasized the primary concern of criticism with the social situation, and Tolstoy in *What Is Art?* made aesthetic criteria depend entirely on social function. H. G. Wells employs numerous literary forms, including history and fiction, for social propaganda, and the fiction and drama of Galsworthy constitute in effect a series of case studies.

In America social criticism found an original expression in Emerson, Thoreau, Whitman, Henry George. It appears somewhat timidly in the novels of Howells, more boldly in Sinclair Lewis and Upton Sinclair. William James and John Dewey led the philosophical movement known as pragmatism for the subordination of metaphysics to the consideration of social situations.

The war gave to social criticism a new intensity by raising questions—discussed notably by Keyserling and Spengler—concerning the reality of progress and the permanence of western civilization. The war, and its aftermath of social dislocation, also reinforced the tendency of political authorities to curtail free expression of opinion. Absolute government in its modern form of dictatorship necessarily opposes free exercise of social criticism; even the so-called free nations have employed undemocratic methods in defense of democracy. The ease with which the newer publicity devices, cinema and radio, lend themselves to censorship limits their importance as agents of social change. But in spite of suppression social criticism has never been more active than at present, nor has it ever before recognized so clearly its problem of giving free play to ideas while supplying the principle of control within the individual, independent of external authority. This is the common ground on which social critics of diverse schools are united—Tolstoy, Nietzsche, Matthew Arnold, Valéry, Shaw, Unamuno, Dewey and the pragmatists, Babbitt and the humanists.

ROBERT MORSS LOVETT

See: SOCIAL PROCESS; CHANGE, SOCIAL; CONTROL, SOCIAL; EDUCATION; PROPAGANDA; PRESS; ART; DRAMA; LITERATURE; ETHICS; MORALS; TASTE; CONSERVATISM; LIBERALISM; RADICALISM; REFORMISM; CENSORSHIP.

CROFTON, SIR WALTER FREDERICK (1815–97), British penologist. In 1854 as head of the Irish convict prisons he instituted "the Irish system" of penal administration. He divided imprisonment into three stages. In the first, it was solitary in a cellular prison for eight or nine months of the sentence, depending on the conduct of the prisoner. During the first half of this period the convict was on a reduced diet and without "interesting employment" and was taught "the whole bearing of the 'Irish Convict System.' " Then he was transferred to a congregate prison. Here began the second stage, consisting of four grades, passage from or to one or the other depending upon the number of "marks" earned within certain periods as the result of conduct, school progress and industry

The third stage, the essential contribution of Crofton, was the testing ground of the convict before his release on "ticket of leave." In its "intermediate establishments" (analogous to certain American "honor camps") individualization was the ruling principle. In the intermediate institutions there were few officers and little physical restraint, any other practise being held "inconsistent with the principles which the establishments were instituted to enunciate: 1st. You have to show the convict that you really trust him, and give him credit for the amendment he has illustrated by his marks. 2nd. You have to show to the public, that the convict, who will soon be restored to liberty for weal or for woe, may upon reasonable grounds be considered as capable of being safely employed." Following this trial in semifreedom prisoners were released for the remainder of their term on ticket of leave, analogous to our parole permit.

Crofton's originality lay in welding together into a unified system various features of progressive prison management that had been utilized by Montesinos in Spain, Obermaier in Bavaria and Maconochie in Australia. The Irish system, however, undoubtedly influenced the American adult reformatory movement.

SHELDON GLUECK

Works: *A Few Remarks on the Convict Question* (Dublin 1857); *A Few Observations on a Pamphlet Recently Published by J. Burt on the Irish Convict System* (London 1863); *The Present Aspect of the Convict Question* (London 1863).

Consult: Carpenter, Mary, *Reformatory Prison Discipline as Developed by the Rt. Hon. Sir Walter Crofton in the Irish Convict Prisons* (London 1872); Hubbell, G. B., "Report on the Prisons of England and Ireland" in Prison Association of New York, *Twenty-Second Annual Report of the Executive Committee* (New York 1867) p. 95–196; Glueck, S. and E. T., *Five Hundred Criminal Careers* (New York 1930) p. 17–24.

CROLY, HERBERT (1869–1930), American author and editor. Croly attended the College of the City of New York and Harvard University. He was editor of the *Architectural Record* from 1900 to 1906 and of the *New Republic* from 1914 to 1930. A profound student of history and politics, he first attracted public attention with his book *The Promise of American Life* (New York 1909), which contributed largely to the intellectual content of the Rooseveltian Progressive movement and led later to the foundation of the *New Republic*. The argument was that the original American national purpose—a conscious attempt to liberate and enlarge the personality—had been perverted by self-seeking business and shallow politics, which made a hollow fetish of the doctrine that the Americans were a chosen people who were destined to achieve success by clinging to such traditional dogmas as natural rights and laissez faire. He prescribed a new nationalism to fulfil the promise of democracy by planned and concerted action which would not hesitate to curb "rights" wherever necessary and would not be afraid of being called socialism. His subsequent books, *Marcus Alonzo Hanna—His Life and Work* (New York 1912) and *Progressive Democracy* (New York 1914), continued his study of American political and social institutions. In 1924 he published a memoir, *Willard Straight* (New York), dealing with the man whose financial backing had made possible the *New Republic*. After the World War Croly lost belief in reform through merely political action based on democratic assumptions and called for the pressure in both economic and political affairs of disinherited economic interests, such as organized labor and farmers, groups which, he hoped, would adopt progressively radical programs and philosophies. He abandoned the word liberal as a description of his public policy and reserved it to characterize an attitude of mind which might be held by a member of any party—a belief in the continual discovery of new truth, a scientific, experimental and critical activity. This bent prevented him from maintaining a blind loyalty to any specific cause, leader or group of absolutes. His basic impulse was essentially religious although he adhered to no church. In his later years he concentrated on the discovery of some experimental and scientific way of developing the individual personality, a way which might be imitated, so that new sources of power and inspiration might be brought to bear on the common life.

GEORGE SOULE

Consult: *New Republic*, vol. lxiii (1930) 243–71.

CROMBIE, ALEXANDER (1762–1840), Scottish economist. Crombie was first a Presbyterian minister and then a schoolmaster in London. His varied writings included several in the field of economics. In *A Letter to D. Ricardo, Esq., Containing an Analysis of His Pamphlet on the Depreciation of Bank Notes* (London 1817) he contested Ricardo's statement that there had been an excessive issue of banknotes and a depreciation in their value. The value of banknotes, Crombie said, must be determined in

terms of their control over labor and commodities and not in terms of gold. Judged by these standards no depreciation of the banknote had been proved. He called Ricardo's reasoning on this question circular and inconsistent, "of that species which may not inaptly be denominated *ambidexter*." Crombie further questioned Ricardo's view that the currency of one country cannot for any length of time be more valuable, as far as equal quantities of precious metals are concerned, than that of another. His objections were based upon the evident differences in gold wages in different countries, control over labor again being used as the measure of value. On the agricultural question he wrote *Letters on the Present State of the Agricultural Interest* (London 1816) and *A Letter to Lieutenant Colonel Torrens in Answer to His Address to the Farmers of the United Kingdom* (London 1832). He advocated long leases for agricultural land and payment of rent half in kind (corn) and half in money. Crombie's importance for economics is to be judged not only by his own writings but by his influence upon Torrens, who dedicated to him the *Essay on Money and Paper Currency* (London 1812) and praised his "acute discernment" and "distinguished talent for abstract and profound inquiry."

W. H. DAWSON

CROME, AUGUST FRIEDRICH WILHELM (1753–1833), German statistician and economist. He was instructor in history and geography at the Philanthropinum in Dessau from 1778 to 1783 and later professor of statistics and cameral science at the University of Giessen from 1787 to 1831. Crome was one of the first to employ geometrical and graphical technique in the presentation of statistics although he limited the use of this method to descriptive rather than interpretative data. In his influential work *Über die Culturverhältnisse der europäischen Staaten* (Leipsic 1792) he introduced the idea of quadrated surface area maps of countries and peoples. As an economist Crome shared the cameralists' doctrines of population although in later years he became a follower of Adam Smith. In his translation and elaboration of the well known treatise by Leopold II, *Governo della Toscana sotto il regno di . . . Leopoldo II* (Florence 1790; German tr. in 3 pts., Leipsic 1795–97), he advocated an enlightened, benevolent absolutism, a view which he also propagated in his journal, *Germanien* (1807–13). In public life Crome was accordingly an enthusiastic supporter of Napoleon I and the Confederation of the Rhine. Shortly before his death he published a *Selbstbiographie* (Stuttgart 1833).

PAUL MOMBERT

Other important works: *Europas Produkte . . .* (Dessau 1782; 4th ed. Tübingen 1805); *Über die Grösse und Bevölkerung der europäischen Staaten* (Leipsic 1785; 2nd ed. Frankfort 1794).

Consult: Kirmis, A., *August Friedrich Wilhelm Crome* (Bern 1908).

CROMER, FIRST EARL OF, EVELYN BARING (1841–1917), British administrator. Cromer owes his prominence in oriental history to his long government of Egypt. Born in one of the first financial families of the British Empire he left the army for administration in the Ionian islands in 1861 and in Jamaica in 1865; and as private secretary he was employed by his cousin Lord Northbrook, the viceroy of India, from 1872 until 1876. In 1877 his abilities and his associations with British finance caused the appointment of Cromer—then Major Baring—as British commissioner of the Egyptian Public Debt. Thereafter, with one short break from 1880 to 1883 when he was financial member of council in India, he remained in Egypt as its virtual ruler for a quarter century as commissioner and later as consul general.

The career of Cromer in Egypt coincides with the creation of the Egyptian nation out of a mixed population of various races and religions and out of a province of the Ottoman Empire. The character of Cromer's contribution to that creation is still in controversy: the British consider him the founder of modern Egypt, the Egyptians as a pharaoh who would not let his people go. He had, however, no responsibility for the ruthless repression of the home rule rebellion of Arabi in 1881 nor for that of the rising subsequent to his resignation in 1907; and he undoubtedly ranks with Mehemet Ali in the establishment of the Egyptian state.

There were two principal impediments to the growth of the Egyptian nation. One was the financial burden of debt accumulated by the extravagance of the khedives, culminating in the bankruptcy and abdication of Ismail in 1879. The other was the burden of imperial rule over the fanatical fighting tribes of the Sudan which had been assumed by the ambition of those princes and culminated in the Mahdist rising of 1882. Cromer by insisting on the abandonment of the Sudan enabled Egypt to

set its own house in order. He was in no way responsible for the military catastrophes in which General Gordon and whole Egyptian armies perished. Moreover, his able administration enabled Egypt so to reorganize its forces that in a two-year campaign from 1896 to 1898 an Anglo-Egyptian expedition under Colonel Kitchener ended forever the Mahdist menace. The Anglo-Egyptian condominium over the Sudan, set up by Cromer, although it is today resented by Egypt, nevertheless adequately protects the legitimate interests of Egypt in that hinterland and provides for its independent development.

In internal administration his success is more questionable. He made Egypt solvent—a financial feat that seemed impossible. But it was done by sacrificing the Egyptian peasant for twenty years to the extortionate claims of European money lenders. There was point in the local witticism as to there being "an Evil in Baring too much." Still more unfortunately for Egypt and the empire he allowed the civic education both of the Egyptian and of Egypt to be neglected. When the inevitable Nationalist movement developed he met it with repression, and the Denshawi incident clouded the end of his regime. His last and perhaps best service to the new nation was to bring to the front the future Nationalist leader, Zaglul Pasha. Nevertheless, history will recognize in Cromer one of the greatest of the proconsuls of the *pax britannica*.

GEORGE YOUNG

Consult: Traill, H. D., *Lord Cromer* (London 1897); Cromer, First Earl of, *Modern Egypt*, 2 vols. (London 1908); Young, George, *Egypt* (London 1927) ch. v.

CROMWELL, OLIVER (1599–1658), English military leader and statesman. Starting from a desire to secure toleration for the Puritan faith Cromwell developed a dictatorship resting upon a control of the army and popular acclaim. It is impossible to appreciate his political thinking without taking account of his religion. He was perhaps more deeply convinced of his communion with God than any other man of action of his age. Because of this emphasis upon the personal element in faith he was predestined to become the builder of the Commonwealth—a concept which represents the attempt to apply the ancient tribal idea of a brotherhood or fellowship (*Genossenschaft*) to the modern national community. By insisting upon an unexplained faith in the preestablished harmony of interests of those who "believe in God" it emphasizes the common interests which bind men together without sacrificing the personality of the member or brother (*Genosse*). This symbolical expression points to the core of the political ideas of Cromwell. The inauguration and maintenance of religious toleration as understood by the Independent branch of the Puritan party became his central objective. By linking it to the necessity of maintaining public peace and order Cromwell gave to this objective a definite content which it does not otherwise possess and was enabled to erect thereon a claim for the exercise of dictatorial powers. In 1649 Cromwell decided that Charles I must die because he constituted a permanent threat to the free worship of God and therefore to the public peace. In 1653, dissatisfied with the continued inactivity of the new Parliament, Cromwell and his army council forcibly dissolved it. He became immediately concerned, however, with the question of how to legitimize the power which he had usurped. In his uncertainty as to what would constitute the most legitimate basis for a representative body Cromwell with the advice of his council decided to nominate an intermediary, a constituent assembly. But unfortunately this body, composed of thoroughgoing and literal minded Independents, undertook radical reforms far beyond the limits which the conservative Cromwell considered advisable. Dissolution seemed the only way out and Cromwell did not hesitate. His next attempt to provide a constitutional basis for his authority was the Instrument of Government—the first written constitution designed on a comprehensive scale to organize the government of a modern national community. It rested upon the idea of dividing governmental powers between the legislative and the executive. The office of lord protector created by the Instrument was one of strictly limited powers. He was forced to seek the advice of the council in foreign affairs, its consent in matters of peace and war and its approval in appointments to high office. Laws could not be made nor taxes imposed except by the authority of Parliament, which was empowered even to override the protector's veto. But Cromwell's prerogative of legislating by ordinance when Parliament was not in session enabled him to establish an unprecedentedly liberal ecclesiastical system, to regularize the law and complete the union with Scotland. When the Parliament of 1654 showed a tendency to contest the executive prerogatives, Cromwell

interposed and dissolved it, frankly assuming the role of a military dictator. In spite of growing discontent throughout the land Cromwell was able to maintain his authority because of his hold over the powerful army. Reform by legislation having failed, he divided the country into ten districts administered by major generals and resumed once again legislation by ordinance. Police, public amusements, roads, finances, the condition of prisons, were among the matters affected by this legislation. In the field of foreign relations Cromwell achieved signal success, although his ultimate objective of a league of Protestant commonwealths proved unattainable. The cost of military expeditions consequent upon his aggressive foreign policy led him to summon another Parliament, which again was purged of the opposition by the requirement that each member must secure a certificate from the council of state. In 1657 this new body, believing that the traditional constitutional limitations on English kingship might curtail Cromwell's autocratic powers, offered him the crown. Cromwell refused. But under the less pretentious title of lord protector he introduced many of the trappings of monarchy and heartily approved when Parliament at last adopted the constitution enacted by the earlier body of 1654. This final constitutionalization of the dictator's position together with his military and diplomatic successes abroad seemed to place Cromwell at the height of power, but new threats of royal restoration persuaded him in 1658 to resort again to dissolution of Parliament. Death overtook him while he once more was absolute dictator. His endeavors to set up a constitutional regime had failed.

CARL JOACHIM FRIEDRICH

Consult: Gardiner, S. R., *Cromwell's Place in History* (3rd ed. London 1897); Firth, C. H., *The Last Years of the Protectorate, 1656–58*, 2 vols. (London 1909); Morley, John, *Oliver Cromwell* (London 1900); Michael, Wolfgang, *Cromwell*, 2 vols. (Berlin 1907); Schmitt, Carl, *Die Diktatur* (2nd ed. Munich 1928) p. 131–34; Kittel, Helmuth, *Oliver Cromwell, seine Religion und seine Sendung* (Berlin 1928); Gooch, G. P., *English Democratic Ideas in the Seventeenth Century* (new ed. by H. J. Laski, Cambridge, Eng. 1927) p. 125–29, 192–204; Tatham, G. B., *The Puritans in Power: a Study in the History of the English Church from 1640–1660* (Cambridge, Eng. 1913); Jenks, Edward, *The Constitutional Experiments of the Commonwealth* (Cambridge, Eng. 1890); Gardiner, S. R., *History of the Great Civil War*, 4 vols. (new ed. London 1903); *The Constitutional Documents of the Puritan Revolution*, ed. by S. R. Gardiner (3rd ed. Oxford 1906) p. liii–lxiv, 381–467; Abbott, W. C., *A Bibliography of Oliver Cromwell* (Cambridge, Mass. 1929); Marriott, J. A. R., *The Crisis of English Liberty: a History of the Stuart Monarchy and the Puritan Revolution* (Oxford 1930) chs. vii–xiv; Beer, G. L., *The Origins of the British Colonial System, 1578–1660* (New York 1908) esp. p. 372–83.

CROMWELL, THOMAS, EARL OF ESSEX (1485–1540), English statesman. His early life was spent in Italy, Flanders and England as a soldier of fortune, trader and money lender. Attaching himself about 1520 to Wolsey he served him in various capacities and in 1525 acted as his agent in the dissolution of the smaller monasteries. After Wolsey's fall he entered the service of the crown and in rapid succession was appointed privy councilor (1531), chancellor of the exchequer (1533), secretary to the king (1534) and vice regent (1536). His most important duty at first was the manipulation of elections and the management of the House of Commons. In this capacity he transformed the relationship between king and Parliament. Whereas formerly the House was a necessary evil, feared by the king and summoned only in times of extremity, it became under Cromwell's skilful control an active agency of autocratic government. That this new role would result incidentally in a tradition of parliamentary activity and continuity which would later prove the undoing of less able autocrats was not foreseen by Cromwell. He drafted the Reformation statutes and devised the chief administrative expedients for their execution. He enforced, if he did not suggest, the royal supremacy and headship of the church and approved of the executions of Fisher and More. By virtue of his authority as vice regent he superintended the visitation and dissolution of the larger monasteries in 1536 and 1539. His redistribution of ecclesiastical land and property created a new nobility, from whose ranks, ironically enough, were to be drawn in the next century the most active leaders in the overthrow of Tudor autocracy. Cromwell began the ecclesiastical commission later known as the High Commission and issued the injunctions of 1536 and 1538, models of later ecclesiastical administrative measures. He was largely responsible for the increase in the authority of the Privy Council and of the central government, for the loss of political and judicial power by the feudatories and the substitution therefor of the powers of the justices of the peace controlled by the Privy Council. He reorganized and increased the powers of the Star Chamber,

the Court of Requests and the Council of the North and of the Marches of Wales and in general erected the fabric of Tudor government as it remained for a century. Some have thought him the real genius of the period and have left Henry VIII, Cranmer and others subordinate parts, but the better opinion seems to be that the period was the work of a group of men of whom he was one of the most important. The failure of his complicated and too ambitious foreign policy plus the victory of the Roman Catholic reaction in 1540 led to his attainder and cost him his life on the scaffold.

ROLAND G. USHER

Consult: Merriman, R. B., *Life and Letters of Thomas Cromwell*, 2 vols. (Oxford 1902), with bibliography vol. ii, p. 313–18.

CRONHIELM, GUSTAV (1664–1737), Swedish jurist and statesman. His fame rests chiefly upon his work as chairman of the law codification commission which produced the great Swedish law book of 1734. This ambitious project of compilation, which required almost half a century for its completion, was doubtless inspired by the *Danske lov* of 1683 (*see* CODIFICATION) and was initiated by a request from the Riksdag for a law commission. King Karl XI thereupon appointed in 1686 a commission with twelve members under the chairmanship of Count Erik Lindskold, who served, however, less than four years. He was succeeded by Count Niels Gyldenstolpe, who died in 1709. Thus Cronhielm, who in turn succeeded the latter, was not only chairman of the commission for over half the period of its activity but it was he who finished the work, and to him the chief credit belongs. Despite the delays caused by the king's foreign wars he was able to submit a draft by 1723; but the criticisms and suggestions of the dignitaries who reviewed it led him to ask for a new commission, whose product was approved by the Riksdag in 1731 and 1734 and went into effect in 1736, the year preceding Cronhielm's death.

The *Sveriges rikes lag* (ed. by W. Uppström, 20th ed. Stockholm 1902), to use the official name of this production, includes eight titles, of which the most important are those relating to marriage, succession, land and buildings, commercial law and penal law. While practically superseded as to the first and last two of these subjects by subsequent legislation the code still forms the basis of civil law in Sweden and Finland and is thus one of the oldest pieces of occidental legislation now in force. It is also distinguished by its indigenous character. For although "both *canonicum* and *Romanum jus* had been eagerly consulted and also German *Stadtrechte* and other prominent foreign laws," its substance is purely Scandinavian except as regards features like the rules of evidence, and perhaps of succession, where canonical influence appears. Its style also has been described as unique, terse and precise, "preserving the ingenuous and rich forms of expression of the ancient law language, with a clear method of presentation." In its avoidance of qualifying definitions the language has been praised as "plain, strong modern Swedish; the only foreign word is testament." This rendered it easy of adoption when submitted to the Riksdag. "The peasant member . . . found the short phrases of the Law-book so clear and homely" that it seemed "to be not a new law but only the old *landslag* rewritten." Altogether it was a notable achievement and entitles Cronhielm to a place among the world's great codifiers and lawgivers.

CHARLES SUMNER LOBINGIER

Consult: Chydenius, W., "The Swedish Lawbook of 1734" in *Law Quarterly Review*, vol. xx (1904) 377–91; Grasserie, R. de, *Les codes suédois de 1734* (Paris 1895); Hertzberg, E., *De nordiske retskilder* (Copenhagen 1890); Jarta, H., in *Svenska Akademiens handlingar*, vol. xxiii (1850) p. 23–115.

CROP AND LIVESTOCK REPORTING is an agricultural statistical activity which consists of the collection and dissemination of timely statistical information in the form of estimates and forecasts concerning the acreage, condition, yield, production and prices of crops, and numbers, production and prices of livestock. Aside from forecasting, the concept of crop and livestock reporting is not clearly distinguished from an annual or more frequent periodic agricultural census, except that crop and livestock reports are usually based upon sample or judgment data selected so as to be representative of the universe or area from which they are taken. These reports, especially when used to forecast production or price before harvest, must be compiled and published within a short time after the date to which they refer and as early in the growing season as practicable in order to be of maximum value to producers and handlers of farm products.

Crop and livestock reporting has been performed by governmental and private organizations for many years. About the middle of the

nineteenth century several attempts were made by European governments to start crop reporting systems. The most noteworthy effort was in Prussia. In the United States as early as 1855 James T. Earle, president of the Maryland State Agricultural Society, endeavored to inaugurate a system of crop reports that would protect the farmer against "the artful practices of speculators and others" who had superior information. He planned to have intelligent farmers report to the various state agricultural societies and the societies disseminate reliable information based upon these reports. He recognized, however, that this function "should properly be imposed upon an agricultural department." In 1863, largely as a result of the agitation of farmers and farm organizations, the United States Department of Agriculture issued its first regular crop reports. Since then reports have been published regularly and the service has been expanded so as to include practically all of the crops grown in the United States and to provide additional information about each crop.

At present most of the countries of the world maintain some form of crop reporting service. There has been a marked expansion in official crop reporting since 1905, when the International Institute of Agriculture was established at Rome to act as a clearing house for crop reports and other agricultural information. The development of rapid and easy means of transportation and communication and the widening of the markets for agricultural products, coupled with specialization in crop and livestock production, has resulted in a world wide demand for more complete and accurate agricultural statistics and has materially aided the expansion, improvement and standardization of crop reporting methods throughout the world.

In the United States the crop reporting service is a unit of the Bureau of Agricultural Economics in the Department of Agriculture. It maintains a staff of trained statisticians in Washington and has a field office with an agricultural statistician in charge in almost every state. Before 1914, when the entire crop reporting service was placed under the classified civil service, practically the entire field staff was composed of political appointees. The technical workers of the crop reporting service, however, are now selected only after they pass a rigid civil service examination covering agriculture, economics and statistics. In thirty-seven states the crop reporting work is conducted cooperatively by the federal department and the state department of agriculture or the state agricultural college. Most of the basic data for the crop reports are furnished by nearly 300,000 voluntary crop correspondents, most of whom are farmers. The correspondents are divided into groups; some report directly to Washington and others to the field offices. For the more important crops the information of one group is checked against that of another. All crop reports are prepared or passed upon by a Crop Reporting Board composed of crop statisticians drawn partly from Washington and partly from the field offices. It meets monthly. Because of the great influence that these reports have upon agricultural prices all persons connected with the crop reporting work are prohibited under severe penalty from giving out information in advance of the time set by law or department regulation for the release of a crop report or from speculating in any product of the soil.

Crop and livestock reporting as now carried on in the United States and in other countries may be divided into several parts: estimating acreage, condition of crops and production after harvest, forecasting yields and production in advance of harvests, reporting farm and market prices and estimating livestock numbers and production. In addition the United States issues intention to plant and outlook reports.

The methods used to determine the acreage planted to various crops vary widely. Several countries, England, Scotland, Denmark and Hungary, for example, take an annual census of acreage and compile it in time for use during the current season. In some countries the estimates of changes in acreage are based upon the judgment reports of local officials or farmers. In others where changes are slight the acreage is held constant between census periods. In still others the acreage estimates are based upon sample data collected from individual farms so selected as to be typical of the area from which they are drawn. This is the method now generally used in the United States; the acreages shown by the most recent agricultural census are used as the base from which the yearly changes are calculated. Questionnaires are mailed in June of each year to a large list of farmers requesting them to report for their own farms the acreage planted to each crop for the current and previous year. In September a second questionnaire is distributed to farmers by the rural mail carriers on which they are requested to report the acreage of each crop they have harvested and expect to harvest. In states where the harvest is

normally late and also in years when crops are late generally this inquiry is delayed until October.

Three methods are used for calculating acreage changes from such sample data: a direct comparison of the reported acreage for the current year with the previous year on the same questionnaire; matching reports from identical farms for successive years and calculating the changes; and a comparison in successive years of the percentage that the acreage of each crop forms of the total acreage in the sample reports.

The size of the sample required to secure accurate estimates depends upon the particular crop. For a crop such as corn, which is grown on nearly all farms, a sample which includes about 2 percent of the acreage will generally give a fairly accurate indication of the change that has occurred, while with some of the minor crops as high as 20 percent of the acreage needs to be included in the sample to insure stability. A great deal depends upon the manner in which the sample is taken and how it is handled. Stratification of the sample according to size of farm as well as homogeneity of area represented, with proper weighting, contributes materially to accuracy. A system of compulsory reporting by all farm operators within certain selected areas, such as a township per county, would no doubt materially improve the representativeness of the sample secured.

An objective method has been developed for measuring the percentage of acreage change from year to year by the use of a crop meter attached to an automobile. By means of this meter the number of linear feet in each crop along selected routes is measured each year and the changes calculated in percentages. The laws of a few states require assessors to take an annual enumeration of the acres in crops on all farms. These enumerations afford a valuable check upon estimates made from sample data.

There are three rather well defined methods used throughout the world to express the condition of crops during the growing season. These may be termed as follows: the percentage method, with 100 representing normal or average, as used in the United States, Canada and England; the numerical symbol method, using figures ranging from 1 to 6 or 6 to 1 to indicate the relative condition, as used in Germany and Denmark; and the descriptive method, where adjectives ranging from "excellent" to "very poor" are used instead of numbers, as in Spain and Rumania.

The term normal is used in the United States with a meaning different from that which it has in other countries. Crop correspondents are instructed to report the condition of a crop not as a percentage of an average crop as in most countries but as a percentage of a full or normal crop, meaning the hypothetical condition of a crop which starts out and continues to grow under favorable conditions and which remains free of injurious agencies.

The countries which report to the International Institute of Agriculture at Rome are requested to report the condition of growing crops in the form of a percentage, 100 representing an average condition, which if uninfluenced by abnormal circumstances would give a probable yield per unit of surface equal to the average yield of the past ten years. Most countries report to the institute as requested by converting their numerical symbols and descriptions into percentages, but usually publish their reports locally in the form in which they are gathered.

Estimates of production after harvest, usually obtained by multiplying the acreage by the average yield reported by correspondents, have been made and published in a large number of countries for many years. Their purpose generally is to supply annual production figures between the regular census years. In the United States such estimates are made immediately after harvest and are revised in December of each year. In the case of cotton the reports on ginning published by the Bureau of the Census between September 1 and January 16 may be used to check such estimates.

The making of official quantitative forecasts of probable yields and production in advance of harvest is a comparatively new activity and was begun in the United States in 1912. The idea has gradually spread, especially since 1920, so that many countries are now forecasting yield and production prior to harvest for the more important crops. Yield forecasts are usually made either by interpreting the condition reports in terms of probable yield per unit of surface on the basis of past relationships between reported condition and final yield or by asking reporters to make direct estimates of the probable yield per unit of surface instead of in percentages or symbols.

The most common method of making a yield forecast is to plot the reported condition or probable yield against the final yield on a dot chart for a series of years and draw the line of best fit. When the condition or probable yield is

computed for the current month, the final yield for the current year can then be readily predicted from the chart. This is done on the assumption that the final yield per acre for the current year bears the same relation to the condition of the crop for the current month as the final yield during the preceding years has borne to the condition for the same month during the preceding years. Some work has been done in the United States and other countries in developing methods of forecasting yields from weather data, but further progress awaits extensive research and investigation.

Until recently forecasts of production in the United States were simply a mathematical interpretation of the condition reports based on the relation which had existed in previous years between the condition reported at a given time and the final yield. The forecast for the final production of a crop was secured simply by multiplying the estimated acreage by the forecast final yield. Since 1927 the Crop Reporting Board has gone much further and is attempting to forecast the final yield by considering weather and other factors in addition to condition reports. This has resulted in much more accurate forecasts, especially for cotton and potatoes.

Unless forecasts of production made in advance of harvest bear a rather close relationship to the actual production they are detrimental rather than helpful. Because supply is generally believed to be the dominant factor in the determination of the leading agricultural prices, official forecasts of yield or production have a decided influence upon prices. Governmental forecasts therefore have been severely criticized when they have been inaccurate. Several sporadic attempts have been made in the United States to abolish the reports by certain groups of farmers who believed that the official reports benefited speculators and injured producers; while the accuracy of certain reports, especially those relating to cotton, has been frequently questioned and several congressional investigations have been made. Technicians have frequently attacked the condition reports, particularly those made early in the season, maintaining that they are merely averages of guesses having little validity, and have often criticized the early forecasts as being worse than useless. For example, in 1917 Henry L. Moore showed that during the preceding years in the United States the correlation between the actual yield of cotton and the May prediction of the Department of Agriculture was minus and the June prediction was only .29. In recent years, however, the Department of Agriculture has generally postponed making forecasts of yield until such time as experience has shown there is a reasonable degree of relationship or correlation between the forecast and final output. Formerly forecasts were issued for spring wheat, oats and barley as early as June 1; the first forecasts are now made as of July 1. No forecast is now made of the cotton crop until August 1; formerly the first forecast was made as of June 25.

Price reporting of crops and livestock varies widely in character and scope in different countries. In the United States farm prices (prices received by farmers for the produce on the farm or in the local market) are secured and issued monthly on most of the important farm products. These prices are collected by questionnaire. Market or wholesale price reporting covering vegetables, fruits, livestock, eggs, poultry and other farm products is carried on by the Department of Agriculture at most of the important central market cities. These prices are obtained by trained market price reporters. The department also collects quarterly prices on articles bought by farmers.

Livestock reporting is much less developed than crop reporting; few countries attempt anything more than annual estimates or enumerations. Wool estimates are issued by a number of countries. Little has been done as yet to estimate milk, egg and poultry production. Since 1923, however, livestock reporting in the United States has been materially expanded; a number of special reports are now issued during the year covering hog supplies and the number of cattle and sheep in feed lots.

As an aid to farmers in adjusting production to market demands the United States Department of Agriculture initiated in 1923 a new series of reports which have come to be known as intention to plant and outlook reports. Intention to plant reports are based upon returns from a large number of farmers and are made in March and September. In June and December the intentions of farmers with respect to hog breeding are secured in connection with livestock surveys made through the rural mail carriers. The intention reports give farmers the opportunity to readjust their production programs at the last minute on the basis of the plans of other farmers. Another report is issued in January of each year in which the outlook for each of the more important commodities is frankly discussed and forecasts are made of the

probable trend of production and prices. These reports are based upon information gathered from all parts of the world through the International Institute of Agriculture, American consuls, commercial attachés and the offices of the Department of Agriculture in foreign countries. Supplementary outlook reports on special commodities are issued throughout the year.

Private crop and livestock reporting undoubtedly existed long before official crop reports were started and has continued to exist along with governmental reporting. At present a number of the large grain and cotton organizations conduct crop reporting systems of their own with trained statisticians in charge, who keep in close touch with the situation through crop correspondents and by travel. Some of these organizations publish monthly reports; others collect the information for the exclusive use of themselves and their clients. Probably the most important private crop reporting organization is Broomhall's agency, whose main office is in Liverpool. It issues crop reports, market quotations and other statistical data about the grain trade on the basis of information gathered from its agents and correspondents located in all of the important grain producing countries. It is in a way an official statistical representative of every important grain exchange in the world. A number of individual firms in the cotton and grain trade and several newspapers and railroads also collect and publish crop information. The continuance of private crop and livestock reporting has been primarily due to a lack of faith in the accuracy of governmental reporting and to the constant desire of individuals connected with the trade in agricultural commodities for more accurate or inside information on the basis of which they may make a speculative profit.

Official crop reports are widely used by many classes of people, especially producers and marketing and distributing agencies, because these reports furnish the essential facts of production and supply of food and raw materials unbiased by personal interest. They are of value to farmers as a guide in adjusting acreage of particular crops to meet market requirements and in deciding when to sell. They are of indirect value to farmers in that they prevent the issuance or minimize the effects of biased, false or misleading private reports. They probably tend to reduce speculation, because increased certainty of supply helps to stabilize prices and reduces the speculative margins necessary where uncertainty exists. They furnish information as to supply to produce exchanges, boards of trade and livestock exchanges. Agricultural extension workers use them largely in preparing agricultural programs. They enable bankers to provide in advance for the funds needed in financing crop production, storage and marketing. They enable railroads to estimate the number of cars that must be available for moving crops and livestock. They furnish insurance companies with data on which to base crop insurance and place farm loans. Manufacturers and merchants use them to determine quantities for manufacture, to decide where to distribute their products geographically and to determine where to concentrate selling campaigns. They indicate to meat packing establishments the probable future supply of the raw product, thus aiding them in determining whether to accumulate stocks or to sell quickly. Crop and livestock reporting data are also widely used by economists and business analysts in studies of industrial, commercial and agricultural conditions.

WILLIAM F. CALLANDER

See: FORECASTING, BUSINESS; STATISTICS; SPECULATION; COMMODITY EXCHANGES; AGRICULTURE, GOVERNMENT SERVICES FOR; AGRICULTURE, INTERNATIONAL INSTITUTE OF; FOOD GRAINS; COTTON; LIVESTOCK INDUSTRY.

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CROP INSURANCE. *See* AGRICULTURAL INSURANCE.

CROP LIEN. *See* AGRICULTURAL CREDIT.

CROP REPORTING. *See* CROP AND LIVESTOCK REPORTING.

CROSS EXAMINATION. *See* JUDICIAL INTERROGATION.

CROWD. Crowds have been variously defined as (1) more or less dense aggregations of people in the same locality; (2) face to face groups of people responding similarly to the same stimuli; (3) according to Martin, people everywhere responding similarly to the same situation in such a manner as to secure release for their repressed desires; and (4) face to face groups responding wildly and largely without order and uniformity to suggestions to which they have previously been conditioned. The last definition corresponds more closely to the mob (*q. v.*), which may be regarded as a highly emotionalized and unstable form of the crowd. The first represents primarily the popular conception of crowds. The second is sufficiently inclusive to cover the mob but is not coterminous with it, since crowds so defined may possess a high degree of stability, if not of rationality. The third is a product of the influence of psychoanalytic theory upon the psychology of the group and it deviates from the traditional concept of crowds, which holds that they must be face to face groups.

Distance contact groups whose members respond to the same stimuli or intercondition one another have been called publics. The crowd is a subdivision of the group and is in turn inclusive of the mob. The other major and coordinate face to face division of the group is the assembly, whose members are usually organized into a formal association, meeting for the discussion or resolution of fairly specific problems and following a program usually prepared beforehand. The crowd is generally more casual in occurrence and purpose, less well organized or not at all organized, and it usually has no preliminary program. Those who seek to control the crowd and direct its behavior may, however, be well organized and have a definite purpose and a carefully prepared program.

Casual and highly fluid crowds, such as ordinary street aggregations, are largely without conscious interconditioning of responses, and therefore their members are not in active communication. They are, however, usually not without some degree of organization, resulting from the fact that each member is responding to certain highly stereotyped stimuli, such as traffic signals and the conventions of the street. These responses result in mutual adaptation and a consequent organic unity, although the unity is primarily unconsciously controlled and the units of the aggregate are constantly changing. Moreover, all of the members of such fluid and casual crowds are ordinarily possessors of very similar or even identical behavior patterns previously conditioned to respond to the same stimuli, unless they speak different languages and are drawn from very unlike cultures. If such effective stimuli are presented by a fire alarm, a policeman, an accident or a street speaker, the fluid, casual crowd may suddenly be transformed into a fixed organic crowd; and its organic character may be greatly intensified by active interconditioning, especially by the interchange of observations. Such an organic crowd may further become functional by the development of a common pattern of behavior under the pressure of the policeman or a squad of soldiers or under the pull of strong excitement and curiosity, as when children follow a band or people participate in a parade.

In order that the crowd may be brought to its highest organic development, where it functions as an interconditioned psychic unit organization, there must be a leader or at least a principle or sentiment which has some concrete physical embodiment in conversation or in a bulletin or newspaper generally available. The integration of the crowd in such cases results when previously conditioned like behavior patterns of individuals are made to respond simultaneously to the leader, phrase, principle or stereotype. If there is also complementary interconditioning of responses among the members at the same time that there is parallel response to the external stimulus, the organic character of the crowd is greatly emphasized. Such a crowd is truly purposive but it is not necessarily rational. It may become rational and thus pass into the category of the deliberative assembly; or it may be swayed so strongly by emotion that it becomes a mob. Mass meetings generally and

political conventions not infrequently illustrate these more organic types of the crowd. Sometimes they result in riots and even in revolutions.

The crowd psychology school, represented by such writers as Le Bon (*The Crowd*), Tarde (*L'opinion et la foule*, Paris 1910), Sighele (*La folla delinquente*, 2nd ed. Turin 1895) and Ross (*Social Psychology*), have attempted to construct a social psychology upon the behavior of the individual in the crowd. Ross and Le Bon have emphasized the highly emotional character of behavior under the impact of crowd stimuli. The individual becomes excited, loses self-control, fixates his attention upon the leader or other stimulus and abandons himself to suggestion, while his behavior is reinforced by the perception that others are responding similarly. Such behavior is uncritical of motives, highly credulous and without inhibiting moral scruples. Under such conditions conduct may revert to the primitive. But such behavior is also exhausting and the crowd easily changes its object of attention or allegiance: it is fickle. Martin further emphasizes the weakness of inhibitions in crowd behavior, which permits repressed desires to secure expression.

Behavior of this sort, which is to be seen strikingly when the crowd is a face to face group, takes on further significance when it is extended, as by some of the crowd psychology school, to characterize the broad sweep of the behavior of human societies, especially in times of stress. All the mobility, fickleness, credulousness, hysteria and so-called sadism which have been attributed by one writer or another to the face to face organic crowd are from this point of view seen as characteristics of any society which has for the time being converted itself into a crowd. At such times the society, in order to convince itself and others that its motives are not antisocial and egoistic, rationalizes its behavior by inventing high sounding shibboleths and righteous principles. Such pious inventions have enabled religious dogmatists to burn their rivals at the stake with a clear conscience and a capitalist controlled state to promote war for the acquisition of markets and raw materials. While such an extended interpretation is clearly inadequate as a basis for crowd psychology it is of distinct value in indicating that the peculiar mentality characteristic of crowds may be extended under the influence of propaganda or excitement and by means of facile instruments of communication to any sort of society or social grouping. Thus the psychoanalytic approach to the psychology of the crowd throws light upon collective motivation not hitherto adequately appreciated. It is at this point that the character of the crowd approaches most closely to that of the mob.

L. L. BERNARD

See: SOCIAL PROCESS; COLLECTIVE BEHAVIOR; MOB; GROUP; LEADERSHIP; CONSCIOUSNESS; CULTURE; COMMUNICATION; SOCIAL PSYCHOLOGY.

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CRUCÉ, ÉMERIC (*c.* 1590–1648), French writer on international law and economics. Little is known about his life. He published an edition of Publius Papinius Statius which was fiercely attacked by contemporaries. His semi-anonymous book, *Le nouveau cynée ou discours d'estat représentant les occasions et moyens d'establir une paix générale et la liberté du commerce par tout le monde* (Paris 1623; a copy in the Bibliothèque Nationale of Paris bearing the name Ém. Crucé is dated 1624), appeared when Grotius, also in Paris, wrote his *De jure belli ac pacis* (1625), and consequently received little notice; until 1890 the exact name of the author was uncertain. Crucé, assuming the role that Cineas held at the court of King Pyrrhus, detailed a plan of reform of international relations and national politics. The *Nouveau cynée* advocated peace and prosperity to be achieved by the creation at Venice of a permanent international assembly including Christian and non-Christian princes and states to which were to be submitted all international differences; the proclamation of universal free trade; the acceptance by the states of responsibility for the social welfare of their subjects. Crucé maintained there was an intimate relation between peace and economic progress. According to him the main productive forces are agriculture, commerce, industry and a few sciences, such as medicine and mathematics. A convinced free trader 150 years before Adam Smith, he opposed distinctions between native and foreign merchants. He advocated stabilization and uniformity of coins, weights and measures.

JACOB TER MEULEN

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CRUELTY TO ANIMALS. *See* ANIMAL PROTECTION.

CRUSADES. The crusades have been regarded primarily as holy wars, but actually they are much more complex in character. They were also in part feudal forays, commercial and colonizing expeditions and a phase of the long struggle between eastern and western peoples. The eleventh century was a period in which the spirit of asceticism was widespread in western Europe; men and women were seeking salvation through strict monkish discipline, fasting and self-torture and by long and dangerous pilgrimages, the greatest of which was to Jerusalem, "where His feet have stood." As a penance for the most heinous crimes this pilgrimage gained rapidly in popularity; one hundred and seventeen were recorded in the eleventh century before the first crusade. The advance of Turkish forces north and west interrupted the pilgrimage route.

When the Byzantine emperor appealed to the pope for aid against the Moslem invaders of his territory, Urban II saw an opportunity to heal the schism between the Greek and Roman churches and to reestablish his position as the head of Christianity, threatened by an antipope who had exiled him from Rome. He summoned a council at Clermont in November, 1095, to mobilize Christendom for a united effort against the Turk. His appeal was directed to a group of feudal chieftains. These nobles, especially the French, were warriors by profession and trained to fighting in a period of great unrest. Normans had conquered England, southern Italy and Sicily and had attacked the Byzantine Empire. Italian cities had successfully raided the Levant and were seeking new channels for trade expansion. The Spaniards, aided by adventurers from southern France, were struggling against the Moors. Simultaneously feudal lords clashed on home fields in recurring private wars. The development of chivalry had raised war and adventure to the status almost of a *summum bonum*; moreover, war had proved an excellent means for landless men to secure property and position, and the marketable plunder of victory was an enticing bait to a growing trading class. Upon such emotions and interests Urban played in his appeal at Clermont. He depicted the atrocities committed by the Turks and the profanation of the holy places, the possibility of booty and the advantage of fighting in a holy war rather than imperiling their souls by fighting against Christians at home. He incited them to march under the leadership of Christ to recover His grave, with the assurance of booty for the survivors and paradise for those who perished.

Thousands pressed forward to take the cross, non-combatants, women and children as well as warriors; the first crusading host which set out in 1096 was a mob with a nucleus of fighters. The main contingents came from France and southern Italy with detachments from every land in Europe. After three years of effort Jerusalem was taken. Four Latin states were set up: the kingdom of Jerusalem, the principality of Antioch, the counties of Edessa and Tripoli. Venice, Pisa and Genoa received exceptional trading privileges in payment for the aid lent by their fleets in capturing the seaports of Syria and Palestine.

This first success was impermanent. In 1145 Eugenius III called for a second crusade, whose great preacher was St. Bernard. A series of expeditions followed throughout the twelfth and thirteenth centuries and projects were entertained as late as the opening of the sixteenth century, but the heyday of the enterprise was from 1096 until the capture of Jerusalem by Saladin in 1187.

In this period a constant stream of pilgrims came and went between the Holy Land and the West. Small permanent colonies were set up by the Europeans or Franks, composed mainly of warriors, clergymen and merchants from Italy and Marseille. But Damascus, Homs, Hama, Aleppo and other strongholds remained in Moslem hands, and at all times almost every Frankish possession was within a day's ride of a

potential enemy. From necessity the Franks mixed with the natives, employing them to cultivate the soil, to carry on the arts and crafts, even to fight in crusading armies. The natives included Syrians, Maronites, Jacobites, Greeks, Armenians, Georgians, Jews, Samaritans, Arabs, Turks, Egyptians and many others. Lacking bonds of unity, divided by their religions and long accustomed to foreign rule they submitted without resistance after the Turkish or Egyptian garrisons had been dispossessed. Intermarriages were common. The kings married Armenian or Greek princesses; in the second half of the twelfth century some kings were three fourths oriental by blood, and the same was probably true of many so-called Franks in the other classes.

This mongrel people desired to live in peace and had no zeal for the holy war. Even more true was this of the Italians who were in the East for trade. Although adventurers seeking fortunes provoked trouble, the intermittent fighting was frequently between Christian princes, who sought allies among the Moslems or supported rival Moslem princes in their internal quarrels. Only twice was there unity on either side, during the first crusade and again when Saladin attacked the Christians. Chroniclers have dwelt upon the first crusade, on the heroic deeds of Richard the Lion-Hearted or of Saladin, on the defense of Acre in 1291. Far more important for an understanding of the crusades is a study of the peaceful intercourse which went on even after the third crusade until the loss of the last Christian possessions in the Holy Land.

The first contacts came in battle. The crusaders soon learned to admire the Moslems for bravery and consequently were more ready to admit the possibility of their having other good qualities. The inhabitants of Syria had inherited much from the old Greek culture and even some of the Turkish rulers were patrons of learning. Damascus, Antioch and Tripoli were centers of education. Many Saracen rulers were more civilized than the western warriors; moreover, they had some tastes in common. As they hunted over the same territory under a hunting truce agreement they met frequently and soon began to trade horses, dogs and falcons. Trading in general brought the Franks into friendly and constant contact with the Arabs, the middlemen in the commerce with the extreme Orient. Traders from Mosul had warehouses at Acre and were protected by the Templars. Safe conducts were freely given and duly honored by both Moslem and Christian rulers.

Intimate association led to assimilation of oriental customs. The Franks frequently preferred Arab dress, more suitable to the climate, and also the more appetizing Arab food and houses more luxurious than those to which they had been accustomed. They borrowed Arab doctors, who had inherited Greek methods of treatment in great contrast to the western doctors, who freely used the knife or the axe to cut off the offending members. Although the crusades were accompanied by numerous violent and atrocious attacks on Jewish communities in Europe, the Franks in Palestine imbibed some notions of tolerance from their contact with peoples of so many different religions.

The new ideas and the new needs acquired in the East were transferred to the West by men who returned home, and Italian merchants eagerly fostered the demand for eastern commodities which brought them so much gain. The literature of the twelfth and thirteenth centuries indicates the widespread interest in oriental luxuries, which rapidly became necessities for the nobles and caused a great increase in the cost of living. As the income of nobles, from customary dues, was almost fixed and could not easily be increased except by the acquisition of more property and as the nobles felt obliged to be lavish in expenditures, many of them fell into debt and were finally ruined. The English pipe rolls lists of insolvent debtors substantiate poetic reports of the passing of nobles' property into the hands of rich villeins.

As the church prohibited the charging of interest, money lenders were usually Jews; their clients were the nobles and the clergy. Since interest rates were high (about 52 percent a year in England when the security was excellent), the borrower was often in a desperate plight. To this fact is to be attributed much of the propaganda which led to hatred of the Jews and finally caused their banishment when a class of Christian bankers had arisen to take their place.

The merchants profited by the demand for luxuries and by the introduction of a money economy. The latter was, at least in part, a result of the demand for ready money on the part of crusaders or pilgrims. Merchants became more important, towns increased in size and prosperity, the third estate was favored by kings who needed its money and support. The Italian cities profited most and extended their trade to

all parts of the Mediterranean. Larger vessels were built to carry pilgrims or crusaders, their horses and supplies and the lumber so much needed in the Orient. Improvements in navigation followed, such as tacking and the use of a compass. These vessels made it possible to carry to the West large cargoes of oriental wares at comparatively slight cost for freight. One result of this international trade was the development and widespread use of codes of maritime law.

Travel and trade led to increased knowledge of geography and interest in the lands traversed or from which the wares came. Contacts between different peoples, together with the ample leisure on their voyages, led to an exchange of tales and information which enriched the literature of western Europe. This was the golden age of story telling; the Orient, Scandinavia, Ireland, Cornwall, Brittany, all contributed and the various elements were incorporated into the jongleur literature of France and thence spread to other lands. Contemporary tales reveal the eastern origin of such chivalric institutions as heraldry. In the art of war new methods were learned, partly from the Byzantines, partly from the Arabs.

Contacts between followers of various religions caused discussion of their relative merits. Peter the Venerable, abbot of Cluny, had the Koran translated so that he might study it. Eastern heresies followed the routes of trade into western Europe. The militant faith of the age was manifested not only in crusades to the Baltic lands and Spain as well as to the Orient, and in the persecution of heretics, but also in missionary enterprises. From the thirteenth century onward the Roman church sent its servants to convert the peoples of Asia.

At home the crusades enhanced the power of the papacy and the wealth of the church. Indulgences first given for crusading service soon became purchasable and the system of sales began which was to have so much importance in the subsequent history of the church. Direct taxes based on values were levied by both kings and popes for their crusades, and these precedents may have made it easier to exact such taxes later for other purposes, thus beginning a system destined to supplant that of the feudal dues. But it is hazardous to attempt to assess the influence on the developing monarchies or the papacy; in some ways the feudal lords and the pope, in others the kings, seem to have been benefited. On the whole, it is difficult to summarize the direct results of the crusades; the changes they produced had been prepared for in part through earlier contacts between the East and the West, and later contacts continued to introduce changes. Many of the results which have been claimed cannot be proved. The crusades began as an international movement but seem to have aroused a spirit of nationalism; they began largely as a religious movement and ended almost entirely as politico-economic expeditions. It is safest to say that the crusades accelerated tendencies already visible and, most important, broadened the cultural horizon of the West.

Contemporaries of the first crusade believed it to be the work of God. The failure of the third crusade in the next century; crusades against Christians, such as the freebooting attack on Constantinople with all its horrors; the peaceful negotiations conducted by Frederick II with those who were in theory the unpardonable and infidel enemies of the Lord; and the growing domination of secular motives, ill cloaked in religious pretense (particularly in the crusade undertaken against the Albigensian heretics in southern France by the land hungry nobles of the north), caused some to doubt. The antagonism of supporters of the empire to the pope, the patron of crusades, caused hostility, and in Ratisbon the death penalty was decreed against anyone who took the cross. Yet as a whole the general feeling for centuries was that crusades were a holy war and also a necessity to check the victorious advance of the Turks. By the eighteenth century opinions had changed and Voltaire expressed the prevalent feeling that the crusades were a foolish undertaking, participated in by criminals. At the beginning of the next century one author apostrophized Pope Urban II, author of the movement, as one against whom "seven million men will cry out at the day of judgment."

Renewed study of the Middle Ages attendant on the nineteenth century romantic movement produced two great histories of the crusades, by Wilken in Germany and Michaud in France. The latter work, written under romantic influence, was widely copied in France, England and the United States. In Germany the crusades were thought of as a migration (Heeren), a defensive war, an episode in the long struggle between the Orient and the Occident, or as a colonizing movement (Kugler). Stevenson defined them as "military expeditions to establish and maintain a Latin power in Syria." It is impossible to give a single explanation. The eco-

nomic motives cannot be neglected, but it was the religious motive which gave the crusades their peculiar character.

DANA C. MUNRO

See: FEUDALISM; CHIVALRY; PILGRIMAGES; MILITARY ORDERS; RELIGIOUS ORDERS; RELIGIOUS INSTITUTIONS; PAPACY.

Consult: Molinier, A., *Les sources de l'histoire de France*, 6 vols. (Paris 1901–04), vols. ii–iii offer the best guide to the sources; Röhricht, R., *Geschichte des Königreichs Jerusalem* (Innsbruck 1898), a chronological account of the events; *Cambridge Medieval History*, vol. iv (Cambridge, Eng. 1923) ch. iv, and vol. v (1926) chs. vii–ix; Barker, E., *The Crusades* (London 1923); Stevenson, W. B., *Crusaders in the East* (Cambridge, Eng. 1907); Sybel, H. von, *The History and Literature of the Crusades*, comp. and tr. by Lady Duff Gordon (London 1861); Kugler, B., *Geschichte der Kreuzzüge* (2nd ed. Berlin 1891); Prutz, H., *Kulturgeschichte der Kreuzzüge* (Berlin 1883); Bréhier, L., *L'église et l'orient au moyen âge* (5th ed. Paris 1928); Schaube, A., *Handelsgeschichte der romanischen Völker des Mittelmeergebiets* (Munich 1906); Lea, H. C., *A History of Auricular Confessions and Indulgences in the Latin Church*, 3 vols. (Philadelphia 1896) vol. ii, ch. iii; Munro, D. C., Prutz, H., and Diehl, C., *Essays on the Crusades* (New York 1904); Heyd, W., *Histoire du commerce du Levant au moyen âge*, 2 vols. (Leipsic 1885–86); Dodu, G., *Histoire des institutions monarchiques dans le royaume latin de Jérusalem* (Paris 1894); Delbrück, H., *Geschichte der Kriegskunst im Rahmen der politischen Geschichte*, 4 vols. (Berlin 1900–20) vol. iii, chs. vii–ix; Haskins, C. H., *The Renaissance of the Twelfth Century* (Cambridge, Mass. 1927).

CUJAS, JACQUES (1522–90), French jurist. He taught at Toulouse, Valence, Bourges and elsewhere in the course of his wandering life. He is the outstanding representative of humanism in Roman law. The glossators (*q.v.*) had studied Roman law as it stood at Justinian's death and the commentators (*q.v.*), or Bartolists, had used the comprehensive grasp of Justinian acquired by the glossators as the basis of a systematic science, but as their aim was practical they introduced non-Roman elements into the civil law and adapted it to contemporary needs. The school of Cujas viewed the Roman texts as historical documents, interpreting them in the full setting of ancient history and literature. A consummate master of jurisprudence, philology and history, Cujas may claim to be the greatest legal scholar of all time. He edited a number of unknown texts (Ulpian's *Regulae*, the *Consultatio*, parts of Paul's *Sententiae*) and reedited others, notably the Theodosian code. The most famous of his works are his *Observationum et emendationum libri XXVIII*, published from 1556 to his death except for the last four books, which were edited after his death by Pithou; and his commentaries upon Papinian, also first published posthumously. The general object of his numerous exegetical works is to restore the fragments of the jurists preserved in Justinian to their original form and meaning. The number and quality of his pupils show how decisive his work was for the historical study of the texts, but it was prejudicial to the practical application of Roman law. In that respect his break with tradition was retrograde, and his adversaries, the Bartolists, rightly retained their hold on practise. In youth Cujas was a Calvinist, but in later life he conformed to Catholicism.

The *Promptuarium universorum operum Jacobi Cujacii* of Dominicus Albanensis (2 vols., later ed. Naples 1795) is an index to the work of Cujas and gives ready access to the eleven-volume Naples (1722–27) and Venice-Modena (1758–83) reprints of the *Opera omnia* edited by C. A. Fabrot (10 vols., Paris 1658).

F. DE ZULUETA

Consult: Berriat-Saint-Prix, Jacques, *Histoire du droit romain, suivie de l'histoire de Cujas* (Paris 1821), German tr. by E. Spangenberg as *Jacob Cujas und seine Zeitgenossen* (Leipsic 1822) pt. i; Flach, J., "Cujas; les glossateurs et les bartolistes" in *Revue historique de droit français et étranger*, vol. vii (1883) 205–27; Phillipson, Coleman, "Cujas" in *Great Jurists of the World*, Continental Legal History series, vol. ii (Boston 1914) p. 83–108; Girard, P. F., "La jeunesse de Cujas" in *Revue historique de droit français*, vol. xl (1916) 429–504, 590–627. Some of Cujas' letters, edited by P. F. Girard, appear in *Revue historique de droit français*, vol. xli (1917) 403–24, and vol. xliv (1920) 243–73.

CULPEPER, SIR THOMAS, the elder (1578–1662), English economist. Culpeper was the author of tracts on trade and the rate of interest. His principal work, *A Tract against the High Rate of Usurie* (London 1621), urged that the maximum legal rate, the charging of anything above which constituted a criminal offense, be lowered from the 10 percent sanctioned by the act of 1571 to 6 percent. The tract was presented to the Parliament of 1623–24, of which he was a member, and perhaps contributed to the securing of the passage of a statute reducing the maximum to 8 percent. A third edition appeared in 1641, bound up with an addition under an extension of the same title, written in 1640 and supporting the arguments of the former by reference to the improvements in trade and the rise in land values since the reduction of 1623–24. He now urged the lowering of the rate to 5 or 6 percent. A reduction of the legal rate of interest to

6 percent took place in 1651 and was confirmed in 1660.

In his tracts Culpeper leaves the problem of the unlawfulness of interest to the moralists and confines his discussion to the economic evils of a high interest rate. His arguments show an understanding of the connection of prosperity with the rate of interest and some insight into the nature of interest itself. "The rate of usury is the measure by which all men trade, purchase, build, plant, or any ways bargain." "Money hatcheth no eggs of her own; whatsoever is given for use is taken either from the fruits of the land or man's industry." He believed that the mere passage of a law would reduce the interest rate and bring to England the same prosperity as Holland was enjoying under a rate of 3 to 4 percent.

So important did his campaign for a lower interest rate appear to Culpeper that he literally bequeathed it to his son, Sir Thomas Culpeper, the younger (1626–97). In their last conversations the father attempted to convey to his son the spirit and substance of his arguments. In 1668 the younger Culpeper wrote an introductory note to a reprint of his father's pamphlets on usury. In the same year he published his own principal pamphlets on interest, *A Discourse*, on the abatement of usury, and *A Short Appendix to a Late Treatise Concerning Abatement of Usury* (London). Although he wrote with greater fulness than his father he added little to the latter's thesis. Sir Josiah Child's *Brief Observations Concerning Trade* (London 1668) made the same plea as the elder Culpeper's pamphlet published in 1621, which Child appended to his own work.

The almost simultaneous publication of these various arguments for lower interest rates provoked a lively controversy over the causation and effects of high and low market rates for loans. Thomas Manley's boisterous *Usury at Six Percent Examined* (London 1669) and a less able anonymous tract entitled *Interest of Money Mistaken* (London 1668) both argued that Child and Culpeper had inverted cause and effect and that low interest follows and does not precede the healthy development of national industry and resources. Child subsequently gave ground to the opposition, but the younger Culpeper answered with confident assurance in *The Necessity of Abating Usury Re-asserted* (London 1670). Child's book and the appended Culpeper pamphlet were translated into French (Paris 1754) by the physiocrat de Gournay, who was influenced somewhat by the views of these two Englishmen.

A. V. JUDGES

Consult: Roscher, W., *Zur Geschichte der englischen Volkswirthschaftslehre im 16. und 17. Jahrhundert* (Leipsic 1851) p. 57–58; Rambaud, Joseph, *Histoire des doctrines économiques* (3rd ed. Paris 1909) p. 131; Cassel, G., *The Nature and Necessity of Interest* (London 1903) p. 10–16.

CULTS. Religion as conceived today may be divided into three parts: (1) a description of the world man lives in, especially of its hidden working causes and operative powers, usually in the dramatized forms of gods, angels, devils, ghosts and the like with their characteristic dispositions and more or less symbolic biographies, called myths; (2) an account of the fortunes and destiny of man in this world—his origination, pilgrimage and end, his salvation or damnation; (3) a technique to move and control the operative powers and working causes of the world so that human purposes may be facilitated both in the daily economy of human life and in eternity. The various branches of theology and religious cosmology are embodied in the first of these divisions; the second includes the ethical systems, the characters, the virtues, the vices, the attitudes and ambitions which are prospered or defeated at the hands of the unseen causes and powers; in the third are contained all the observances, the rituals, the liturgies and other devices of address and worship by means of which the unseen powers are set to work upon the accomplishment of desired ends. The relations between these parts are organic; that is, wherever any one is present the other two will also be found; wherever any one is deficient the other two will tend to vary and fail. For this reason formal definitions of religion have been prone to stress one of its three components against the others, the locus of the stress depending on the state of society and its intellectual life at the time. But no religion is whole and healthy without its participation in all three constituents of religion.

The third component of religion is its cultus. It is psychologically perhaps religion's most important organ. For being essentially a mode of behavior it is the nucleus out of which both theologies and ethics are generated and on which they are sustained. It changes last and least of the three aspects of religions, so that secularization consists essentially in the neglect of cultus. There are those indeed who see in cultus the whole substance of religion. The

meaning of religion, they argue, reduces itself to a parcel or collection of practises in relation to the unseen powers or causes, thus to the ways of "getting right with God." All else—theology, ethics, their variations and derivatives—serve simply as verbal extensions, refinements, generalizations, explanations and interpretations of these practises. It is for this reason that in old, unsecularized religions, such as orthodox Judaism or Roman Catholicism, observances and "duties" bulk so large; while in late, secularized ones, such as Unitarianism, the more recent modernistic sects and Ethical Culture, cosmology and ethics bulk large and tend to dissipate into the vague. Even the most secularized religion, however, must retain a minimum of distinctive observance, of particular action and utterance, in which its communicants may join and be as one. Lacking this they could not be a religious society at all.

It may be said then that every religion is a cult, every cult is a religion; that it is the specific form of observance or cultus which distinguishes one religion from another, or within any given religion one sect from another. Cosmology, theology and ethics may be the same; if the rites vary, the religions are different; they are different ways of getting right with God.

The way to be right with the god—or whatever other name may be given to the unseen power on which prosperity and misfortune are believed to depend—is to cultivate him; that is, to assume the attitudes, to perform the acts and to pronounce the words which are pleasing in his sight and which move him therefore to provide in return what man's heart desires. Such cultivation is worship. When it is practised by an organized association or fellowship through the agency of a professional priesthood it is the definitive differentia of a church. Its diffusion depends on a variety of factors. Of these the outstanding are trade and war. Every merchant, sailor and soldier, every traveler or migrant for that matter, is ipso facto a culture carrier. Even among unfriendly people his ways are observed and reacted to. Automatically a certain osmosis occurs of customs, attitudes and ideas. Thus the much more highly developed cultures of Egypt, Persia and Syria were disseminated throughout Italy and the western part of the Roman Empire through foreign war, immigration, commerce and slavery. And the tradesmen, the craftsmen, the slaves and the soldiers brought to the West not only the oriental industrial arts but also the oriental religions. Another factor is direct missionary activity. Ecclesiastical functionaries undertake systematic "selling" of their mysteries in behalf of their own establishments, insisting on the superiority of their techniques of salvation over those of all their competitors. The third agency is force; cults are imposed at the point of the sword, as were in many instances Christianity and Mohammedanism. Still another factor is indoctrination of the young through control of the schools.

The use of the sword and the school, if persisted in long enough, proves effective whether or not the new members of the communion would have joined it had they been let alone. This is not, however, true either of missionary propaganda or of the less direct diffusion by traders, soldiers and slaves. Diffusion of cultus is after all one thing, its adoption another. The infection may be present and yet not take. That it shall take requires a need and a readiness. Potential initiates and prospective converts must feel somehow insecure, somehow defeated. The gods they do serve must be felt as inadequate instruments of salvation beside the competing ones of the newcomer. The new cultus must offer greater present benefits and final satisfactions. Such was the case, as Cumont shows, in the spread of the oriental religions in pagan Rome; such was the case in the rise and survival of Christian variants in Catholic Europe; such is the case wherever men change from one religion to another. The religions of the Great Mother, of Isis and of Mithras, the astrological religions from Syria, displaced the native Roman and Greek religions because of their richer and more varied appeal to eye and ear and heart. Their rituals were more sensuous and colorful, their sacraments (such as the taurobolium) more emotionally impressive and their assurances of security and immortality more dogmatic and incontrovertible. The initiate was made to feel sensibly convinced that he had undergone a purgation and made an expiation which left him with his lost purity restored for this world and his everlasting life guaranteed for the world to come. Against such advantages not even the power of the state could successfully fight. For example, the Phrygian religion of Mâ or Cybele was proscribed at first as contrary to the *mos majorum*. Yet it became an official cultus of the state. This was partly due to its relevance to the neurasthenic temper of the times, partly to its connection with victory in a war and with other dangers overcome. Once it was estab-

lished other cults sought a derivative legality by attaching themselves to it, like the cult of Mithras so popular among soldiers. As a consequence divinities became interchangeable, theologies confused and ethics identical; but so long as the rites remained distinct, the cults retained their separateness. A similar history is presented by the cult of Isis and Osiris. From 59 to 48 B.C. the Roman senate labored to check the spread of the Alexandrian worship; but in the end emperors built temples to Isis; her worshipers owned the one scientific—that is, astrological—cosmology of the time, and life eternal was their own sure heritage. The cults of Jehovah and of Jesus broadly repeat the tale, especially the latter with its techniques of baptism for purification and rebirth and its guaranty of immortality by way of the sacraments. It also absorbs so much from its rivals and competitors that it participates in a consensus concerning theology and ethics, and the mutual resemblances in ritual are so striking that church fathers denounce them as inventions of the devil to mislead and destroy true believers. During the fourth century of the Christian era Roman civilization had reached a religious consensus designed to reconcile the variants, made up of neo-Platonism in theology and cosmology, salvationism in ethics and allegory in interpretative methods.

But it was in the variants—the bodies of observance and practise whose traditional and sacred distinctions make the effective life of religion—that the certainty of salvation resided. It is from them, from the direct experience of initiation and purgation and of communion and rebirth, that the validity and authority of a religion derives. Without the living acknowledgment of the miracle accomplished no religion can hold its communicants. The world being what it is and the human heart what it is, this condition cannot even under the most favorable circumstances continue always and everywhere to obtain. No technique works infallibly; no security survives forever. Hope and necessity, sorrow and fear and anger, shock and boredom, impose a perennial creation of variants within the complexus of the existing religious order or the adoption of novelties from without. This keeps happening in the face of the most ingenious preventive measures an ecclesiastical establishment can apply—slow tortures and fiery deaths. Thus within the complexus of the older Christian cultus are to be found cults of saints, of angels, of sacred relics, of heavenly bodies and of Satan which challenge and supersede the worship of the authorized Christian gods. Besides such unsanctioned cults there are those which ecclesiastical authority itself adds, like the cult of the Virgin Mary, of newly canonized saints, newly consecrated relics, images and places. Heretics, Protestants and Dissenters also initiate their own variations in the techniques of working on unseen powers so as to assure their intervention in behalf of the heart's desire. The variation may be anything: the use of two rather than three fingers in benediction, of hooks and eyes rather than buttons to fasten Christian garments, of a baptism by total immersion rather than by sprinkling, of ritually washing feet at stated seasons, of a married rather than an unmarried clergy, of a vernacular rather than a sacred tongue like Latin or Hebrew, of congregational rather than episcopal organization, of somber rather than gorgeous sacerdotal dress, of polygamy rather than monogamy, Karezza rather than procreation, and so on.

However small the item of variation it operates as the prime cause in the making of sects, the modification of doctrines and the resuscitation of religious sentiment. Any problem in the life of an individual or a group may serve to initiate a modification of behavior toward unseen power which attracts converts by its emotional congruity and practical promise and which becomes in the course of time the stylized ritual distinguishing a new cult. The various Baptist and Methodist sects, Mormonism, Christian Science, the House of David, Bahaism, Russellism, Holy Rollers, Pentecostalism, to mention only a few in an endless catalogue, are all distinguished by their special techniques, ceremonial and societal, of getting right with God. The creators or discoverers of these techniques need not themselves be convinced of them; their purposes may be altogether ulterior and their role may be to themselves that of swindlers and charlatans. This has no bearing on the success or failure of their cults. These depend not at all on the moral character of the founders but on the credited function of the cults among their communicants, on the sense of present security and well-being and the certainty of ultimate salvation which they establish. It is for this reason that the unseen power which the cult tends need not be supernatural only. Any work or ideal of man, any event or quality in nature, any personality enhanced by psychic distance, may become the object of

techniques which cultivate it in the belief that much good accrues from such action to the cultivator. Hence the Browning cults and the Shakespeare cults, the cults of beauty, of health, of atheism, of communism, of the constitution. Hence too the overtone of invidiousness and depreciation which now attaches to the word cult. To say cult is often to imply an upstart or déclassé religion, a worship not quite proper, without the correct sanctions, a pretender religion, suspect to the public opinion of the particular society in which it sets up for business. If it gain in numbers, wealth and power it ceases to be a cult and becomes a religion. Cult, again, is the other fellow's worship, not one's own; Protestants refer to Roman Catholicism as a cult but not to Protestantisms; Catholics deny that Protestantism is Christian at all; and agnostics and infidels will decry all religions as cults.

HORACE M. KALLEN

See: RELIGION; RELIGIOUS INSTITUTIONS; SECTS; RITUAL; SAINTHOOD; DIABOLISM; REVIVALS, RELIGIOUS; PROSELYTISM; APOSTASY AND HERESY.

Consult: Moore, G. F., *The History of Religion*, 2 vols. (2nd ed. New York 1922); Jastrow, M., *The Study of Religion* (London 1901); Kallen, H. M., *Why Religion?* (New York 1927); Reinach, S., *Cultes, mythes et religions*, 5 vols. (Paris 1905–23); Tylor, E. B., *Primitive Culture*, 2 vols. (6th ed. London 1920); Lippert, J., *Kulturgeschichte der Menschheit*, 2 vols. (Stuttgart 1886–87) vol. ii, p. 236–505; Malinowski, B., "Magic, Science and Religion" in *Science, Religion and Reality*, ed. by J. Needham (New York 1925) p. 19–84; Cumont, F., *Les religions orientales dans le paganisme romain* (4th ed. Paris 1929), English translation (Chicago 1911); Halliday, W. R., *The Pagan Background of Early Christianity* (Liverpool 1925); Rohde, E., *Psyche*, 2 vols. (8th ed. Tübingen 1921), tr. by W. B. Hillis (London 1925); Aulard, A., *Le culte de la raison et de l'Être suprême* (2nd ed. Paris 1904); Bargy, H., *La religion dans la société aux États-Unis* (Paris 1902); Ferguson, C. W., *The Confusion of Tongues* (New York 1928).

CULTURAL GEOGRAPHY. *See* GEOGRAPHY.

CULTURE. Man varies in two respects: in physical form and in social heritage, or culture. The science of physical anthropology, employing a complex apparatus of definitions, descriptions and terminologies and somewhat more precise methods than common sense and untutored observation, has succeeded in cataloguing the various branches of mankind according to their bodily structure and physiological characteristics. But man varies also in an entirely different aspect. A pure blooded Negro infant, transported to France and brought up there, would differ profoundly from what he would have been if reared in the jungle of his native land. He would have been given a different social heritage: a different language, different habits, ideas and beliefs; he would have been incorporated into a different social organization and cultural setting. This social heritage is the key concept of cultural anthropology, the other branch of the comparative study of man. It is usually called culture in modern anthropology and social science. The word culture is at times used synonymously with civilization, but it is better to use the two terms distinctively, reserving civilization for a special aspect of more advanced cultures. Culture comprises inherited artifacts, goods, technical processes, ideas, habits and values. Social organization cannot be really understood except as a part of culture; and all special lines of inquiry referring to human activities, human groupings and human ideas and beliefs can meet and become cross fertilized in the comparative study of cultures.

Man in order to live continually alters his surroundings. On all points of contact with the outer world he creates an artificial, secondary environment. He makes houses or constructs shelters; he prepares his food more or less elaborately, procuring it by means of weapons and implements; he makes roads and uses means of transport. Were man to rely on his anatomical equipment exclusively, he would soon be destroyed or perish from hunger and exposure. Defense, feeding, movement in space, all physiological and spiritual needs, are satisfied indirectly by means of artifacts even in the most primitive modes of human life. The man of nature, the *Naturmensch*, does not exist.

This material outfit of man—his artifacts, his buildings, his sailing craft, his implements and weapons, the liturgical paraphernalia of his magic and religion—are one and all the most obvious and tangible aspects of culture. They define its level and they constitute its effectiveness. The material equipment of culture is not, however, a force in itself. Knowledge is necessary in the production, management and use of artifacts, implements, weapons and other constructions and is essentially connected with mental and moral discipline, of which religion, laws and ethical rules are the ultimate source. The handling and possession of goods imply also the appreciation of their value. The manipulation of implements and the consumption of goods also require cooperation. Common work

and common enjoyment of its results are always based on a definite type of social organization. Thus material culture requires a complement less simple, less easily catalogued or analyzed, consisting of the body of intellectual knowledge, of the system of moral, spiritual and economic values, of social organization and of language. On the other hand, material culture is an indispensable apparatus for the molding or conditioning of each generation of human beings. The secondary environment, the outfit of material culture, is a laboratory in which the reflexes, the impulses, the emotional tendencies of the organism are formed. The hands, arms, legs and eyes are adjusted by the use of implements to the proper technical skill necessary in a culture. The nervous processes are modified so as to yield the whole range of intellectual concepts, emotional types and sentiments which form the body of science, religion and morals prevalent in a community. As an important counterpart to these mental processes there are the modifications in the larynx and tongue which fix some of the crucial concepts and values by associating them with definite sounds. Artifact and custom are equally indispensable and they mutually produce and determine one another.

Language is often regarded as something distinct from both man's material possessions and his system of customs. This view is frequently coupled with a theory by which meaning is regarded as a mystical content of the word, which can be transmitted in utterance from one mind to another. But the meaning of a word is not mysteriously contained in it but is rather an active effect of the sound uttered within a context of situation. The utterance of sound is a significant act indispensable in all forms of human concerted action. It is a type of behavior strictly comparable to the handling of a tool, the wielding of a weapon, the performance of a ritual or the concluding of a contract. The use of words is in all these forms of human activity an indispensable correlate of manual and bodily behavior. The meaning of words consists in what they achieve by concerted action, the indirect handling of the environment through the direct action upon other organisms. Speech therefore is a bodily habit and is comparable to any other type of custom. The learning of language consists in the development of a system of conditioned reflexes which at the same time become conditioned stimuli. Speech is the production of articulate sounds, developed in childhood out of the inarticulate infantile utterances which constitute the child's main endowment in dealing with his environment. As the individual grows his increase of linguistic knowledge runs parallel with his general development. A growing knowledge of technical processes is bound up with the learning of technical terms; the development of his tribal citizenship and social responsibility is accompanied by the acquisition of a sociological vocabulary and of polite speech, commands and legal phraseology; the growing experience of religious and moral values is associated with the development of ritual and ethical formulae. The full knowledge of language is the inevitable correlate of the full attainment of a tribal and cultural status. Language thus is an integral part of culture; it is not, however, a system of tools but rather a body of vocal customs.

Social organization is often regarded by sociologists as remaining outside culture, but the organization of social groups is a complex combination of material equipment and bodily customs which cannot be divorced from either its material or psychological substratum. Social organization is the standardized manner in which groups behave. But a social group consists always of individuals. The child, attached to its parents through the satisfaction of all its needs, grows up within the shelter of the parental house, hut or tent. The domestic hearth is the center around which the various necessities of warmth, comfort, food and companionship are satisfied. Later in every human society communal life is associated with the local settlement, the town, village or compound; it is localized within definite boundaries and associated with private and public activities of an economic, political and religious nature. In every organized activity therefore human beings are bound together by their connection with a definite portion of environment, by their association with a common shelter and by the fact that they carry out certain tasks in common. The concerted character of their behavior is the result of social rules, that is, customs, either sanctioned by explicit measures or working in an apparently automatic way. The sanctioned rules—laws, customs and manners—belong to the category of acquired bodily habits. The essence of moral values by which man is driven to definite behavior by inner compulsion has in religious and metaphysical thought been ascribed to conscience, the will of God or an inborn categorical imperative; while some sociologists have explained it as due to a supreme moral being—

society, or the collective soul. Moral motivation when viewed empirically consists in a disposition of the nervous system and of the whole organism to follow within given circumstances a line of behavior dictated by inner constraint which is due neither to innate impulses nor yet to obvious gains or utilities. The inner constraint is the result of the gradual training of the organism within a definite set of cultural conditions. The impulses, desires and ideas are within each society welded into specific systems, in psychology called sentiments. Such sentiments define the attitudes of a man toward the members of his group, above all his nearest kindred; toward the material objects of his surroundings; toward the country which he inhabits; toward the community with which he works; toward the realities of his magical, religious or metaphysical *Weltanschauung*. Fixed values or sentiments often condition human behavior so that man prefers death to surrender or compromise, pain to pleasure, abstention to satisfaction of desire. The formation of sentiments and thus of values is always based on the cultural apparatus in a society. Sentiments are formed over a long space of time and through a very gradual training or conditioning of the organism. They are based on forms of organization, very often world wide, such as the Christian church, the community of Islam, the empire, the flag—all symbols or catchwords, behind which, however, there exist vast and living cultural realities.

The understanding of culture is to be found in the process of its production by succeeding generations and in the way in which it produces in each new generation the appropriately molded organism. The metaphysical concepts of a group mind, collective sensorium or consciousness are due to an apparent antinomy of sociological reality: the psychological nature of human culture on the one hand and on the other the fact that culture transcends the individual. The fallacious solution of this antinomy is the theory that human minds combine or integrate and form a superindividual and yet essentially spiritual being. Durkheim's theory of moral constraint by the direct influence of the social being, the theories based on a collective unconscious and archetype of culture, such concepts as consciousness of kind or the inevitability of collective imitation, account for the psychological yet superindividual nature of social reality by introducing some theoretical metaphysical short cut.

The psychological nature of social reality is, however, due to the fact that its ultimate medium is always the individual mind or nervous system. The collective elements are due to the sameness of reaction within the small groups which act as units of social organization by the process of conditioning and to the medium of material culture within which the conditioning takes place. The small groups which act as units because of their mental sameness are then integrated into the larger schemes of social organization by the principles of territorial distribution, cooperation and division into strata of material culture. Thus the reality of the superindividual consists in the body of material culture, which remains outside any individual and yet influences him in the ordinary physiological manner. There is nothing mystical therefore in the fact that culture is at the same time psychological and collective.

Culture is a reality *sui generis* and must be studied as such. The various sociologies which treat the subject matter of culture by way of the organic simile or in the likeness of a collective mind are irrelevant. Culture is a well organized unity divided into two fundamental aspects—a body of artifacts and a system of customs—but also obviously into further subdivisions or units. The analysis of culture into its component elements, the relation of these elements to one another and their relation to the needs of the human organism, to the environment and to the universally acknowledged human ends which they subserve are important problems of anthropology.

Anthropology has dealt with its material by two different methods, controlled by two incompatible conceptions of the growth and history of culture. The evolutionary school has regarded the growth of culture as a series of spontaneous metamorphoses proceeding according to definite laws and producing a fixed sequence of successive stages. This school took for granted the divisibility of culture into simple elements and it treated these elements as if they were units of the same order; it presented theories of the evolution of fire making side by side with accounts of how religion developed, versions of the origin and development of marriage and doctrines as to the development of pottery. Stages of economic development and steps in the evolution of domestic animals, of cutting implements and of ornamental design were formulated. Yet there is no doubt that, although certain implements have changed, passed through a sequence of stages and obeyed more or less definite laws of evolution, the

family, marriage or religious beliefs are not subject to any simple, dramatic metamorphoses. The fundamental institutions of human culture have changed not by way of sensational transformations but rather through an increasing differentiation of form in accordance with an increasingly definite function. Until the nature of the various cultural phenomena, their function and their form are understood and described more fully, it seems premature to speculate on possible origins and stages. The concepts of origins, stages, laws of development and growth of culture have remained nebulous and essentially non-empirical. The method of evolutionary anthropology was based primarily on the concept of survival, since this allowed the student to reconstruct past stages from present day conditions. The concept of survival, however, implies that a cultural arrangement can outlive its function. The better a certain type of culture is known, the fewer survivals there appear to be in it. Evolutionary inquiry should therefore be preceded by a functional analysis of culture.

The same criticism applies to the historical or diffusionist school, which attempts to reconstruct the history of human cultures mainly by tracing their diffusion. This school denies the importance of spontaneous evolution and maintains that cultures have been produced mainly by the imitation or taking over of artifacts and customs. The method of the school consists in a careful mapping out of cultural similarities over large portions of the globe and in speculative reconstructions as to how the similar units of culture have wandered from one place to another. The disputes of historical anthropologists (for there is little consensus between Elliot Smith and F. Boas; W. J. Perry and Pater Schmidt; Clark Wissler and Graebner; or Frobenius and Rivers) refer mostly to the questions as to where a type of culture originated, whither it moved and how it was transported. The difference is primarily due to the way in which each school conceives, on the one hand, the divisions of culture into its component parts and, on the other, the process of diffusion. This process has been very little studied in its present day manifestations, and it is only from the empirical study of contemporary diffusion that an answer can be found as to its past history. The method of division of culture into its component units, which are then supposed to diffuse, is even less satisfactory. The concepts of cultural traits, trait complexes and *Kulturkomplexe* are indiscriminately applied to single utensils or implements, such as the boomerang, the bow or the fire drill, or to vague characteristics of material culture, such as megalithity, sexual suggestiveness of the cowrie shell or certain details of objective form. Agriculture, the worship of fertility and enormous yet vague principles of social grouping, such as dual organization, the clan system or a type of religious cult, are regarded as single traits, that is, units of diffusion. But culture cannot be regarded as a fortuitous agglomerate of such traits. Only elements of the same order can be treated as identical units of argument; only compatible elements compound into a homogeneous whole. Insignificant details of material culture, on the one hand, social institutions and cultural values, on the other, must be treated differently. They are not invented in the same way, cannot be carried, diffused or implanted in the same manner.

The weakest point in the method of the historical school is the way in which its members establish the identity of cultural elements. For the whole problem of historical diffusion is raised by the occurrence of really or apparently identical traits or complexes in different areas. In order to establish the identity of two elements of culture the diffusionist uses the criteria of what might be called irrelevant form and fortuitous concatenation of elements respectively. The irrelevancy of form is a fundamental concept because form, which is dictated by inner necessity, could have developed independently. Complexes, naturally concatenated, could also be the product of independent evolution—hence the need to consider only fortuitously connected traits. Accidental concatenation, however, and irrelevant detail of form can, according to Graebner and his followers, be only the result of direct diffusion. But irrelevance of form and fortuitousness of concatenation are both negative assertions, which in the last instance mean that the form of an artifact or an institution cannot be accounted for or the concatenation between several elements of culture found. The historical method uses absence of knowledge as its basis of argument. To be valid its results must be preceded by a functional study of the given culture, which should exhaust all the possibilities of explaining form by function and of establishing relationships between the various elements of culture.

If culture in its material aspect is primarily a body of instrumental artifacts, it seems at first sight improbable that any culture should harbor

a great many irrelevant traits, survivals or fortuitous complexes either dumped down by some itinerant alien culture or handed over as survivals, useless fragments of a vanished stage. Still less is it likely that customs, institutions or moral values should present this necrotic or irrelevant character in which the evolutionary and diffusionist schools are primarily interested.

Culture consists of the body of commodities and instruments as well as of customs and bodily or mental habits which work directly or indirectly for the satisfaction of human needs. All the elements of culture, if this conception be true, must be at work, functioning, active, efficient. The essentially dynamic character of cultural elements and of their relations suggests that it is in the study of cultural function that the most important task of anthropology consists. The primary concern of functional anthropology is with the function of institutions, customs, implements and ideas. It holds that the cultural process is subject to laws and that the laws are to be found in the function of the real elements of culture. The atomizing or isolating treatment of cultural traits is regarded as sterile, because the significance of culture consists in the relation between its elements, and the existence of accidental or fortuitous culture complexes is not admitted.

To formulate a number of fundamental principles an example may be taken from material culture. The simplest artifact, extensively used in the simplest cultures, a plain stick, roughly trimmed, some five to six feet long, such as can be used for digging up roots or in the cultivation of the soil, for punting or in walking, is an ideal element or trait of culture for it has a fixed, simple form, is apparently a self-contained unit and is very important in every culture. To define the cultural identity of a stick by its form, by describing its material, its length, its weight, its color or any other physical characteristics—by describing it in fact according to the final criterion of form as it is used by the diffusionist—would be a methodically erroneous procedure. The digging stick is handled in its own way; it is used in a garden or in the bush for a special purpose; it is procured and discarded in a somewhat careless manner—for a single specimen has usually very small economic value. But the digging stick looms large in the economic scheme of every community in which it is used as well as in folklore, mythology and customs. A stick of identical form can be used in the same culture as a punting pole, a walking staff or a rudimentary weapon. But in each of these specific uses the stick is embedded in a different cultural context; that is, put to different uses, surrounded with different ideas, given a different cultural value and as a rule designated by a different name. In each case it forms an integral part of a different system of standardized human activities. In brief, it fulfils a different function. It is the diversity of function not the identity of form that is relevant to the student of culture. The stick exists as a part of culture only in so far as it is used in human activities, in so far as it serves human needs; and therefore the digging stick, the walking staff, the punting pole, although they may be identical in physical nature, are each a distinct element of culture. For the simplest as well as the most elaborate artifact is defined by its function, the part which it plays within a system of human activities; it is defined by the ideas which are connected with it and by the values which surround it.

This conclusion receives its importance from the fact that the systems of activities to which material objects are referred are not fortuitous but are organized, well determined, comparable systems found throughout the world of cultural diversity. The cultural context of the digging stick, the system of agricultural activities, always presents the following component parts: a portion of territory is legally set aside for the use of a human group by the rules of land tenure. A body of traditional usages exists regulating the way in which this territory is to be cultivated. Technical rules, ceremonial and ritual usages determine in every culture what plants are to be grown; how the ground is to be cleared, the soil prepared and fertilized; how the work is to proceed; how, when and by whom the magical acts or religious ceremonies are to be performed; how, finally, the crops are to be harvested, distributed, stored and consumed. Likewise the group of people who own the territory, the plant and the produce, who work together, enjoy and consume the results of their labors, are always well defined.

These are the characteristics of the institution of gardening as it is universally found wherever the environment is favorable to the cultivation of the soil and the level of culture sufficiently high to allow it. The fundamental identity of this organized system of activities is due primarily to the fact that it is built up around the satisfaction of a deep human need—the regular provision of staple food of a vegetable nature. The satisfaction of this need by agriculture,

which insures possibility of control, regularity of production and relative abundance, is so superior to any other food providing activity that it was bound to diffuse or to develop wherever conditions were favorable and the level of culture sufficiently high.

The fundamental uniformity in institutionalized gardening is due to yet another cause, the principle of limited possibilities, first laid down by Goldenweiser. Given a definite cultural need, the means of its satisfaction are small in number, and therefore the cultural arrangement which comes into being in response to the need is determined within narrow limits. Given the human need for a support, a rudimentary weapon and an implement for exploring in the dark, the material most suitable is wood, the only adequate shape thin and long, and a plentiful supply is accessible. Yet a sociology or cultural theory of the walking staff is possible, for the staff displays a diversity of uses, ideas and mystical associations and in its ornamental, ritual and symbolic developments becomes a part of important institutions such as magic, chieftainship and kingship.

The real component units of cultures which have a considerable degree of permanence, universality and independence are the organized systems of human activities called institutions. Every institution centers around a fundamental need, permanently unites a group of people in a cooperative task and has its particular body of doctrine and its technique of craft. Institutions are not correlated simply and directly to their functions: one need does not receive one satisfaction in one institution. But institutions show a pronounced amalgamation of functions and have a synthetic character. The local or territorial principle and relationship by procreation act as the most important integrative factors. Every institution is based on a material substratum of apportioned environment and of cultural apparatus.

To define cultural identity of any artifact is possible only by placing it within the cultural context of an institution, by showing how it functions culturally. A pointed stick, that is, a spear, used as a hunting weapon leads to the study of the type of hunting, as practised in a given culture, in which it functions, the legal rights of hunting, the organization of the team, the technique, the magical ritual, the distribution of the quarry, as well as the relation of the particular type of hunting to other types and the general importance of hunting within the economy of the tribe. Canoes have often been taken as characteristic traits for the establishment of cultural affinities and hence as a proof of diffusion because the form varies within a wide range and shows types of outstanding character, such as the canoe with single or double outrigger, the balsa, the kayak, the catamaran or the double canoe. And yet this complex artifact cannot be defined by form alone. The canoe, to the people who produce, possess, use and value it, is primarily a means to an end. They have to cross an expanse of water either because they live on small islands or in pile dwellings; or because they want to trade or have to fish or go to war; or because of the desire for exploration and adventure. The material object, the sailing craft, its form, its peculiarities, are determined by the special use to which it is put. Every use dictates a special system of sailing, that is, in the first place, the technique of using paddles, the steering oar, the mast, the rigging or the sail. Such techniques, however, are invariably based on knowledge: principles of stability, buoyancy, conditions of speed and response to steering. The form and structure of the canoe are closely related to the technique and manner of its use. Yet innumerable accounts of the mere form and structure of a canoe are available, while little is known about the technique of sailing and the relation of this to the particular use to which a canoe is put.

The canoe has also its sociology. Even when manned by a single person it is owned, produced, lent or hired, and in this the group as well as the individual is invariably implicated. But usually the canoe has to be handled by a crew and this entails the complex sociology of ownership, of division of functions, of rights and obligations. These are rendered more complex by the fact that a large vessel has to be produced communally, and production and ownership are usually related. All these facts, which are complex but regulated, which show several aspects, all of which are related according to definite rules, determine the form of the canoe. Form cannot be treated as a self-contained independent trait, accidental and irrelevant, diffusing alone without its context. All the assumptions, arguments and conclusions which concern the diffusion of an element and the spread of culture in general will have to be modified once it is acknowledged that what diffuse are institutions and not traits, forms or fortuitous complexes.

In the construction of seagoing craft there are certain stable elements of form determined by

the nature of the activity to which the craft is instrumental. There are certain variable elements due either to alternative possibilities of solution or else to less relevant details associated with any possible solution. This is a universal principle referring to all artifacts. The commodities used for the direct satisfaction of bodily needs or consumed in use must fulfil conditions laid down by the direct bodily need. Foodstuffs, for instance, are within certain limits determined by physiology; they must be nourishing, digestible, non-poisonous. They are of course also determined by environment and by the level of culture. Habitations, clothing, shelter, fire as source of warmth, light and dryness, weapons, sailing craft and roads are within limits determined by the bodily needs to which they are correlated. Implements, tools or machines which are used for the production of commodities have their nature and form defined by the purpose for which they are to be used. Cutting or scraping, joining or smashing, striking or driving, piercing or drilling, define the form of an object within narrow limits.

But variations occur within the limits imposed by the primary function, which causes the primary characters of an artifact to remain stable. There is no indefinite variation, but a fixed type occurs as if a choice had been made and then adhered to. In any seafaring community, for instance, there is not found an infinite variety of craft ranging from a simple hollowed log to a complicated outrigger; at most a few forms occur, differentiated by size and construction and also by social setting and purpose, and each traditional form is reproduced constantly to the smallest detail of decoration and constructive process.

Anthropology has so far concentrated its attention on these secondary regularities of form which cannot be accounted for by the primary function of the object. The regular occurrence of such apparently accidental details of form has raised the question whether they are due to independent invention or diffusion. But many such details are to be explained by the cultural context; that is, the special way in which an object is used by a man or a group of people, by the ideas, rites and ceremonial associations which surround its primary use. The ornamentation of a walking staff usually means that it has received within a culture a ceremonial or religious association. A digging stick may be weighted, sharply pointed or blunt, according to the character of the soil, the plants grown and the type of cultivation. The explanation of the South Sea outrigger may be found in the fact that this arrangement gives the greatest stability, seaworthiness and manageability, considering the limitations in material and in technical handicraft of the Oceanic cultures.

The form of cultural objects is determined by direct bodily needs on the one hand and by instrumental uses on the other, but this division of needs and uses is neither complete nor satisfactory. The ceremonial staff used as a mark of rank or office is neither a tool nor a commodity, and customs, words and beliefs cannot be referred either to physiology or to the workshop.

Man like any animal must receive nourishment, and he has to propagate if he is to continue individually and racially. He must also have permanent safeguards against dangers coming from the physical environment, from animals or from other human beings. A whole range of necessary bodily comforts must be provided—shelter, warmth, a dry lair and means of cleanliness. The effective satisfaction of these primary bodily needs imposes or dictates to every culture a number of fundamental aspects; institutions for nutrition, or the commissariat; institutions for mating and propagation; and organizations for defense and comfort. The organic needs of man form the basic imperatives leading to the development of culture in that they compel every community to carry on a number of organized activities. Religion or magic, the maintenance of law or systems of knowledge and mythology occur with such persistent regularity in every culture that it must be assumed that they also are the result of some deep needs or imperatives.

The cultural mode of satisfaction of the biological needs of the human organism creates new conditions and thus imposes new cultural imperatives. With insignificant exceptions, desire for food does not bring man directly in touch with nature and force him to consume the fruits as they grow in the forest. In all cultures, however simple, staple food is prepared and cooked and eaten according to strict rules within a definite group and with the observance of manners, rights and tabus. It is usually obtained by more or less complicated, collectively carried out processes, such as agriculture, exchange or some system of social cooperation and communal distribution. In all this man is dependent on the artificially produced apparatus of weapons, agricultural implements, fishing craft and tackle. He is equally dependent upon organ-

ized cooperation and upon economic and moral values.

Thus out of the satisfaction of physiological needs there grow derived imperatives. Since they are essentially means to an end they may be called the instrumental imperatives of culture. These are as indispensable to man's commissariat, to the satisfaction of his nutritive needs, as the raw material of food and the processes of its ingestion. For man is so molded that if he were deprived of his economic organization and of his implements he would as effectively starve as if the substance of his foodstuffs were withdrawn from him.

From the biological point of view the continuity of race might be satisfied in a very simple manner: it would be enough for people to mate, to produce two or occasionally more children per couple, enough to insure that two individuals survive for every two who die. If biology alone controlled human procreation, people would mate by rules of physiology which are the same for the whole species; they would produce offspring in the natural course of pregnancy and childbirth; and the animal species man would have its typical family life, physiologically defined. The human family, the biological unit, would then present exactly the same constitution throughout humanity. It would also remain outside the scope of cultural science—as has been in fact postulated by many sociologists, notably by Durkheim. But instead, mating, that is, the system of courtship, love making and selection of consorts, is in every human society traditionally defined by the body of cultural customs prevalent in that community. There are rules which debar some people from marriage and make it desirable if not compulsory for others to marry; there are rules of chastity and rules of license; there are strictly cultural elements which blend with the natural impulse and produce an ideal of attractiveness which varies from one society and one culture to another. In place of a biologically determined uniformity a bewildering variety of sexual customs and courtship arrangements regulating mating exist. Marriage within each human culture is by no means a simple sexual union or even cohabitation of two people. It is invariably a legal contract defining the mode in which man and wife should live together and the economic conditions of their union, such as cooperation in property, mutual contributions and contributions of the respective relatives of either consort. It is invariably a public ceremony, a matter for social concern, involving large groups of people as well as the two main actors. Its dissolution as well as its conclusion is subject to fixed traditional rules.

Nor is parenthood a mere biological relationship. Conception is the subject of a rich traditional folklore in every human community and has its legal side in the rules which discriminate between children conceived in wedlock and out of it. Pregnancy is surrounded by an atmosphere of moral values and rules. Usually the expectant mother is compelled to lead a special mode of life hedged in by tabus, all of which she has to observe on account of the welfare of the child. There is thus a culturally established, anticipatory maternity which foreshadows the biological fact. Childbirth is also an event deeply modified by ritual, legal, magical and religious concomitants, in which the emotions of the mother, her relations to the child and the relations of both to the social group are molded so as to conform to a specific traditional pattern. The father also is never passive or indifferent at childbirth. Tradition closely defines the parental duties during early pregnancy and the manner in which they are divided between husband and wife and partly shifted to more distant relatives.

Kinship, the tie between the child and its parents and their relatives, is never a haphazard affair. Its development is determined by the legal system of the community, which organizes on a definite pattern all emotional responses as well as all duties, moral attitudes and customary obligations. The important distinction between matrilineal and patrilineal relatives, the development of the wider or classificatory kinship relations as well as the formation of clans, or sibs, in which large groups of relatives are to a certain extent regarded and treated as real kindred, are cultural modifications of natural kinship. Procreation thus becomes in human societies a vast cultural scheme. The racial need of continuity is not satisfied by the mere action of physiological impulses and physiological processes but by the working of traditional rules associated with an apparatus of material culture. The procreative scheme, moreover, is seen to be composed of several component institutions: standardized courtship, marriage, parenthood, kinship and clanship. In the same way the nutritive scheme may be divided into the consuming institutions, that is, household or clubhouse with its men's refectory; the productive institutions, of tribal gardening, hunting and fishing; and the distributive institutions, such as markets and trad-

ing arrangements. Impulses act in the form of social or cultural commands, which are the reinterpretations of physiological drives in terms of social, traditionally sanctioned rules. The human being starts to court or to dig the soil, to make love or to go hunting or fishing, not because he is directly moved by an instinct but because the routine of his tribe makes him do these things. At the same time tribal routine insures that physiological needs are satisfied and that the cultural means of satisfaction conform to the same pattern with only minor variations in detail. The direct motive for human actions is couched in cultural terms and conforms to a cultural pattern. But cultural commands always bid man to satisfy his needs in a more or less direct manner, and on the whole the system of cultural commands in a given society leaves but few of the physiological needs unsatisfied.

An amalgamation of functions occurs in most human institutions. The household is not merely a reproductive institution: it is one of the main nutritive institutions and an economic, legal and often a religious unit. The family is the place where cultural continuity through education is served. This amalgamation of functions within the same institution is not fortuitous. Most of man's fundamental needs are so concatenated that their satisfaction can be best provided for within the same human group and by a combined apparatus of material culture. Even human physiology causes birth to be followed by lactation, and this is inevitably associated with the tender cares of the mother for the child, which gradually shade into the earliest educational services. The mother requires a male helpmate, and the parental group must become a cooperative as well as an educational association. The fact that marriage is an economic as well as an educational and procreative relation influences courtship deeply, and this becomes a selection for lifelong companionship, common work and common responsibilities, so that sex must be blended with other personal and cultural requirements.

Education means training in the use of implements and goods, in the knowledge of tradition, in the wielding of social power and responsibility. The parents who develop in their offspring economic attitudes, technical dexterities, moral and social duties, have also to hand over their possessions, their status or their office. The domestic relationship therefore implies a system of laws of inheritance, descent and succession.

The relation between the cultural need, an integral social fact, on the one hand, and, on the other, the individual motives into which it becomes translated is thus clarified. The cultural need is the body of conditions which must be fulfilled if the community is to survive and its culture to continue. The individual motives, on the other hand, have nothing to do with such postulates as the continuity of race or the continuity of culture or even the need of nutrition. Few people, savage or civilized, realize that such general necessities exist. The savage is ignorant or only very vaguely conscious of the fact that mating produces children and that eating sustains the body. What is present to an individual consciousness is a culturally shaped appetite which impels people at certain seasons to look for a mate or in certain circumstances to look for wild fruit, to dig the ground or to go fishing. Sociological aims are never present in the minds of natives, and tribal legislation on a large scale could never have occurred. A theory, for instance, such as that of Frazer concerning the origins of exogamy in a deliberate act of primeval law giving is untenable. Throughout anthropological literature there is a confusion between cultural needs, which find their expression in vast schemes or aspects of social constitution, and conscious motivation, which exists as a psychological fact in the mind of an individual member of a society.

Custom, a standardized mode of behavior traditionally enjoined on the members of a community, can act or function. Courtship, for example, is really but one stage in the process of culturally defined procreation. It is the body of arrangements which allow of an adequate choice in marriage. Since the contract of marriage varies considerably from one culture to another, the consideration of sexual, legal and economic adequacy also varies, and the mechanisms by which these various elements are blended cannot be the same. However great may be the sexual liberty allowed, in no human society are young people permitted to be entirely indiscriminate or promiscuous in experimental love making. Three main types of limitation are known: the prohibition of incest, respect for previous matrimonial obligations and the rules of combined exogamy and endogamy. The prohibition of incest is with a few insignificant exceptions universal. If incest could be proved to be biologically pernicious, the function of this universal tabu would be obvious. But specialists in heredity disagree on the subject. It is possible, however, to show that from a

sociological point of view the function of incest tabus is of the greatest importance. The sexual impulse, which is in general a very upsetting and socially disruptive force, cannot enter into a previously existing sentiment without producing a revolutionary change in it. Sexual interest is therefore incompatible with any family relationship, whether parental or between brothers and sisters, for these relations are built up in the presexual period of human life and are founded on deep physiological needs of a non-sexual character. If erotic passion were allowed to invade the precincts of the home it would not merely establish jealousies and competitive elements and disorganize the family but it would also subvert the most fundamental bonds of kinship on which the further development of all social relations is based. Only one erotic relationship can be allowed within each family, and that is the relation between the husband and wife, which although it is built from the outset on erotic elements must be very finely adjusted to the other component parts of domestic cooperation. A society which allowed incest could not develop a stable family; it would therefore be deprived of the strongest foundations for kinship, and this in a primitive community would mean absence of social order.

Exogamy eliminates sex from a whole set of social relations, those between clansmen and clanswomen. Since the clan forms the typical cooperative group, the members of which are united by a number of legal, ceremonial and economic interests and activities, exogamy by dissociating the disruptive and competitive element from workaday cooperation fulfils once more an important cultural function. The general safeguarding of sexual exclusiveness in matrimony establishes that relative stability of marriage which again is inevitable if this institution is not to be undermined by the jealousies and suspicions of competitive wooing. The fact that none of the rules of incest, exogamy and adultery ever work with absolute precision and automatic force only enhances the cogency of this argument, for it is the elimination of the open working of sex which is most important. The surreptitious evasion of the rules and their occasional overriding on ceremonial occasions function as safety vents and reactions against their often irksome stringency.

Traditional rules define the season for love making, the methods of approach and wooing, even the means of attracting and pleasing. Tradition also allows of definite liberties and even excesses, although it also sets rigorous limits to them. These limits define the degree of publicity, of promiscuity, of verbal and active indecencies; they define what is to be regarded as normal and what as perverse. In all this the real drives of human behavior in sex do not consist of natural physiological impulses but reach human consciousness in the form of commands dictated by tradition. The powerful disruptive influence of sex has to be given free play within limits. The main type of regulated liberty is the free choice of mating left to unmarried people, which has often been wrongly regarded as a survival of primitive promiscuity. To appreciate the function of prenuptial laxity it must be correlated with biological facts, with the institution of marriage and with the parental life within the household. The sexual impulse which leads people to mate is overwhelmingly more powerful than any other motive. Where marriage is the indispensable condition to sexual mating, this impulse overriding all other considerations may lead to unions which are neither spiritually nor physiologically adequate or stable. In higher cultures a moral training and a subordination of sex to wider cultural interests function as general safeguards against an exclusive dominance of the erotic element in marriage, or else culturally determined marriages arranged by parents or families assert the influence of economic and cultural factors over mere eroticism. In certain primitive communities as well as among large portions of European peasantry trial mating as a means of assessing personal compatibility and to a large extent also as the means of eliminating mere sexual urge functions as a safeguard to the institution of permanent marriage. Through prenuptial liberties in the course of courtship people cease to value the mere lure of erotic attractiveness and, on the other hand, they become more and more influenced by personal affinities, if there is no physiological incompatibility. The function then of prenuptial liberty is that it influences the matrimonial choice, which becomes deliberate, based on experience and directed by wider and more synthetic considerations than the blind impulse of sex. Prenuptial unchastity therefore functions as a mode of preparation for marriage in eliminating the crude, non-empirical, untutored sex impulse and in welding this impulse with others into a deeper appreciation of personality.

The couvade, the symbolic ritual by which a man imitates childbed while his wife goes about

her work, is also not a survival but can be explained functionally in its cultural context.

In the ideas, customs and social arrangements which refer to conception, pregnancy and childbirth the fact of maternity is culturally determined over and above its biological nature. Paternity is established in a symmetrical way by rules in which the father has partly to imitate the tabus, observances and rules of conduct traditionally imposed on the mother and has also to take over certain associated functions. The behavior of the father at childbirth is strictly defined, and everywhere, whether he be excluded from the mother's company or forced to assist, whether he be regarded as dangerous or indispensable to the welfare of the mother and child, the father has to assume a definite, strictly prescribed role. Later the father shares a great many of the mother's duties; he follows and replaces her in a great many of the tender cares bestowed on the infant. The function of couvade is the establishment of social paternity by the symbolic assimilation of the father to the mother. Far from being a dead or useless survival or trait couvade is merely one of the creative ritual acts at the basis of the institution of the family. Its nature can be understood not by isolating it, not by emphasizing its strangeness and tearing it out of its natural setting, but, on the contrary, only by placing it within the institutions to which it belongs, by comprehending it as an integral part of the institution of the family.

Classificatory terminologies are conceived as having at one time embodied some "intelligent plan" (as Morgan put it) for the classification of relatives. In Morgan's theory this classification was supposed to have given with an almost mathematical precision the limits of potential paternity. According to more recent theories, notably that of Rivers, classificatory terminologies were once the clear and real expression of anomalous marriages. Whatever the concrete turn of the various theories the fact of classificatory terminologies has been the source of a flood of speculations about the sequence of stages in the evolution of marriage, about anomalous unions, about primitive gerontocracy and promiscuity, about the clan or some other communal procreative scheme taking at one stage or another the place of the family. Few, however, seriously inquired into the present day function of classificatory terms. McLennan suggested that they might be a mere polite mode of address, and in this he was followed by a few writers. But since these nomenclatures are very rigidly adhered to and since, as Rivers has shown, they are associated with definite social status, McLennan's explanation has had to be discarded.

Classificatory terminologies, however, fulfil a very important and a very specific function, which can only be appreciated on the basis of a careful study of how the terms develop meaning during the life history of the tribesman. The first meaning acquired by the child is always individual. It is based on personal relations to the father and mother, to brothers and sisters. A full outfit of family terms with well determined individual meaning is always acquired before any further linguistic developments. But then a series of extensions of meaning takes place. The words mother and father come to be applied first to the mother's sister and father's brother respectively, but they are applied to these people in a frankly metaphorical manner; that is, with an extended and different meaning which in no way interferes with or obliterates the original meaning when this is applied to the original parents. The extension takes place because the nearest of kin are in a primitive society under an obligation to act as substitute parents, to replace the child's progenitors in case of death or failure and in all cases to share their duties to a considerable extent. Unless and until complete adoption takes place the substitute parents do not replace the original ones, and in no case are the two sets lumped or identified. They are merely partially assimilated. The naming of people is always a semilegal act, especially in primitive communities. As in ceremonies of adoption there is the imitation of an actual birth, as in the couvade there is simulated childbed, as in the act of blood brotherhood there are such fictions as exchange of blood, as in marriage a symbolic binding, tying, joining or act of common eating and common public appearance often takes place—so here a partially established, derived relationship is characterized by the act of verbal imitation in naming. The function of classificatory verbal usage is then the establishment of legal claims of vicarious parenthood by the binding metaphor of extension in kinship terms. The discovery of the function of classificatory terminology opens a set of new problems: the study of the initial situation of kinship, of the extensions of kinship meaning, of the partial taking over of kinship duties and of the changes produced in previous relationships by such extensions. These are empirical problems

leading not to more speculation but to a fuller study of facts in the field. At the same time, the discovery of a function of the use of classificatory terminology in terms of present day sociological reality cuts the ground from under the whole series of speculations by which savage nomenclatures have been explained as survivals of past stages of human marriage.

The apparatus of domesticity influences the moral or spiritual aspect of family life. Its material substratum consists of the dwellings, the internal arrangements, the cooking apparatus and the domestic implements and also of the mode of settlement; that is, of the manner in which the dwellings are distributed over the territory. This material substratum enters most subtly into the texture of family life and influences deeply its legal, economic and moral aspects. The constitution of a household characteristic of a culture becomes deeply associated with the material side of the interior of the dwelling, whether it be a skyscraper or a wind screen, a sumptuous apartment or a hovel. There is an infinite range of intimate personal associations with it from infancy and childhood, through the time of puberty and emotional awakening, into the stage of courtship and early married life, until old age. The sentimental and romantic implications of these facts are acknowledged in contemporary culture, in the preserving and cultivating of the birthplaces and homes of famous men. But although a great deal is known about the technology of house building and even about the structure of houses in various cultures and although a fair amount is also known about the constitution of the family, few accounts deal with the relation between the form of the dwelling and the form of domestic arrangements, on the one hand, and the constitution of the family, on the other, and yet such a relation does exist. The isolated homestead distant from all others makes for a strongly knit, self-contained, economically as well as morally independent family. Self-contained houses collected into village communities allow of a much closer texture in derived kinship and greater extent of local cooperation. Houses compounded into joint households, especially when they are united under one owner, are the necessary basis of a joint family or *Grossfamilie*. Large communal houses where only a separate hearth or partition distinguishes the various component families make for a yet more closely knit system of kinship. Finally, the existence of special clubhouses, where the men, the bachelors or the unmarried girls of a community sleep, eat or cook together, is obviously correlated to the general structure of a community when kinship is complicated by age grades, secret societies and other male or female associations and is usually also correlated to the presence or absence of sexual laxity.

The further the correlation between sociology and the form of settlement and dwelling is followed, the better either side is understood. While on the one hand the form of material arrangements receives its only significance from its sociological context, on the other hand the whole objective determination of social and moral phenomena can best be defined and described in terms of the material substratum as it molds and influences the social and spiritual life of a culture. The arrangements within the house also show the need of a parallel study and correlation of the material and spiritual. The meager furniture, the hearth, the sleeping bunks, the mats and pegs of a native hut, show a simplicity, even poverty, of form, which, however, becomes immensely significant through the depth and the range of sociological and spiritual association. The hearth, for instance, varies but little in form: a few indications as to how the stones are placed, how the smoke is carried off, how supports for cooking are arranged, how the fire is used for warming and for lighting the interior, are sufficient from the mere technical side. But even in stating these simple details one is led into the study of typical uses of fire, into the indication of human attitudes and emotions; in short, into the analysis of the social and moral customs which form round the hearth. For the hearth is the center of domestic life; and the manner in which it is used, the customs of kindling, keeping and extinguishing, the domestic cult which often develops round it, the mythology and the symbolic significance of the hearth, are indispensable data for the study of domesticity and of its place in culture. In the Trobriand Islands, for instance, the hearth has to be placed in the center, lest sorcery, which is mainly effective through the medium of smoke, should be carried in from outside. The hearth is the special property of women. Cooking is to a certain extent tabu to men and its proximity pollutes uncooked vegetable food. Hence there is a division between storehouses and cooking houses in the villages. All this makes the simple material arrangements of a house a social, moral, legal and religious reality.

The disposition of sleeping bunks is likewise

correlated with the sexual and parental side of married life, with incest tabus and the need for unmarried peoples' houses; the access to a house is correlated with the seclusion of family life, with property and sexual morality. Everywhere form becomes more and more significant the better the relation of sociological realities and their material substratum is understood. Ideas, customs and laws codify and determine material arrangements, while these latter are the main apparatus for molding every new generation into the typical traditional pattern of its society.

The primary biological needs of a community, that is, the conditions under which a culture can thrive, develop and continue, are satisfied in an indirect manner which imposes secondary or derived conditions. These may be designated as the instrumental imperatives of culture. The whole body of material culture must be produced, maintained, distributed and used. In every culture therefore a system of traditional rules or commands is found which defines the activities, usages and values by which food is produced, stored and apportioned, goods manufactured, owned and used, tools prepared and embodied in production. An economic organization is indispensable to every community, and culture must always keep in touch with its material substratum.

Regulated cooperation exists even in such simple activities as the search for food among the lowest primitives. They at times have to provision big tribal gatherings, and this requires a complicated system of commissariat. Within the family there is a division of labor, and the cooperation of families within the local community is never a simple economic matter. The maintenance of the utilitarian principle in production is closely related to artistic, magical, religious and ceremonial activities. Primitive property in land, in personal possession and in the various means of production is far more complex than older anthropology assumed, and the study of primitive economics is developing a considerable interest in what might be called the early forms of civil law.

Cooperation means sacrifice, effort, subordination of private interests and inclinations to the joint ends of the community, the existence of social constraint. Life in common offers various temptations, especially to the impulses of sex, and as a result a system of prohibitions and restraints as well as of mandatory rules is unavoidable. Economic production provides man with things desirable and valuable, not unrestrictedly accessible for use and enjoyment to everybody alike, and rules of property, of possession and use are developed and enforced. Special organization entails differences in rank, leadership, status and influence. Hierarchy develops social ambitions and requires safeguards, which are effectively sanctioned. This whole set of problems has been signally neglected because law and its sanctions are in primitive communities very rarely embodied in special institutions. Legislation, legal sanctions and effective administration of tribal rules are very often carried out as by-products of other activities. The maintenance of law is usually one of the secondary or derived functions of such institutions as the family, the household, the local community and the tribal organization. But although not laid down in a specific body of codified rules nor yet carried out by specially organized groups of people the sanctions of primitive law function none the less in a special manner and develop special features in the institutions to which they belong. For it is essentially incorrect to maintain, as has often been done, that primitive law works automatically and that the savage is naturally a law abiding citizen. Rules of conduct must be drilled into each new generation through education; that is, provision must be made for the continuity of culture through the instrumentality of tradition. The first requisite is the existence of symbolic signs in which condensed experience can be handed over from one generation to another. Language is the most important type of such symbolic signs. Language does not contain experience; it is rather a system of sound habits which accompanies the development of cultural experience in every human community and becomes an integral part of this cultural experience. In primitive cultures tradition remains oral. The speech of a primitive tribe is full of set sayings, maxims, rules and reflections, which in a stereotyped manner carry on the wisdom of one generation into another. Folk tales and mythology form another department of verbal tradition. In higher cultures writing is added to carry on spoken tradition. The failure to realize that language is an integral part of culture has led to the vague, metaphorical and misleading parallels between animal societies and human culture which have done much harm to sociology. If it were clearly realized that culture without language does not exist, the treatment of animal communities would cease to be a part of sociology and animal adaptations to nature would be clearly dis-

tinguished from culture. Education in primitive society seldom commands specific institutions. The family, the group of extended kindred, the local community, age grades, secret societies, initiation camps, the professional groups or guilds of technical, magical or religious craft—these are the institutions which correspond in some of their derived functions to schools in more advanced cultures.

The three instrumental imperatives, economic organization, law and education, do not exhaust all that culture entails in its indirect satisfaction of human needs. Magic and religion, knowledge and art, are part of the universal scheme which underlies all concrete cultures and may be said to arise in response to an integrative or synthetic imperative of human culture.

In spite of the various theories about a specific non-empirical and prelogical character of primitive mentality there can be no doubt that as soon as man developed the mastery of environment by the use of implements, and as soon as language came into being, there must also have existed primitive knowledge of an essentially scientific character. No culture could survive if its arts and crafts, its weapons and economic pursuits were based on mystical, non-empirical conceptions and doctrines. When human culture is approached from the pragmatic, technological side, it is found that primitive man is capable of exact observation, of sound generalizations and of logical reasoning in all those matters which affect his normal activities and are at the basis of his production. Knowledge is then an absolute derived necessity of culture. It is more, however, than a means to an end, and it was not classed therefore with the instrumental imperatives. Its place in culture, its function, is slightly different from that of production, of law or of education. Systems of knowledge serve to connect various types of behavior; they carry over the results of past experiences into future enterprise and they bring together elements of human experience and allow man to coordinate and integrate his activities. Knowledge is a mental attitude, a diathesis of the nervous system, which allows man to carry on the work which culture makes him do. Its function is to organize and integrate the indispensable activities of culture.

The material embodiment of knowledge consists in the body of arts and crafts, of technical processes and rules of craftsmanship. More specifically, in most primitive cultures and certainly in higher ones there are special implements of knowledge—diagrams, topographical models, measures, aids to orientation or to counting.

The connection between native thought and language opens important problems of function. Linguistic abstraction, categories of space, time and relationship and logical means of expressing the concatenation of ideas are extremely important matters, and the study of how thought works through language in any culture is still a virgin field of cultural linguistics. How primitive language works, where it is embodied, how it is related to social organization, to primitive religion and magic, are important problems of functional anthropology.

By the very forethought and foresight which it gives, the integrative function of knowledge creates new needs, that is, imposes new imperatives. Knowledge gives man the possibility of planning ahead, of embracing vast spaces of time and distance; it allows a wide range to his hopes and desires. But however much knowledge and science help man in allowing him to obtain what he wants they are unable completely to control chance, to eliminate accidents, to foresee the unexpected turn of natural events or to make human handiwork reliable and adequate to all practical requirements. In this field, much more practical, definite and circumscribed than that of religion, there develops a special type of ritual activities which anthropology labels collectively as magic.

The most hazardous of all human enterprises known to primitive man is sailing. In the preparation of his sailing craft and the laying out of his plans the savage turns to his science. The painstaking work as well as the intelligently organized labor in construction and in navigation bears witness to the savage's trust in science and submission to it. But adverse wind or no wind at all, rough weather, currents and reefs are always liable to upset his best plans and most careful preparations. He must admit that neither his knowledge nor his most painstaking efforts are a guaranty of success. Something unaccountable usually enters and baffles his anticipations. But although unaccountable it yet appears to have a deep meaning, to act or behave with a purpose. The sequence, the significant concatenation of events, seems to contain some inner logical consistency. Man feels that he can do something to wrestle with that mysterious element or force, to help and abet his luck. There are therefore always systems of superstition, of more or less developed ritual, associated with sailing, and in

primitive communities the magic of sailing craft is highly developed. Those who are well acquainted with some good magic have, in virtue of that, courage and confidence. When the canoes are used for fishing, the accidents and the good or bad luck may refer not only to transport but also to the appearance of fish and to the conditions under which they are caught. In trading, whether overseas or with near neighbors, chance may favor or thwart the ends and desires of man. As a result both fishing and trading magic are very well developed.

Likewise in war man, however primitive, knows that well made weapons of attack and defense, strategy, the force of numbers and the strength of the individuals insure victory. Yet with all this the unforeseen and accidental help even the weaker to victory when the fray happens under the cover of night, when ambushes are possible, when the conditions of the encounter obviously favor one side at the expense of the other. Magic is used as something which over and above man's equipment and his force helps him to master accident and to ensnare luck. In love also a mysterious, unaccountable quality of success or else a predestination to failure seems to be accompanied by some force independent of ostensible attraction and of the best laid plans and arrangements. Magic enters to insure something which counts over and above the visible and accountable qualifications.

Primitive man depends on his economic pursuits for his welfare in a manner which makes him realize bad luck very painfully and directly. Among people who rely on their fields or gardens what might be called agricultural knowledge is invariably well developed. The natives know the properties of the soil, the need of a thorough clearing from bush and weed, fertilizing with ashes and appropriate planting. But however well chosen the site and well worked the gardens, mishaps occur. Drought or deluge coming at most inappropriate seasons destroys the crops altogether, or some blights, insects or wild animals diminish them. Or some other year, when man is conscious that he deserves but a poor crop, everything runs so smoothly and prosperously that an unexpectedly good return rewards the undeserving gardener. The dreaded elements of rain and sunshine, pests and fertility seem to be controlled by a force which is beyond ordinary human experience and knowledge, and man repairs once more to magic.

In all these examples the same factors are involved. Experience and logic teach man that within definite limits knowledge is supreme; but beyond them nothing can be done by rationally founded practical exertions. Yet he rebels against inaction because although he realizes his impotence he is yet driven to action by intense desire and strong emotions. Nor is inaction at all possible. Once he has embarked on a distant voyage or finds himself in the middle of a fray or halfway through the cycle of garden growing, the native tries to make his frail canoe more seaworthy by charms or to drive away locusts and wild animals by ritual or to vanquish his enemies by dancing.

Magic changes its forms; it shifts its ground; but it exists everywhere. In modern societies magic is associated with the third cigarette lit by the same match, with spilled salt and the need of throwing it over the left shoulder, with broken mirrors, with passing under a ladder, with the new moon seen through glass or on the left hand, with the number thirteen or with Friday. These are minor superstitions which seem merely to vegetate among the intelligentsia of the western world. But these superstitions and much more developed systems also persist tenaciously and are given serious consideration among modern urban populations. Black magic is practised in the slums of London by the classical method of destroying the picture of the enemy. At marriage ceremonies good luck for the married couple is obtained by the strictest observance of several magical methods such as the throwing of the slipper and the spilling of rice. Among the peasants of central and eastern Europe elaborate magic still flourishes and children are treated by witches and warlocks. People are thought to have the power to prevent cows from giving milk, to induce cattle to multiply unduly, to produce rain and sunshine and to make people love or hate each other. The saints of the Roman Catholic church become in popular practise passive accomplices of magic. They are beaten, cajoled and carried about. They can give rain by being placed in the fields, stop flows of lava by confronting them and stop the progress of a disease, of a blight or of a plague of insects. The crude practical use made of certain religious rituals or objects makes their function magical. For magic is distinguished from religion in that the latter creates values and attains ends directly, whereas magic consists of acts which have a practical utilitarian value and are effective only as a means to an end. Thus a strictly utilitarian subject matter or issue of an act and its direct, instru-

mental function make it magic, and most modern established religions harbor within their ritual and even their ethics a good deal which really belongs to magic. But modern magic not only survives in the forms of minor superstitions or within the body of religious systems. Wherever there is danger, uncertainty, great incidence of chance and accident, even in entirely modern forms of enterprise, magic crops up. The gambler at Monte Carlo, on the turf or in a continental state lottery develops systems. Motoring and modern sailing demand mascots and develop superstitions. Around every sensational sea tragedy there has formed a myth showing some mysterious magical indications or giving magical reasons for the catastrophe. Aviation is developing its superstitions and magic. Many pilots refuse to take up a passenger who is wearing anything green, to start a journey on a Friday or to light three cigarettes with a match when in the air, and their sensitiveness to superstition seems to increase with altitude. In all large cities of Europe and America magic can be purchased from palmists, clairvoyants and other soothsayers who forecast the future, give practical advice as to lucky conduct and retail ritual apparatus such as amulets, mascots and talismans. The richest domain of magic, however, is, in civilization as in savagery, that of health. Here again the old venerable religions lend themselves readily to magic. Roman Catholicism opens its sacred shrines and places of worship to the ailing pilgrim, and faith healing flourishes also in other churches. The main function of Christian Science is the thinking away of illness and decay; its metaphysics are very strongly pragmatic and utilitarian and its ritual is essentially a means to the end of health and happiness. The unlimited range of universal remedies and blessings, osteopathy and chiropractic, dietetics and curing by sun, cold water, grape or lemon juice, raw food, starvation, alcohol or its prohibition—one and all shade invariably into magic. Intellectuals still submit to Coué and Freud, to Jaeger and Kneipp, to sun worship, either direct or through the mercury vapor lamp—not to mention the bedside manner of the highly paid specialist. It is very difficult to discover where common sense ends and where magic begins.

The savage is not more rational than modern man nor is he more superstitious. He is more limited, less liable to free imaginings and to the confidence trick of new inventions. His magic is traditional and he has his stronghold of knowledge, his empirical and rational tradition of science. Since the superstitious or prelogical character of primitive man has been so much emphasized, it is necessary to draw clearly the dividing line between primitive science and magic. There are domains on which magic never encroaches. The making of fire, basketry, the actual production of stone implements, the making of strings or mats, cooking and all minor domestic activities although extremely important are never associated with magic. Some of them become the center of religious practises and of mythology, as, for example, fire or cooking or stone implements; but magic is never connected with their production. The reason is that ordinary skill guided by sound knowledge is sufficient to set man on the right path and to give him certainty of correct and complete control of these activities.

In some pursuits magic is used under certain conditions and is absent under others. In a maritime community depending on the products of the sea there is never magic connected with the collecting of shellfish or with fishing by poison, weirs and fish traps, so long as these are completely reliable. On the other hand, any dangerous, hazardous and uncertain type of fishing is surrounded by ritual. In hunting the simple and reliable ways of trapping or killing are controlled by knowledge and skill alone; but let there be any danger or any uncertainty connected with an important supply of game and magic immediately appears. Coastal sailing as long as it is perfectly safe and easy commands no magic. Overseas expeditions are invariably bound up with ceremonies and ritual. Man resorts to magic only where chance and circumstances are not fully controlled by knowledge.

This is best seen in what might be called systems of magic. Magic may be but loosely and capriciously connected with its practical setting. One hunter may use certain formulae and rites, and another ignore them; or the same man may apply his conjurings on one occasion and not on another. But there are forms of enterprise in which magic must be used. In a big tribal adventure, such as war, or a hazardous sailing expedition or seasonal travel or an undertaking such as a big hunt or a perilous fishing expedition or the normal round of gardening, which as a rule is vital to the whole community, magic is often obligatory. It runs in a fixed sequence concatenated with the practical events, and the two orders, magical and practical, depend on one another and form a system. Such systems of magic appear at first sight an inextricable mix-

ture of efficient work and superstitious practises and so seem to provide an unanswerable argument in favor of the theories that magic and science are under primitive conditions so fused as not to be separable. Fuller analysis, however, shows that magic and practical work are entirely independent and never fuse.

But magic is never used to replace work. In gardening the digging or the clearing of the ground or the strength of the fences or quality of the supports is never scamped because stronger magic has been used over them. The native knows well that mechanical construction must be produced by human labor according to strict rules of craft. He knows that all the processes which have been in the soil can be controlled by human effort to a certain extent but not beyond, and it is only this beyond which he tries to influence by magic. For his experience and his reason tell him that in certain matters his efforts and his intelligence are of no avail whatever. On the other hand, magic has been known to help; so at least his tradition tells him.

In the magic of war and of love, of trading expeditions and of fishing, of sailing and of canoe making, the rules of experience and logic are likewise strictly adhered to as regards technique, and knowledge and technique receive due credit in all the good results which can be attributed to them. It is only the unaccountable results, which an outside observer would attribute to luck, to the knack of doing things successfully, to chance or to fortune, that the savage attempts to control by magic.

Magic therefore, far from being primitive science, is the outgrowth of clear recognition that science has its limits and that a human mind and human skill are at times impotent. For all its appearances of megalomania, for all that it seems to be the declaration of the "omnipotence of thought," as it has recently been defined by Freud, magic has greater affinity with an emotional outburst, with daydreaming, with strong, unrealizable desire.

To affirm with Frazer that magic is a pseudo-science would be to recognize that magic is not really primitive science. It would imply that magic has an affinity with science or at least that it is the raw material out of which science develops—implications which are untenable. The ritual of magic shows certain striking characteristics which have made it quite plausible for most writers from Grimm and Tylor to Freud and Lévy-Bruhl to affirm that magic takes the place of primitive science.

Magic unquestionably is dominated by the sympathetic principle: like produces like; the whole is affected if the sorcerer acts on a part of it; occult influences can be imparted by contagion. If one concentrates on the form of the ritual only he can legitimately conclude with Frazer that the analogy between the magical and the scientific conceptions of the world is close and that the various cases of sympathetic magic are mistaken applications of one or the other of two great fundamental laws of thought, namely, the association of ideas by similarity and the association of ideas by contiguity in space or time.

But a study of the function of science and the function of magic casts a doubt on the sufficiency of these conclusions. Sympathy is not the basis of pragmatic science, even under the most primitive conditions. The savage knows scientifically that a small pointed stick of hard wood rubbed or drilled against a piece of soft, brittle wood, provided they are both dry, gives fire. He also knows that strong, energetic, increasingly swift motion has to be employed, that tinder must be produced in the action, the wind kept off and the spark fanned immediately into a glow and this into a flame. There is no sympathy, no similarity, no taking the part instead of the legitimate whole, no contagion. The only association or connection is the empirical, correctly observed and correctly framed concatenation of natural events. The savage knows that a strong bow well handled releases a swift arrow, that a broad beam makes for stability and a light, well shaped hull for swiftness in his canoe. There is here no association of ideas by similarity or contagion or *pars pro toto*. The native puts a yam or a banana sprout into an appropriate piece of ground. He waters or irrigates it unless it be well drenched by rain. He weeds the ground round it, and he knows quite well that barring unexpected calamities the plant will grow. Again there is no principle akin to that of sympathy contained in this activity. He creates conditions which are perfectly scientific and rational and lets nature do its work. Therefore in so far as magic consists in the enactment of sympathy, in so far as it is governed by an association of ideas, it radically differs from science; and on analysis the similarity of form between magic and science is revealed as merely apparent, not real.

The sympathetic rite although a very prominent element in magic functions always in the context of other elements. Its main purpose always consists in the generation and transference

of magical force and accordingly it is performed in the atmosphere of the supernatural. As Hubert and Mauss have shown, acts of magic are always set apart, regarded as different, conceived and carried out under distinct conditions. The time when magic is performed is often determined by tradition rather than by the sympathetic principle, and the place where it is performed is only partly determined by sympathy or contagion and more by supernatural and mythological associations. Many of the substances used in magic are largely sympathetic but they are often used primarily for the physiological and emotional reaction which they elicit in man. The dramatic emotional elements in ritual enactment incorporate, in magic, factors which go far beyond sympathy or any scientific or pseudo-scientific principle. Mythology and tradition are everywhere embedded, especially in the performance of the magical spell, which must be repeated with absolute faithfulness to the traditional original and during which mythological events are recounted in which the power of the prototype is invoked. The supernatural character of magic is also expressed in the abnormal character of the magician and by the temporary tabus which surround its execution.

In brief, there exists a sympathetic principle: the ritual of magic contains usually some reference to the results to be achieved; it foreshadows them, anticipates the desired events. The magician is haunted by imagery, by symbolism, by associations of the result to follow. But he is quite as definitely haunted by the emotional obsession of the situation which has forced him to resort to magic. These facts do not fit into the simple scheme of sympathy conceived as misapplication of crude observations and half logical deductions. The various apparently disjointed elements of magical ritual—the dramatic features, the emotional side, the mythological allusions and the anticipation of the end—make it impossible to consider magic a sober scientific practise based on an empirical theory. Nor can magic be guided by experience and at the same time be constantly harking back to myth.

The fixed time, the determined spot, the preliminary isolating conditions of magic, the tabus to be observed by the performer, as well as his physiological and sociological nature, place the magical act in an atmosphere of the supernatural. Within this context of the supernatural the rite consists, functionally speaking, in the production of a specific virtue or force and of the launching, directing or impelling of this force to the desired object. The production of magical force takes place by spell, manual and bodily gesticulation and the proper condition of the officiating magician. All these elements exhibit a tendency to a formal assimilation toward the desired end or toward the ordinary means of producing this end. This formal resemblance is probably best defined in the statement that the whole ritual is dominated by the emotions of hate, fear, anger or erotic passion or by the desire to obtain a definite practical end.

The magical force or virtue is not conceived as a natural force. Hence the theories propounded by Preuss, Marett, Hubert and Mauss, which would make the Melanesian mana or the similar North American concepts the clue to the understanding of all magic, are not satisfactory. The mana concept embraces personal power, natural force, excellence and efficiency alongside the specific virtue of magic. It is a force regarded as absolutely *sui generis*, different either from natural forces or from the normal faculties of man.

The force of magic can be produced only and exclusively within traditionally prescribed rites. It can be received and learned only by due initiation into the craft and by the taking over of the rigidly defined system of conditions, acts and observances. Even when magic is discovered or invented it is invariably conceived as true revelation from the supernatural. Magic is an intrinsic, specific quality of a situation and of an object or phenomenon within the situation, consisting in the object being amenable to human control by means which are specifically and uniquely connected with the object and which can be handled only by appropriate people. Magic therefore is always conceived as something which does not reside in nature, that is, outside man, but in the relation between man and nature. Only those objects and forces in nature which are very important to man, on which he depends and which he cannot yet normally control elicit magic.

A functional explanation of magic may be stated in terms of individual psychology and of the cultural and social value of magic. Magic is to be expected and generally to be found whenever man comes to an unbridgeable gap, a hiatus in his knowledge or in his powers of practical control, and yet has to continue in his pursuit. Forsaken by his knowledge, baffled by the results of his experience, unable to apply any effective technical skill, he realizes his impo-

tence. Yet his desire grips him only the more strongly. His fears and hopes, his general anxiety, produce a state of unstable equilibrium in his organism, by which he is driven to some sort of vicarious activity. In the natural human reaction to frustrated hate and impotent anger is found the *materia prima* of black magic. Unrequited love provokes spontaneous acts of prototype magic. Fear moves every human being to aimless but compulsory acts; in the presence of an ordeal one always has recourse to obsessive daydreaming.

The natural flow of ideas under the influence of emotions and desires thwarted in their full practical satisfaction leads one inevitably to the anticipation of the positive results. But the experience upon which this anticipatory or sympathetic attitude rests is not the ordinary experience of science. It is much more akin to daydreaming, to what the psychoanalysts call wish fulfilment. When the emotional state reaches the breaking point at which man loses control over himself, the words which he utters, the gestures to which he gives way and the physiological processes within his organism which accompany all this allow the pent up tension to flow over. Over all such outbursts of emotion, over such acts of prototype magic, there presides the obsessive image of the desired end. The substitute action in which the physiological crisis finds its expression has a subjective value: the desired end seems nearer satisfaction.

Standardized, traditional magic is nothing else but an institution which fixes, organizes and imposes upon the members of a society the positive solution in those inevitable conflicts which arise out of human impotence in dealing with all hazardous issues by mere knowledge and technical ability. The spontaneous, natural reaction of man to such situations supplies the raw material of magic. This raw material implies the sympathetic principle in that man has to dwell both on the desired end and on the best means of obtaining it. The expression of emotions in verbal utterances, in gestures, in an almost mystical belief that such words and gestures have a power, crops up naturally as a normal, physiological reaction. The elements which do not exist in the *materia prima* of magic but are to be found in the developed systems are the traditional, mythological elements. Human culture everywhere integrates a raw material of human interests and pursuits into standardized, traditional customs. In all human tradition a definite choice is made from within a variety of possibilities. In magic also the raw material supplies a number of possible ways of behavior. Tradition chooses from among them, fixes a special type and endues it with a hallmark of social value.

Tradition also reinforces the belief in magical efficacy by the context of special experience. Magic is so deeply believed in because its pragmatic truth is vouched for by its psychological or even physiological efficacy, since in its form and in its ideology and structure magic corresponds to the natural processes of the human organism. The conviction which is implied in these processes extends obviously to standardized magic. This conviction is useful because it raises the efficiency of the person who submits to it. Magic possesses therefore a functional truth or a pragmatic truth, since it arises always under conditions where the human organism is disintegrated. Magic corresponds to a real physiological need.

The seal of social approval given to the standardized reactions, selected traditionally out of the raw material of magic, gives it an additional backing. The general conviction that this and only this rite, spell or personal preparation enables the magician to control chance makes every individual believe in it through the ordinary mechanism of molding or conditioning. The public enactment of certain ceremonies, on the one hand, and the secrecy and esoteric atmosphere in which others are shrouded add again to their credibility. The fact also that magic usually is associated with intelligence and strong personality raises its credit in the eyes of any community. Thus a conviction that man can control by a special, traditional, standardized handling the forces of nature and human beings is not merely subjectively true through its physiological foundations, not merely pragmatically true in that it contributes to the reintegration of the individual, but it carries an additional evidence due to its sociological function.

Magic serves not only as an integrative force to the individual but also as an organizing force to society. The fact that the magician by the nature of his secret and esoteric lore has also the control of the associated practical activities causes him usually to be a person of the greatest importance in the community. The discovery of this was one of the great contributions of Frazer to anthropology. Magic, however, is of social importance not only because it gives power and thus raises a man to a high position. It is a real organizing force. In Australia the constitution of the tribe, of the clan, of the local group, is based

on a system of totemic ideas. The main ceremonial expression of this system consists in the rites of magical multiplication of plants and animals and in the ceremonies of initiation into manhood. Both of these rites underlie the tribal framework and they are both the expression of a magical order of ideas based on totemic mythology. The leaders who arrange the tribal meetings, who conduct them, who direct the initiation and are the protagonists in dramatic representations of myth and in the public magical ceremonies, play this part because of their traditional magical filiation. The totemic magic of these tribes is their main organizing system.

To a large extent this is also true of the Papuan tribes of New Guinea, of the Melanesians and of the people of the Indonesian archipelagoes, where magical rites and ideas definitely supply the organizing principle in practical activities. The secret societies of the Bismarck Archipelago and west Africa, the rain makers of the Sudan, the medicine men of the North American Indians—all combine magical power with political and economic influence. Sufficient details to assess the extent and the mechanism by which magic enters and controls secular and ordinary life are often lacking. But among the Masai or Nandi in east Africa the evidence reveals that the military organization of the tribe is associated with war magic and that the guidance in political affairs and general tribal concerns depends on rain magic. In New Guinea garden magic, overseas trading expeditions, fishing and hunting on a big scale show that the ceremonial significance of magic supplies the moral and legal framework by which all practical activities are held together.

Sorcery in its major forms is usually specialized and institutionalized; that is, either the sorcerer is a professional whose services can be bought or commanded or sorcery is vested in a secret society or special organization. In all cases sorcery is either in the same hands as political power, prestige and wealth or else it can be purchased or demanded by those who can afford to do so. Sorcery thus is invariably a conservative force used at times for intimidation but usually for the enforcement of customary law or of the wishes of those in power. It is always a safeguard for the vested interests, for the organized, established privileges. The sorcerer who has behind him the chief or a powerful secret society can make his art felt more poignantly than if he were working against them or on his own.

The individual and sociological function of magic is thus made more efficient by the very mechanisms through which it works. In this and in the subjective aspect of the calculus of probability, which makes success overshadow failure, while failure again can be explained by countermagic, it is clear that the belief is not so ill founded nor due to such extravagant superstitiousness of the primitive mind as might at first appear. A strong belief in magic finds its public expression in the running mythology of magical miracles which is always found in company with all important types of magic. The competitive boasting of one community against another, the fame of outstanding magical success, the conviction that extraordinary good luck has probably been due to magic, create an ever nascent tradition which always surrounds famous magicians or famous systems of magic with a halo of supernatural reputation. This running tradition usually culminates retrospectively in a primeval myth, which gives the charter and credentials to the whole magical system. Myth of magic is definitely a warrant of its truth, a pedigree of its filiation, a charter of its claims to validity.

This is true not only of magical mythology. Myth in general is not an idle speculation about the origins of things or institutions. Nor is it the outcome of the contemplation of nature and rhapsodical interpretation of its laws. The function of myth is neither explanatory nor symbolic. It is the statement of an extraordinary event, the occurrence of which once for all had established the social order of a tribe or some of its economic pursuits, its arts and crafts or its religious or magical beliefs and ceremonies. Myth is not simply a piece of attractive fiction which is kept alive by the literary interest in the story. It is a statement of primeval reality which lives in the institutions and pursuits of a community. It justifies by precedent the existing order and it supplies a retrospective pattern of moral values, of sociological discriminations and burdens and of magical belief. In this consists its main cultural function. For all its similarity of form myth is neither a mere tale or prototype of literature or of science nor a branch of art or history nor an explanatory pseudo-theory. It fulfils a function *sui generis* closely connected with the nature of tradition and belief, with the continuity of culture, with the relation between age and youth and with the human attitude toward the past. The function of myth is to strengthen tradition and to endow it with a

greater value and prestige by tracing it back to a higher, better, more supernatural and more effective reality of initial events.

The place of religion must be considered in the scheme of culture as a complex satisfaction of highly derived needs. The various theories of religion ascribe it to either a religious "instinct" or a specific religious sense (McDougall, Hauer) or else explain it as a primitive theory of animism (Tylor) or pre-animism (Marett) or ascribe it to the emotions of fear (Wundt) or to aesthetic raptures and lapses of speech (Max Müller) or the self-revelation of society (Durkheim). These theories make religion something superimposed on the whole structure of human culture, satisfying some needs perhaps, but needs which are entirely autonomous and have nothing to do with the hard worked reality of human existence. Religion, however, can be shown to be intrinsically although indirectly connected with man's fundamental, that is, biological, needs. Like magic it comes from the curse of forethought and imagination, which fall on man once he rises above brute animal nature. Here there enter even wider issues of personal and social integration than those arising out of the practical necessity of hazardous action and dangerous enterprise. A whole range of anxieties, forebodings and problems concerning human destinies and man's place in the universe opens up once man begins to act in common not only with his fellow citizens but also with the past and future generations. Religion is not born out of speculation or reflection, still less out of illusion or misapprehension, but rather out of the real tragedies of human life, out of the conflict between human plans and realities.

Culture entails deep changes in man's personality; among other things it makes man surrender some of his self-love and self-seeking. For human relations do not rest merely or even mainly on constraint coming from without. Men can only work with and for one another by the moral forces which grow out of personal attachments and loyalties. These are primarily formed in the processes of parenthood and kinship but become inevitably widened and enriched. The love of parents for children and of children for their parents, that between husband and wife and between brothers and sisters, serve as prototypes and also as a nucleus for the loyalties of clanship, of neighborly feeling and of tribal citizenship. Cooperation and mutual assistance are based, in savage and civilized societies, on permanent sentiments.

The existence of strong personal attachments and the fact of death, which of all human events is the most upsetting and disorganizing to man's calculations, are perhaps the main sources of religious belief. The affirmation that death is not real, that man has a soul and that this is immortal arises out of a deep need to deny personal destruction, a need which is not a psychological instinct but is determined by culture, by cooperation and by the growth of human sentiments. To the individual who faces death the belief in immortality and the ritual of extreme unction, or last comforts (which in one form or another is almost universal), confirm his hope that there is a hereafter, that it is perhaps not worse than the present life and may be better. Thus the ritual before death confirms the emotional outlook which a dying man has come to need in his supreme conflict. After death the bereaved are thrown into a chaos of emotion, which might become dangerous to each of them individually and to the community as a whole were it not for the ritual of mortuary duties. The religious rites of wake and burial—all the assistance given to the departed soul—are acts expressing the dogma of continuity after death and of communion between dead and living. Any survivor who has gone through a number of mortuary ceremonials for others becomes prepared for his own death. The belief in immortality, which he has lived through ritually and practised in the case of his mother or father, of his brothers and friends, makes him cherish more firmly the belief in his own future life. The belief in human immortality therefore, which is the foundation of ancestor worship, of domestic cults, of mortuary ritual and of animism, grows out of the constitution of human society.

Most of the other forms of religion when analyzed in their functional character correspond to deep although derived needs of the individual and of the community. Totemism, for example, when related to its wider setting affirms the existence of an intimate kinship between man and his surrounding world. The ritual side of totemism and nature worship consists to a large extent in rites of multiplication or of propitiation of animals or in rites of enhancing the fertility of vegetable nature which also establish links between man and his environment. Primitive religion is largely concerned with the sacralization of the crises of human life. Conception, birth, puberty, marriage, as well as the supreme crisis death, all give rise to sacramental acts. The fact of conception is sur-

rounded by such beliefs as that in reincarnation, spirit entry and magical impregnation. At birth a wealth of animistic ideas concerning the formation of the human soul, the value of the individual to his community, the development of his moral powers, the possibility of forecasting his fate, become associated with and expressed in birth ritual. Initiation ceremonies, prevalent in puberty, have a developed mythological and dogmatic context. Guardian spirits, tutelary divinities, culture heroes or a tribal All-Father are associated with initiation ceremonies. The contractual sacraments, such as marriage, entry into an age grade or acceptance into a magical or religious fraternity, entail primarily ethical views but very often are also the expression of myths and dogmas.

Every important crisis of human life implies a strong emotional upheaval, mental conflict and possible disintegration. The hopes of a favorable issue have to struggle with anxieties and forebodings. Religious belief consists in the traditional standardization of the positive side in the mental conflict and therefore satisfies a definite individual need arising out of the psychological concomitants of social organization. On the other hand, religious belief and ritual by making the critical acts and the social contracts of human life public, traditionally standardized and subject to supernatural sanctions strengthen the bonds of human cohesion.

Religion in its ethics sanctifies human life and conduct and becomes perhaps the most powerful force of social control. In its dogmatics it supplies man with strong cohesive forces. It grows out of every culture, because knowledge which gives foresight fails to overcome fate; because lifelong bonds of cooperation and mutual interest create sentiments, and sentiments rebel against death and dissolution. The cultural call for religion is highly derived and indirect but is finally rooted in the way in which the primary needs of man are satisfied in culture.

Plays, games, sports and artistic pastimes tear man out of his ordinary rut and remove the strain and the discipline of workaday life, fulfilling the function of recreation, of restoring man to full capacity of routine work. The function of art and play is, however, more complicated and more comprehensive, as may be shown by an analysis of its part in culture. The free untrammeled exercise of infancy is neither play nor game: it combines both. The biological needs of the organism demand that the infant shall employ his limbs and his lungs, and this free exercise supplies his earliest training as well as his real adaptation to his surroundings. Through his voice the infant appeals to his parents or guardians and thus enters into relation to his society and through this to the world at large. Even these activities, however, do not remain completely free and controlled by physiology only. Every culture determines the latitude which may be given to the freedom of muscular movement—from the swaddled or bound child which can hardly move to the complete liberty of the naked infant. Culture also defines the limits within which the child is allowed to cry and scream and dictates the promptness of parental response and the severity of customary repression. The degree to which earliest behavior is molded, the manner in which words and acts are woven into infantile expression, allow tradition to influence the young organism through its human surroundings. The earliest phases of human play, which is also human work, are therefore of considerable importance, and they must be studied not merely in the behaviorist's laboratory or the psychoanalyst's consulting room but also in the ethnographic field, since they vary with every culture.

The plays and exercise of the next stage, when the child learns to speak and to use his arms and legs, link up directly with the earliest pastimes. The importance of childish playful behavior consists in its relation to the educational influences contained in it, the cooperation with others and with other children. Later the child becomes independent of his parents or guardians to the extent that he joins other children and plays with them. Often the children form a special community having its own rudimentary organization, leadership and economic interests—a community which at times provides its own nourishment—and in complete independence spend days and nights away from the parental homes. At times boys and girls play in separate groups; or again they join in one group, in which case eroticism and sexual interests may or may not enter into the play. The games are usually either in imitation of the adults or contain some parallel activities. They are very seldom completely different from the things in which the child will be engaged after maturity. Thus a great deal of the future adaptation to life is learned in this period. The moral code is developed, the salient features of the character are formed and the friendships or loves of future life are started. This period often contains a partial weaning from family life. It ends in the

ceremonies of initiation into manhood and often at that time begins the formation of wider bonds of clanship, of age grades, secret societies and tribal citizenship. The main function of juvenile play is therefore educational, while the recreative side is practically non-existent as long as and to the extent that the young people do not take part in the regular work of the community.

The plays and recreations of adults usually present a continuous development from those of children. In civilized and primitive communities alike there is often no sharp line of demarcation between adult and juvenile games and plays, and frequently the old and the young join together for their amusements; but in the case of the adults the recreative nature of such pursuits becomes prominent. In the change of interests, in the transformation from the normal and drab to the rare and occasional, culture makes good another of the difficulties with which it burdens man. In more primitive societies recreation is very often as monotonous and strenuous as the routine work, but it is always different. Hours are spent on the completion and perfection of a small object, on practising a dance or on the artistic finish of some decorative board or figure. The activity, however, is always complementary. A type of manual and mental strain, not met in the ordinary occupations, allows man to do hard work and to tap new sources of nervous and muscular energy. Recreation thus does not serve merely to lead man away from his ordinary occupations; it contains also a constructive or creative element. The dilettante in higher cultures produces often the best work and devotes his best energies to his hobby. In primitive civilizations the vanguard of progress is often found in works of leisure and supererogation. Advances in skill, scientific discoveries, new artistic motifs, are allowed to filter in through the playful activities of recreation, and thus they receive that minimum of traditional resistance which is associated with activities not yet taken very seriously.

Plays of a different character, entirely non-productive and non-constructive, such as round games, competitive sports and secular dances, do not possess this creative function, but instead they play a part in the establishment of social cohesion. The atmosphere of relaxation, of freedom, as well as the need of larger gatherings for such communal games, leads to the formation of new bonds. Friendships and love intrigues, better knowledge of distant relatives or clansmen, competition with others and solidarity within the competing teams—all these social qualities are developed through the public games which form such a characteristic feature of primitive tribal life as well as of civilized organization. In primitive communities there takes place often a complete sociological recrystallization during big ceremonial games and public performances. The clan system comes into prominence. The distribution into families and local groups is obliterated. New non-territorial loyalties are developed. In civilized communities the type of national pastime contributes effectively to the formation of the national character.

Art seems to be the most exclusive and at the same time the most international, even interracial, of all cultural activities. Music is unquestionably the purest of all arts, the one least alloyed with extrinsic intellectual or technical matters. Whether it be an Australian corroboree with its monotonous yet penetrating chanting or a symphony of Beethoven or the songs which accompany a dance in a pueblo or a Melanesian sailing song, art speaks alone, making use of no intellectual symbols or conventions, appealing to nothing but the direct response to combinations of sounds and to rhythm. In dancing the rhythmic effects are achieved by the movements of the body, more especially of the arms and legs, carried out in conjunction with vocal or instrumental music. Decorative arts consist in the ornamentation of the body, in the various colors and shapes of clothing, in the painting and carving of objects and in representative drawing or painting. Plastic art, sculpture and architecture, wood, stone or compound structures are fashioned according to certain aesthetic criteria. Poetry, the use of language for the production of aesthetic effect, and dramatic art are in a developed form perhaps less uniformly distributed, but they are never completely absent.

All artistic manifestations operate primarily through the direct action of sense impressions The tone of the human voice or of vibrating chords or membranes, the noises of a rhythmical nature, the words of human language, color, line, shape, bodily movement are, physiologically speaking, sensations and sense impressions. These as well as their combinations produce a specific emotional appeal which is the *materia prima* of art and which constitutes the essence of the aesthetic appeal. At the lowest scale of artistic enjoyment are the effects of chemical sense impressions, those of taste and of scent,

which also produce a limited aesthetic appeal. The direct sensuous appeal of scents and of food and the physiological effects of narcotics show that human beings systematically hanker after a modification of their bodily experiences, that there is a strong desire to be lifted out of the ordinary drab routine of everyday life into a different, transformed and subjectively orientated world. The response to sense impressions and their compounds, to rhythmic sequences, to harmony and melody in music, to the line of designs and the combination of colors, is organically founded. The artistic imperative is a primary need; it is the chief function of art to satisfy this craving of the human organism for combinations of blended sense impressions.

Art becomes associated with other cultural activities and develops a series of secondary functions. It is a powerful element in the development of crafts and of economic values. The craftsman loves his material, takes pride in his skill and feels a creative thrill for new forms which come into being under his hands. The creation of complex and perfect forms in rare and especially amenable or especially difficult material is one of the secondary roots of aesthetic satisfaction. The forms created appeal to all members of the community, give the artist a high standing and set the seal of economic value on such objects. The joy of craftsmanship, the aesthetic satisfaction in the finished product and social recognition blend with and react on each other. A new incentive to good work is given, and a standard of value is established within each art or craft. Some of the objects which have often been labeled money or currency, but which in reality are merely tokens of wealth and expressions of the value of skill and material, are illustrations of these combined aesthetic, economic and technological standards. The shell disks of Melanesia, made with special skill in a rare material, the rolled up mats of Samoa, the blankets, brass plates and carvings of British Columbia, are important to an understanding of primitive economics, aesthetics and social organization.

The deep association of art with religion is a commonplace in civilized cultures and it is present in simple ones as well. Plastic reproductions of supernatural beings—idols, totemic carvings or paintings—ceremonies such as those associated with death, initiation or sacrifice function to bring man near to those supernatural realities on which all his hopes center, which inspire him with deep apprehensions and, in short, move and affect his whole emotional being. Accordingly, everywhere mortuary ceremonies are associated with ritualized wailing, with songs, with the transformation of the corpse, with dramatic enactments. In some religions, notably that of Egypt, the concentration of art around the mummy, the necropolis and the whole dramatized and creative representation of the passage from this to the next world have reached an extraordinary degree of complexity. Initiation ceremonies, from the crude but elaborate performances of central Australian tribes to the Eleusinian mysteries and the Masonic ritual, are dramatized artistic performances. Classical and modern drama, the Christian mystery plays and the dramatic art of the Orient have probably originated in some such early dramatized ritual.

In big tribal gatherings the union in aesthetic experiences of common dancing, singing and the display of decorative art or of artistically arranged objects of value, sometimes even accumulated food, bind together the group with strong unified emotions. Hierarchy, the principle of rank and social distinction, is very often expressed in privileges of exclusive ornamentation, of privately owned songs and dances and of the aristocratic standing of dramatic fraternities such as the Areoi and Ulitao of Polynesia.

Art and knowledge are strongly akin. In naturalistic and representative art are embodied always a good deal of correct observation and an incentive to the study of the surroundings. The symbolism of art and scientific diagram are often strongly connected. The aesthetic drive integrates knowledge at low and at high levels. Proverbs, anagrams and tales, above all historical narrative, have been in primitive cultures and are in their developed forms very often a mixture of art and of science.

The meaning or significance of a decorative motif, a melody or a carved object cannot therefore be found in isolating it, in tearing it out of its context. In modern art criticism it is customary to regard a work of art as an individual message from the creative artist to his audience, the expression of an emotional or intellectual state translated through the work of art from one man to another. Such a conception is useful only if the whole cultural context and the tradition of art are taken for granted. Sociologically it is always incorrect; and the work of H. Taine and his school, who have placed all the emphasis on the relation between a work of art and its milieu, is a very important corrective to any

subjective and individualistic aesthetics. Primitive art is invariably a popular or folk creation. The artist takes over the tradition of his tribe and merely reproduces the carving, the song, the tribal mystery play. The individual who thus reproduces a traditional work always adds something to it, modifies it in the reproduction. These small individual quotas, embodied and condensed in the gradually growing tradition, integrate and become part of the body of artistic production. The individual quotas are determined not only by the personality, inspiration or creative talent of the individual contributor but also by the manifold associations of art with its context. The fact that a carved idol is the object of dogmatic and religious belief and of religious ritual defines to a large extent its shape, size and material. The fact that a mystery play is an important center of tribal life influences the way in which it may be modified and in which it has to be reproduced. Like many other artifacts or human productions the work of art becomes part of an institution, and its whole growth as well as its functions can only be understood if it is studied within its institutional context.

Culture is then essentially an instrumental reality which has come into existence to satisfy the needs of man in a manner far surpassing any direct adaptation to the environment. Culture endows man with an additional extension of his anatomical apparatus, with a protective armor of defenses and safeguards, with mobility and speed through media where his direct bodily equipment would have entirely failed him. Culture, the cumulative creation of man, extends the range of individual efficiency and of power of action; and it gives a depth of thought and breadth of vision undreamed of in any animal species. The source of all this consists in the cumulative character of individual achievements and in the power to share in common work. Culture thus transforms individuals into organized groups and gives these an almost indefinite continuity. Man is certainly not a gregarious animal in the sense that his concerted actions are due to physiological and innate endowment and carried on in patterns common to the whole species. Organization and all concerted behavior, the results of traditional continuity, assume a different form for every culture. Culture deeply modifies human innate endowment, and in doing this it not only bestows blessings but also imposes obligations and demands the surrender of a great many personal liberties to the common welfare. The individual has to submit to order and law; he has to learn and to obey tradition; he has to twist his tongue and to adjust his larynx to a variety of sounds and to adapt his nervous system to a variety of habits. He works and produces objects which others will consume, while in turn he is always dependent upon alien toil. Finally, his capacity of accumulating experience and letting it foretell the future opens new vistas and creates gaps which are satisfied in the systems of knowledge, of art and of magical and religious beliefs. Although culture is primarily born out of the satisfaction of biological needs, its very nature makes man into something essentially different from a mere animal organism. Man satisfies none of his needs as mere animal. Man has his wants as an implement making and implement using creature, as a communing and discoursing member of a group, as the guardian of a traditional continuity, as a toiling unit within a cooperative body of men, as one who is haunted by the past or in love with it, as one whom the events to come fill with hopes and with anxieties and finally as one to whom the division of labor and the provisions for the future have given leisure and opportunities to enjoy color, form and music.

BRONISLAW MALINOWSKI

See: ANTHROPOLOGY; MAN; SOCIAL PROCESS; CIVILIZATION; CUSTOM; TRADITION; LANGUAGE; COMMUNICATION; INSTITUTION; SOCIAL ORGANIZATION; KINSHIP; MARRIAGE; BIRTH CUSTOMS; DEATH CUSTOMS; RELIGION; MAGIC; ECONOMIC ORGANIZATION; MACHINES AND TOOLS; EDUCATION; ETIQUETTE; LAW; ART; PLAY; EVOLUTION, SOCIAL; DIFFUSIONISM; FUNCTIONALISM.

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CULTURE AREA. A culture area is an area set off from others by relative internal homogeneity of culture and differentiation against the outside. The concept, developed by North American ethnologists about 1890–1900 as a device for classifying museum collections, soon crept into the literature on the native cultures, and in 1917 current usage was systematized in *The American Indian* (New York 1917; rev. ed. 1922) by Wissler, who defined and mapped ten North and five South American culture areas, as follows: Eskimo (arctic), Mackenzie, eastern (north) woodland, southeast, plains, plateau, north Pacific coast, California, southwest, Nahua (Mexico), Chibcha (Colombia), Antillean, Amazon, Inca (Andean), guanaco (Patagonian). These are subdivisions of eight primary food areas, namely, caribou, salmon, seed, bison, eastern maize, intensive agriculture, manioc, guanaco. The basis is therefore economic and ultimately ecological; but in common with most American ethnologists Wissler defines the areas in terms of their culture content and uses them for cultural analysis and resynthesis. The environment, he finds, is not the cause of the culture of an area but a factor stabilizing it and tending to bind it to that area.

The most dubious part of a culture area is its border, where it intergrades with adjacent areas. Wissler therefore maps his areas only schematically and emphasizes their "centers," tracts in which the culture is most typical and intensive and which are to be construed as foci of radiation. Following Holmes he also sets up archaeological culture areas, greater in number than the ethnological ones. These have been less employed by other students, perhaps because archaeology, being often able to strike directly at the time factor in culture, is less dependent than ethnology on the indirect method of converting space distributions into time relations. Herskovits in 1924 made a preliminary delimitation of African culture areas, Cooper in 1925 occupied himself with the subculture areas of southern South America and Linton in 1928 charted the culture areas in Madagascar.

No European student has yet accepted the concept as such. Frobenius in his *Ursprung der Kultur* (Berlin 1898) defined a Congo-West African culture but made no attempt to classify the remainder of the continent. Obermaier's placing of east European pre-Mousterian as contemporary with west European Chellean-Acheulean and Capsian of north Africa with Aurignacian-Magdalenian of Europe would in terms of American ethnological usage be cases of recognition of prehistoric culture areas; but they have not been so expressed by him and other archaeologists.

It is clear that the culture area is an empirical concept whose theoretical validation was not even attempted until after it had been in common use for at least twenty years. It appears to have originated in America because of the combination in that hemisphere of great diversity of native culture with almost unparalleled lack of historic record. The culture area corresponds to historic concepts like Occident and Orient, western Europe, India, the ancient Mediterranean world; and in biology to the faunal or floral area. It is primarily classificatory and descriptive, therefore static; but like every sound "natural" classification it implies a genetic one. The American culture areas should provide the first mechanism to an unraveling of native culture history independent of the archaeological approach. So far as they have failed in this the cause seems to lie in the fact that the areas have been too generally conceived as being equivalent to one another instead of historically subordinating and in the fact that insufficient stress has been placed on their dynamic centers.

The criticism of Boas that areal classifications of different aspects of culture, such as technology, beliefs, social forms, religion, art, music, may be non-concordant is met by the apparent fact that the culminations of these aspects tend actually to coincide in the same centers. In the historic field Athens would be an example of such coincidence of wealth, politics, art, literature and philosophy at one center. There are reasonable indications of analogous culmination centers in native America among the Maya, Pueblos, Haida-Kwakiutl, Matchez and, to a slighter degree, in the recent plains culture among Teton and Arapaho. With shift of emphasis from area to culture the idea of a cultural cycle is obviously approached.

The concept of culture area is essentially an integrating one. Where analytic tendencies are to the fore it will encounter little sympathy and much criticism. It is true that any culture area can be analyzed away as soon as interest heads in that direction. But the same is true of faunal areas, of which biologists continue to make use.

It also follows that while the culture area and age area concepts have the common objective of converting space distributions into time sequences they differ in that the age area method is most properly applicable to single culture traits or small associations of such traits, whereas the culture area (or center) is essentially intended to deal with the integration of traits into culture wholes.

There has recently been some question whether the culture area is applicable to modern civilization and to history. The answer is, first, as already stated, that culture areas are de facto although informally recognized in comparative history and sociology; second, that with reference to civilized peoples there is no need of their being thrust into the foreground, because documentation already provides the time sequence at which they aim. It is also to be remembered that civilizations like those of England and France differ from each other probably no more than cultures like those of the Cheyenne and Mandan tribes in the plains area. Czarist Russia, on the other hand, with its Greek writing and orthodoxy and general Byzantine influences was set off from central and western Europe to much the same degree as Plains from Pueblo Indian culture.

A. L. KROEBER

See: ANTHROPOLOGY; DIFFUSIONISM; COMMUNICATION.

Consult: Holmes, W. H., "Areas of American Culture Characterization Tentatively Outlined as an Aid in the Study of the Antiquities" in *American Anthropologist*, n.s., vol. xvi (1914) 413–46; Wissler, Clark, *Man and Culture* (New York 1923) p. 55–61, "The Culture Area Concept in Social Anthropology" and "The Culture Area Concept as a Research Lead" in *American Journal of Sociology*, vol. xxxii (1926–27) 881–91, vol. xxxiii (1928) 894–900, and *An Introduction to Social Anthropology* (New York 1929) ch. xix; Herskovits, M. J., "A Preliminary Consideration of the Culture Areas of Africa" in *American Anthropologist*, n.s., vol. xxvi (1924) 50–63; Cooper, J. M., "Culture Diffusion and Culture Areas in Southern South America" in International Congress of Americanists, *Compte-rendu*, vol. xii (1925) pt. ii, p. 406–21; Linton, Ralph, "Culture Areas in Madagascar" in *American Anthropologist*, n.s., vol. xxx (1928) 363–90; Dixon, R. B., *The Building of Cultures* (New York 1928) p. 22–32; Kroeber, A. L., *Handbook of the Indians of California*, Smithsonian Institution, Bureau of American Ethnology, Bulletin 78 (Washington 1925) ch. lix; Smith, R. G., "The Culture Area Concept" in his *Fugitive Papers* (New York 1930) p. 42–70; Obermaier, Hugo, *El hombre fósil* (Madrid 1916), tr. by C. D. Matthew (New Haven 1924); Redfield, Robert, "The Regional Aspect of Culture" in American Sociological Society, *Papers and Proceedings*, vol. xxiv (1930) 33–41; Wallis, W. D., *Culture and Progress* (New York 1930) ch. i; Kroeber, A. L., "The Culture-Area and Age-Area Concepts of Clark Wissler" in *Methods in Social Science*, ed. by Stuart A. Rice (Chicago 1931) 248–65.

CUNARD, SIR SAMUEL (1787–1865), Canadian-English shipowner and capitalist. After a few years' experience as a merchant Cunard purchased a prize ship about 1810 and entered into partnership with his father, a timber merchant of Halifax, Nova Scotia. By 1830 the company's fleet had grown to forty sailing vessels, which dominated the Canada-West Indies trade and were beginning to offer aggressive competition to shipping interests in the United States. The Cunards in the meantime had opened a branch at Chatham, New Brunswick, to engage in lumber trade and shipbuilding. Brick and iron works were also acquired, while the younger Cunard cooperated in organizing the Halifax Banking Company. Grasping the importance of the revolution that was taking place in shipping due to the introduction of steam he subscribed £1000 to a local steamship company, which built the *Royal William*. In 1833 this auxiliary steam vessel crossed the Atlantic in seventeen days, a feat which went far toward proving the value of the marine engine. When five years later the British government became convinced of the wisdom of substituting steam for sail in its ships carrying the mails between Great Britain and North America, Cunard was commissioned to carry out the new program. A liberal subsidy was promised in the contract, but since an unusually large preliminary outlay was required, Cunard, supplying one fifth of the capital, entered into partnership with a number of leading British shipowners, who furnished the remainder. The first Cunard steamer, the *Britannia*, was launched in 1840 and shortly afterwards made a fourteen-day crossing. Three more steamers were built and in 1846, when the mail contract was renewed, the number was doubled in order to allow sailings weekly instead of semimonthly. Emphasis was placed upon safety and regularity, Cunard insisting that "steamers properly built and manned might start and arrive at their destination with the punctuality of railway trains on land." The serious competition offered during the fifties by the Collins Line of New York was met by a 50 percent freight reduction on all Cunard ships—a policy which eventually in 1858 forced the American line despite its government subsidy into liquidation. Always eager to capitalize technical improvements Cunard was among the pioneers who introduced

iron shipbuilding. In 1855 he built the *Persia*, the first iron Cunarder. In 1862 he replaced the easily disabled paddle wheels with screw propellers. Cunard's qualities of adaptability and progressiveness became the guiding tradition of the Cunard company after his death.

A. W. KIRKALDY

Consult: MacMechan, Archibald, "The Rise of Samuel Cunard" in *Dalhousie Review*, vol. ix (1929–30) 202–10; Payne, A. M., "Life of Sir Samuel Cunard" in Nova Scotia Historical Society, *Collections*, vol. xix (1918) 75–91; Kirkaldy, A. W., *British Shipping* (London 1914); Bowen, Frank, *A Century of Atlantic Travel, 1830–1930* (Boston 1930).

CUNNINGHAM, WILLIAM (1849–1919), British economic historian and churchman. He was educated at Edinburgh, his native city, and at Tübingen and Cambridge. After lecturing for several years in university extension on economics, history and literature he began teaching economic history in Cambridge University in 1878. To supply the need for an introductory book he produced *The Growth of English Industry and Commerce* (Cambridge, Eng. 1882), the pioneer general treatise. Later editions, which were practically new works, finally reached a compass of three volumes (5th ed. 1910–12). As the first of a great school of British economic historians Cunningham played a vital part in achieving results which go beyond his own work and in some cases correct it.

An essay on *Western Civilization in Its Economic Aspects* (Cambridge, Eng.) appeared in two volumes in 1898 and 1900. In it Cunningham partially discarded the arrangement of the earlier general work, which was based on the assumption that political changes dictate the main chronological divisions. Finally, in a preface to *The Progress of Capitalism in England* (Cambridge, Eng. 1916) he proposed the study of economic development systematically and altogether apart from politics as the one method of reaching the main object of economic history. This work contains a list of Cunningham's writings (p. 136–42).

A distinguished and busy churchman, Cunningham had to rely much upon highly trained assistants for the collection of materials for his more than one hundred economic monographs and articles. Among the more important are *Christian Opinion on Usury* (Edinburgh 1884), *The Use and Abuse of Money* (London 1891), *Alien Immigrants to England* (London 1897), *The Rise and Decline of the Free Trade Movement* (London 1904; 2nd ed. Cambridge, Eng. 1905) and *The Case against Free Trade* (London 1911). These last two were polemics in favor of Joseph Chamberlain's imperial preference movement. Together with passages in the last two editions of *The Growth of English Industry and Commerce* they might well tempt one to classify Cunningham as a national economist. In this role his writings are less suggestive of List than of the German historical school, and in many ways he goes back rather to the older English traditions of Mun, Petty and to some extent Adam Smith. The evolutionary slant of his generation affected him profoundly. On the whole Cunningham's permanent written contribution to economic history is better described as honest, intelligent compilation than as brilliant synthesis.

MELVIN M. KNIGHT

Consult: Scott, W. R., *William Cunningham, 1849–1919* (London 1920); Foxwell, H. S., and Knowles, L. C. A., in *Economic Journal*, vol. xxix (1919) 382–93.

CUOCO, VINCENZO (1770–1823), Italian historian, political writer and educator. Cuoco was born near Naples and entered the law. As a result of his participation in the revolution of 1799 he was banished from the country. He returned from exile in 1804 and until 1806 edited the *Giornale italiano*. He finally returned to Naples under Murat and Joseph Bonaparte and was appointed to the highest government offices.

Cuoco was the most profound political thinker of his day in Italy. He was powerfully influenced by the historical philosophy of Vico and was the first to make it the basis of historical writing. Cuoco's principal work, *Saggio storico sulla rivoluzione napoletana del 1799* (Milan 1801; new ed. by F. Landogna, Livorno 1927), is an admirable analysis of the reasons for the necessary failure of the movement, which he accuses of passivity, and it offers the first really incisive criticism of the abstract, antihistorical ideology of French revolutionary and pre-revolutionary thought. He looked upon these early revolutionary movements not as arising from the needs and impulses of the people but rather as promoted by a group of democrats who drew their inspiration from French political writings instead of from the popular national spirit. The history of Italy of the period, with the failure of the political reforms of the Italian princes and the Napoleonic despotism, revealed to Cuoco two inexpugnable truths; that power and freedom could be obtained only by specifically

Italian forces and not by the aid of others and that the people—"the great, the sole agent of revolution and counter-revolution"—had to be won over to these new ideas if they were to be active participants. The work of the sword had to be preceded by the cultivation of a common national consciousness, by an educational revolution. Cuoco devoted all his activity as a writer, publicist and official to the propagation of these ideas. In his articles in the *Giornale italiano* (collected by Nino Cortese and Fausto Nicolini as *Scritti vari*, 2 vols., Bari 1924) and in his didactic philosophical-political novel *Platone in Italia* (2 vols., Milan 1804) he set out to realize his ideal of the regeneration of Italian public opinion, and in his famous *Rapporto al re Gioacchino Murat* (new ed. by N. Cortese in *Pensiero educatico e politico*, Venice 1928), which he presented in 1809, he developed plans for a uniform system of universal public instruction. The whole Risorgimento felt his influence through Mazzini, Manzoni and Gioberti.

ERNESTO CODIGNOLA

Consult: *Cuoco Vincenzo, il pensiero educativo e politico*, ed. by N. Cortese (Venice 1928); Gentile, G., *V. Cuoco* (Venice 1927); Battaglia, Felice, *L'opera di Vincenzo Cuoco e la formazione dello spirito nazionale in Italia* (Florence 1925); Ruggiero, Guido de, *Il pensiero politico meridionale nei secoli XVIII e XIX* (Bari 1922) ch. iv, and *Storia del liberalismo europeo* (Bari 1925), tr. by R. G. Collingwood (London 1927) p. 290–92; Hazard, Paul, *La révolution française et les lettres italiennes 1789–1815* (Paris 1910) p. 218–59.

CURB MARKET. *See* STOCK EXCHANGE.

CURRENCY is that portion of a community's purchasing power which has a conventionally or legally defined physical form and substance. Since wherever an organized state exists it defines the unit of account, currency includes all those physical embodiments of the unit of account and of its multiples or subdivisions whose form and content are regulated by law. A community employing only bank checks would possess no currency in the ordinary sense of the word, while a community in which circulating coins are not subject to legal regulation would possess circulating media but no currency. Cases in point are the trade dollar of the Orient and the Maria Theresa dollar of equatorial east Africa. Thus while all forms of currency are actually or potentially circulating media, not all forms of circulating media are currency. It is to be observed, however, that long usage sanctions the inclusion among forms of currency not only of metallic instruments of exchange but also of paper media of general acceptability; in this wider sense currency includes banknotes which are not subject to some form of legal regulation and which would therefore fall logically outside the category of currency proper.

Since the essence of currency is that it must have a defined form and substance, the main line of cleavage is between forms of currency whose metallic content validates the face value and forms of currency whose face value is validated in indirect ways if at all. Thus the following forms of currency may be distinguished: (1) full weight coins the face value of which is kept equal to the value of the metallic content, allowance being made for mintage charges, by the right of unlimited conversion of metal into coin and coin into metal, together with the right of free import and export of both the metal and the coins (standard coins); (2) paper currency and banknotes the face value of which is secured by unlimited convertibility into metal, the amount of the metallic store being at any time equal to the amount of paper outstanding (bullion certificates); (3) paper money and banknotes fully secured by convertibility into an equivalent amount of some other currency (in an exchange standard system); (4) metallic coins the face value of which is greater than the value of the metallic content, the coins being prevented from falling to a discount either by definite rights of conversion accorded to the holder or by the readiness of the central bank to receive back surplus amounts at the face value (token coins); (5) paper money and banknotes secured by partial reserves and the right of convertibility (convertible banknotes); (6) metallic coins with a face value greater than metallic content, the value of which merely depends upon due regulation of quantity (token coins); (7) paper money and banknotes which are not convertible and the value of which depends upon the relation of quantity issued to demand (inconvertible money).

In monetary literature definite terms have been attached to some of these forms of currency. Technical phraseology, however, does not always differentiate the possible subgroups, as for example in the case of "token coins." Moreover, it sometimes creates special terms and thus distinguishes particular instances belonging to the same category which happen to be practically important at a given time. This

was true of the "limping standard" coins, the five-franc pieces of the Latin Monetary Union which retained their full legal tender quality after the closing of the mints to the free coinage of silver in 1878. Since the central banks of the countries concerned never refused to accept five-franc pieces at their face value, the "limping standard" coins were in fact tokens whose value was maintained by the de facto convertibility into other forms of currency.

The problem of adequate currency management involves two sets of considerations: economic problems relating to the maintenance of parity between the standard of value and the coin which is its physical representative, and technical questions relating to the choice of material, the denomination and physical form of the coins or notes. Even in countries where the maintenance of "external" parity has been abandoned, i.e. where the unit of account is no longer worth the number of grains of gold or silver it nominally represents, there still remains the problem of "internal" parity, i.e. exchange of the various forms of currency with one another at their face value. Modern nations are inclined to take for granted that divisionary coins of nickel, bronze or overvalued silver should always be exchanged for one another at par and should be at par with full weight coins or bank and currency notes. But the history of currency shows that perhaps the most difficult of all lessons for currency authorities to learn is the management of a divisionary token coinage. This problem was not satisfactorily solved until well into the nineteenth century. The sudden rise in the value of silver in the later stages of the World War and in the early years of the post-war decade threatened to disorganize the currency systems even of states which did not resort to inflation on a great scale, and in countries like Germany, Austria and Russia the silver coinage, even when greatly overvalued nominally, did in fact disappear altogether as a consequence of limitless inflation. This episode has left its mark on the subsequent history of currency, as in the reduction in the fineness of silver token coins in Great Britain.

The technical questions of denomination and the physical composition of the coin, also, are nowadays of real importance only in connection with the divisionary currency, since gold is ceasing to circulate and notes are convertible into foreign exchange or gold bar. Allowances must, of course, be made for the fact that even in advanced areas conditions vary greatly—Great Britain and Germany, for example, are in this respect in advance of the United States, South Africa and Australia—and the above statement must be interpreted even less stringently in application to countries with undeveloped currency systems. The importance of the denomination relates to the effect upon retail prices of the smallest subdivision (a price less than this cannot well be charged per unit) and to the effect of alterations in the general price level upon the smallest subdivision which it is worth while to embody in the coinage. As regards the physical constitution of the subsidiary currency, the only points of importance are the desirability of substituting a circulation of small notes for coin, and the place of metallic substitutes for silver in the coinage. Experience would seem to confirm the view that a small note circulation is disproportionately expensive, involving a rapid rate of replacement and disproportionate administrative costs, and that there is little to be said for it on grounds of convenience. The use of silver or other metals is partly a question of original cost and partly a question of comparative immunity from counterfeiting. In practise, nickel and similar metals are employed for the manufacture of coins of smaller face value than silver. Thus in 1928 world coinage included over 547,000,000 silver pieces with a value of $201,800,000, while the value of over 470,000,000 nickel and nickel-bronze pieces was only $21,800,000 and that of nearly 700,000,000 coins of copper, bronze, aluminum-bronze and similar metals was but $12,300,000 (Great Britain, Mint, *Fifty-ninth Annual Report of the Deputy Master and Comptroller . . . 1928*, London 1929, p. 152–53). However, this is probably a matter more of tradition than of rational expediency.

The growth of modern banking systems and the revolutionary change in the position of gold subsequent to the World War have radically altered the composition of the aggregate of purchasing power in the advanced countries. Bank deposits subject to check have grown in importance relatively to all other forms, and paper money and banknotes have increased in proportion to metallic coin. If the comparison is made with conditions a century ago, when deposit banking was unknown over the greater part of the world and was in its infancy even in Great Britain and the United States, the contrast will be found even more striking. The proportion of their total purchasing power which individuals are prepared to hold in the

form of currency or bank deposits depends upon a variety of considerations, such as the dictates of custom, the magnitude of income, the average size of payments to be made, the degree of confidence in the banking system, the freedom with which checks circulate. It is certain that with the growth of per capita wealth the proportion of purchasing power held in the form of bank deposits increases at the expense of the share held in the form of currency.

The trends described above are characteristic to a larger or smaller extent of all countries. Important differences between countries still persist, however, and these may be illustrated statistically despite the fact that detailed information on bank deposits is not always available and that the quantity of silver and other currency in existence at any moment in a particular country is subject to much doubt. Thus in the United States between 1927 and 1930 the ratio of the money in circulation to the demand deposits held by the member banks of the Federal Reserve system varied between 25 and 27 percent. A comparison of these figures with similar measures for Germany and Poland is instructive. On March 31, 1930, the balance sheets of the 92 credit banks, 21 state and provincial banks, and 17 *Girocentralen* of Germany showed deposits payable within seven days of 6,588,000,000 marks, while the total currency in circulation at the same time was 6,325,000,000 (Germany, Reichsbank, *Report of the Commissioner*, Berlin, May 17, 1930); that is, currency was nearly equal to the volume of demand deposits. The total deposits for Germany were shown at the same time as 19,790,000,000 marks; this would still give a ratio of currency to deposits of about 32 percent. On June 30, 1930, the total deposits of the Polish banking institutions were 2,908,000,000 zlotys as compared to a currency circulation of 1,539,000,000 zlotys (Poland, Bank of Poland, *Bulletin*, 1930, no. 12); the ratio of currency to deposits was thus over 50 percent. English banks do not distinguish between time and demand deposits, and no figures are available for the circulation of subsidiary currency, but in June, 1930, deposits aggregated £1,788,000,000 and notes outside the Bank of England amounted to £359,000,000, which would give a ratio of currency to deposits of about 20 percent; this is not substantially different from the American ratio if allowance is made for the roughness of the data.

Similar although not quite as pronounced differences between countries are found in the composition of the currency, although this necessarily depends largely on the presence or absence of a small note circulation. Thus it was found that the proportion of token currency to total currency—the former being defined as "small notes, bronze and copper, nickel and aluminium, silver"—was 7.6 percent in the United States, 11.2 percent in Germany, 16.2 percent in Hungary and as high as 53.3 percent in Poland (League of Nations, *Memorandum on Currency and Central Banks, 1913–1925*, 2 vols., Geneva 1926, vol. i, p. 23–24). It is clear that the amount of divisionary money in circulation tends to be greater, relatively to the total of all forms of money, in poor countries than in rich.

T. E. GREGORY

See: MONEY; CREDIT; BANKNOTES; BANK DEPOSITS; PAPER MONEY; COINAGE.

Consult: Jevons, W. S., *Money and the Mechanism of Exchange* (authorized ed. New York 1900); Mises, Ludwig, *Theorie des Geldes und der Umlaufsmittel* (2nd ed. Munich 1924) pt. i, ch. iii; Helfferich, Karl, *Das Geld* (6th ed. Leipsic 1923), tr. by Louis Infield, 2 vols. (London 1927) vol. ii, chs. iv–v; Laughlin, J. Laurence, *The Principles of Money* (New York 1903) ch. xv; Schmoller, Gustav, "Über die Ausbildung einer richtigen Scheidemünzpolitik vom 14. bis 19. Jahrhundert" in *Schmollers Jahrbuch*, vol. xxiv (1900) 1247–74; Carothers, N., *Fractional Money; a History of the Small Coins and Fractional Paper Currency in the United States* (New York 1930); Kinley, David, *The Use of Credit Instruments in Payments in the United States*, United States, National Monetary Commission, Publications, vol. vi, no. 2 (Washington 1911); Fisher, Irving, *The Purchasing Power of Money* (2nd ed. New York 1920).

CURTIS, GEORGE WILLIAM (1824–92), American publicist and reformer. He was the son of an old and wealthy New England family. As a youth Curtis spent two years at Brook Farm, and he was well acquainted with the great literary and intellectual leaders of the day. An extended period of residence and travel in Europe, northern Africa and Asia Minor resulted in several volumes of travel papers and diaries and led him to decide upon a literary career. In an address to Wesleyan University students in 1856 on *The Duty of the American Scholar to Politics and the Times* (New York) he attacked the academician and urged the participation of scholars in public affairs. His own political activity was confined chiefly to work as a publicist. As the editor of *Harper's Weekly* he had one of the most remarkable careers in American public life. Possessed of a clear and

lucid style and a keen sense of humor he exerted a profound influence in molding American public opinion. He was a frequent and powerful orator on public questions.

Curtis early opposed partisanship and hidebound party loyalty, demanding free discussion of all policies, and as the years passed party ties weighed less and less heavily upon him. He bolted the Republican party in the Blaine-Cleveland contest and became "the typical independent," as well as a most influential leader. He was a firm believer in the merit system of appointments, played an important role in drafting the first civil service legislation and as chairman of the first National Commission to Reform the Civil Service drafted a complete federal personnel policy. Curtis was an early protagonist of woman's suffrage and in his last years as chancellor of the University of the State of New York was active in educational work. He is an outstanding example of the middle class liberal intellectual, advocating social change by means of gradual reform under educated leadership.

W. Brooke Graves

Consult: Cary, Edward, *George William Curtis* (Boston 1894); Foulke, W. D., *Fighting the Spoilsmen* (New York 1919); *Orations and Addresses of George William Curtis*, ed. by C. E. Norton, 3 vols. (New York 1894).

CURTIUS, ERNST (1814–96), German historian, archaeologist and geographer. Curtius was the son of a syndic of Lübeck. He traveled extensively in Greece between 1837 and 1840 and was professor at the universities of Göttingen and Berlin. From 1844 to 1850 he was private tutor to the Prussian crown prince (later Frederick William III) and for the rest of his life was intimately associated with the royal house of Prussia. This relation enabled him to secure the establishment of the Archaeological Institute at Athens in 1873, the remarkably fine maps of Athens in 1868 and 1876, and in 1881 with the help of Moltke an equally good map of Attica. This connection also made possible the excavations of Pergamum and especially of Olympia beginning in 1875. The excavation of Olympia under his direction marks the beginning of an epoch in archaeology, for this was the first time that an ancient site had been systematically and thoroughly unearthed by a large corps of specialists in every field (among them were such men as Dörpfeld and Furtwängler) and the results superbly and promptly published.

His best known work, *Griechische Geschichte* (3 vols., Berlin 1857–67, 6th ed. 1887–89; tr. by A. W. Ward, 5 vols., rev. ed. London 1870–74), was marked by a romantic and religious idealism which completely lost sight of the Dionysian element in ancient Greek civilization. It has been called a poetical vision rather than a scientific history. Defective in source criticism, skeptical realism, politics and the evaluation of economic and social forces, it is correspondingly strong in its delineation of the great movements of culture, in its treatment of art, religion, literature and the characters of the leading men and above all in its portrayal of the intimate relation between the land and its civilization. Curtius was a disciple of the great geographer Karl Ritter, with whom he traveled at one time in Greece; and his best work, which is still a classic, is his *Peloponnesos; eine historisch-geographische Beschreibung der Halbinsel* (2 vols., Gotha 1851–52).

W. A. Oldfather

Consult: *Ernst Curtius: Ein Lebensbild in Briefen*, ed. by F. Curtius (2nd ed. Berlin 1913); Kern, O., in *Allgemeine deutsche Biographie*, vol. xlvii (1903) 580–97; Fueter, E., *Geschichte der neueren Historiographie*, Handbuch der mittelalterlichen und neuren Geschichte, pt. i (Munich 1911) p. 497–99.

CURVE FITTING has for its purpose the graphical expression and quantitative formulation of functional or statistical relationships. Strictly speaking, it involves the use only of curves which can be described by an equation. In its looser meaning, however, the term includes also the employment of free hand curves or of curves fitted with the help of smoothing computations. This latter operation is better described as graduation or smoothing.

Curve fitting proper involves a choice of the form of an equation and of the method of fitting. In both of these stages the purpose of curve fitting is important in determining the choice. Even where only a concise description of the empirical data is sought, the investigator's interest and purpose may lead him to formulate his criterion of the faithfulness of description in some specific terms and thus to limit more narrowly the field of his choice. Where the investigator is faced with the additional task of testing some hypothesis concerning the nature of the relationship, this hypothesis will dictate the type of equation chosen.

Among the curves usually selected on such rational grounds some represent a mathematical expression of the hypothesis derived from the

study of the variable to which they are fitted. The normal curve of error or the normal probability curve describes the distribution of a variable in which the units deviate from a central tendency, determined by a constant set of factors, as a result of an interaction of a large number of small, independent, disturbing forces. This curve states the relationship between the frequency of occurrence and the size of the deviation from the central tendency, i.e. the normal. A number of variants of this curve, less definite logically, have been developed by Karl Pearson and by the Scandinavian school of Thiele and Charlier. The demand or supply curves in economic analysis describe the relationship between the price and the amount demanded or price and the supply offered. They usually embody the assumption that as the price rises demand declines and supply increases. More complex and elastic assumptions may also be made in setting up equations for demand and supply curves, as was done by H. L. Moore. The logistic and Gompertz curves in the analysis of population and industrial growth are based on the assumption that the absolute increment per unit of time is determined both by the level already attained and by the distance to the fixed upper limit of growth. The relationship is in its final form between the dependent variable and time.

In other cases the hypothesis underlying the selection of the curve may be based merely on a mechanical analogy. A typical attempt to apply to social data curves found useful in the natural sciences is the harmonic analysis of economic time series for the purpose of detecting hidden periodicity. In the simplest variant a sine curve is so fitted to the data as to reveal a typical cycle of fixed amplitude. A somewhat more elastic procedure is to fit several sine curves, or analyze the time series in reference to a more complex mechanical analogy. Generally speaking, such analysis involves undue simplification and distortion of the complex variations described by time series. The mechanical analogy is usually too rigid, and the failure to base the hypothesis upon a study of the social phenomenon itself is apt to lead to difficulties.

The use of the curves described above need not always involve the testing of a hypothesis; they could also be chosen merely because they provide a good description of the specific data studied. There are many more cases of curve fitting in which only such empirical considerations are taken into account; the purpose may be merely to arrive at a compact description or to locate a "normal line," a moving central tendency. A good example is the fit of parabolic curves to price series. This type of equation is chosen not because there exist rational grounds to suppose that the relationship between price movements and time is necessarily expressed by a parabolic function, but because by increasing the order of the parabola one may get an increasingly closer fit; another reason is that the customary methods of fitting, such as that of least squares, are easily applied to parabolic equations.

Even when the choice of the equation form is based on empirical considerations, the purpose of the investigator may determine more specifically the criterion of what would constitute a good, simple, mathematically convenient description and hence indirectly the form of the equation. Thus a simple compound interest curve may be chosen because one of its parameters is the average percentage rate of change. Or it may be considered important to minimize relative rather than absolute deviations of original data from the curve fitted. If this condition cannot be readily met by using a specific method of fitting, it may be advisable to select an exponential as the type of curve to be fitted.

Once the form of the equation has been selected, we have to decide upon the method of calculating the constants of this equation in such a way that the resulting specific curve will represent faithfully the data studied. There is a variety of such methods of evaluating constants. The choice of method in each specific case will depend not only upon the more general considerations bearing on the criterion of goodness of fit but also upon empirical considerations relating to the peculiarities of the specific sample and, finally, upon such practical considerations as the laboriousness of the method and its applicability to the selected equation form.

For the determination of constants by mathematical rules it is necessary to have as many simultaneous equations as there are constants. The simplest group of methods of fitting is based on the formation of such equations from single points (selected points). Thus in fitting a curve with three constants we may choose three points out of the number available in the sample studied, form three equations and determine the constants by solving these equations.

A curve fitted by this method is bound to pass through these points, and the investigator will therefore attempt to select as such points those which represent the sample as faithfully as possible. One way of doing this is to divide the sample into as many sections as there are constants in the equation and to take the arithmetic means of these sections as selected points. The method of selected points replaces the numerous items of the sample by only a few points and may thus result in distortion. There is no assurance that the computed curve will be as close as possible to all of the items of the original data.

A more precise and more commonly used method of fitting is that of least squares. In this method the constants of the selected equation are so determined that the sum of the squares of the deviations of the original data from the curve is a minimum. As an empirical method of fitting it gives undue weight to items lying at the extreme ends of the curve; its use may therefore be misleading in some time series analyses. On the other hand, where the deviations of the original data from the curve can be assumed to follow a normal curve of error, the least squares method acquires a special theoretical significance, because minimizing the sum of the squared errors assures a normal frequency distribution of deviations as closely concentrated about its mean as is possible within the limitations of the specific sample.

Another mathematical method of fitting is that of moments. A moment is the product of the value of a given item by its distance from the central value. The moments are of the zero, first, second and higher orders, as the distance from the central value is taken to the zero, first, second and higher powers. The method of moments consists in so evaluating the constants of the curve to be fitted that each of a number of the moments of this curve (equal to the number of unknown constants) shall equal the corresponding moments of the empirical set of data. In the case of polynomials the method of moments applied to ordinates will give precisely the same result as that of least squares. Moments, however, can be used in conjunction with the more complex curves, to which the least squares method is not directly applicable. This advantage is of particular importance in the fitting of frequency curves, for which the application of the method of moments was extensively developed by Karl Pearson. In the case of skewed frequency curves another method, that of semi-invariants, developed by Thiele, makes possible a transformation of the equation which allows much easier fitting.

Each method of fitting involves a different system of weighting the influence of items of the specific sample on the constants of the equation and assumes therefore a different criterion of the goodness of fit. The test for the goodness of fit acquires a definite theoretical significance in cases where the deviations from the curves may be conceived as items in a normal frequency distribution and where the standard deviation of the data from the curve has therefore a certain probability value. For this reason the usual goodness of fit tests as developed in sampling theory are especially applicable to curves fitted to frequency distributions, since in these cases the deviations of the empirical series from the curve can be interpreted as due to the effect of a number of independent, random causes. Even in these cases the use of such goodness of fit tests involves assumptions as to the nature of the universe which are often impossible to verify. In time series, especially in the fitting of curves to describe secular movements or to represent the scatter diagram of a correlation table, the deviations are subject to cyclical fluctuations and when taken in a certain time sequence are obviously dependent upon each other. In this type of analysis the usual tests for the goodness of fit, based upon the theory of sampling, are of no special validity; the average and the standard deviation are merely summary measures which obscure significant patterns in the time sequence of the deviations. Here the empirical judgment of the investigator, buttressed by some measures which take into account each cycle in the deviations, may be of greater value.

The fitting of curves which are not expressible by simple mathematical equations is generally called smoothing or graduation. The purpose of such graduation is not to establish functional or statistical relationships or even to arrive at compact descriptions; it is merely to eliminate seasonal, cyclical or erratic movements of the data. A more precise mathematical definition of a smooth curve is implied in the usual test of smoothness: the smaller the sum of the squares of the third differences of successive points on the curve, the greater is the smoothness.

The simplest method of smoothing is of course free hand. But the results depend too much upon individual skill and the judgment of

the investigator. The more numerous objective methods may be distinguished as falling into three groups. Polynomials may be fitted to successive sections of the data and mid-ordinates of the polynomials taken to form a smooth curve. The power of the polynomial employed may vary, and it is thus possible to distinguish methods based on second (or third) degree parabolas, and those based on fourth (or fifth) degree parabolas. Another group of methods involves replacing the original series by points of a moving average derived by various summation formulae. The simplest of these is based on the unweighted moving average, but as the requirement for smoothness becomes more rigid the number of items included in the average must be made larger and the weights assigned to successive items can no longer be kept equal. The smoothness of the weight diagram, i.e. the succession of the weights assigned in averaging to single items of the original series, is an important criterion in all smoothing methods. In the summation method, as in that of polynomials, it becomes eventually the most important determining factor in selecting the formula. Among the numerous summation schemes available we may mention Spencer's 15-term formula, Spencer's 21-term formula, Kenchington's 27-term formula and Macaulay's formulae, the latter being especially useful in application to monthly series. A third group of methods is based on the probability method of smoothing suggested by Whittaker and made practical by Henderson. This method aims at making the sum of the squares of the deviations of the data from the curve and k times the sum of the squares of third differences of the curve a minimum.

Smoothing is an operation based on the idea that the ordinates of the smooth curve should be influenced not only by the corresponding single item of the original series but also by a number of preceding and succeeding items. The period for which items are combined for the purpose of smoothing and the weights assigned to them in this combination should be decided not merely on the basis of technical considerations but also in conformity with general knowledge as to the extent to which the influence of factors measured by an item in a certain range of the series is carried over into other ranges of the same series. It is obviously unreasonable for some time series to have a method of smoothing in which an item in the year 1850 influences the ordinate of the smooth curve in the year 1920. It is true, however, that if distant items are included with negative weights, a more closely fitting and smoother graduation may result. Similarly, the goodness of smoothing should be judged not only with respect to technical criteria but also with reference to the purpose of the operation. Thus in time series the criteria and requirements vary as we desire to smooth out only the random disturbances or also the seasonal fluctuations.

Both curve fitting and smoothing can obviously be used for purposes of interpolation; that is, for evaluating points lying between two given items of a series. There are of course other methods of interpolation which do not involve taking account of the entire series, as in the case of curve fitting, or even of such considerable sections of it as are necessary for graduation. While interpolation is usually made on the assumption that the movement of data between the given items proceeds in some regular order, which may be described by a mathematical function or approximated by a free hand procedure, this order for the limited section under discussion need not necessarily be the same as in other parts of the series. It is true, however, that in interpolations carried through according to definite mathematical formulae the implicit assumption is made that the formula used describes properly the relationship between the data in the series (dependent variable) and the scale (independent variable). In such cases one should interpolate along a curve which would provide a good fit for the entire series.

In curve fitting, graduation and interpolation, mathematics offers a variety of methods, each based upon certain assumptions concerning the nature of the functional or statistical relationship studied, the relation between the curve and the deviations from it and the criterion of the goodness of fit. An important part of the analysis is the choice of that particular type of mathematical technique which is best suited to the purpose in hand and which is most in harmony with the available knowledge of the phenomenon studied. It is essential to understand that each method is inseparable from its underlying assumptions, that there is no generally ideal procedure, that the purpose of the analysis is the real basis of choice of method and that consequently this purpose should be formulated precisely. If for some reason the mathematical technique employed is capable of yielding more exact and refined results than would be considered applicable to the particu-

lar case in the light of other knowledge of the subject, it is important to realize that the method is too powerful as compared with the data to which it is applied and that the measures obtained cannot be more precise than the data from which they have been elicited.

SIMON KUZNETS

See: CORRELATION; FREQUENCY DISTRIBUTIONS; BUSINESS CYCLES; SECULAR TREND; SEASONAL FLUCTUATIONS; DEMAND AND SUPPLY CURVES; FORECASTING, BUSINESS; PROBABILITY; STATISTICS.

Consult: Whittaker, E. T., and Robinson, G., *The Calculus of Observations* (2nd ed. London 1926) chs. i–iv, viii, ix–xi; *Handbook of Mathematical Statistics*, ed. by H. L. Rietz (Boston 1924) chs. iv, vii, x–xi; Brunt, David, *Combination of Observations* (Cambridge, Eng. 1917); Merriman, M., *A Text-book on the Method of Least Squares* (8th ed. New York 1911); Elderton, W. P., *Frequency Curves and Correlation* (2nd ed. London 1927) chs. i–ii, xi; *Tables for Statisticians and Biometricians*, ed. by Karl Pearson (3rd ed. London 1930); Fisher, Arne, *The Mathematical Theory of Probabilities*, tr. from Danish by Charlotte Dickson and W. Bonynge (2nd ed. New York 1922) pt. ii; Henderson, R., *Graduation of Mortality and Other Tables* (New York 1919); Macaulay, Frederick R., *The Smoothing of Time Series* (New York 1931); Running, T. R., *Empirical Formulas* (New York 1917).

CURZON, GEORGE NATHANIEL, FIRST MARQUESS CURZON OF KEDLESTON (1859–1925), English statesman and colonial administrator. Curzon's mastery of Asiatic political problems, to which he had devoted himself after a brilliant career at Eton and Balliol, led to his appointment in 1899 as viceroy and governor general of India. The vigor of his benevolently autocratic administration (1899–1905), while it aroused serious controversy both in England and India, contributed materially to the rapid transformation which India was undergoing in its economic life. His concern for the welfare of the masses who subsisted by agriculture prompted him to make in their interests many important innovations, such as the introduction and enforcement of a coherent policy regarding land revenue settlement and administration, the reduction of taxes on salt and land, the establishment of agricultural banks and cooperative credit societies to protect the peasantry against money lenders, and the promotion of technical education and improved agricultural methods through the creation of the Imperial Agricultural Department and the Agricultural Institute. At the same time he gave great encouragement to the business development of India, establishing the Department of Commerce and Industry and carrying into effect long pending currency and mining reforms as well as railway and irrigation projects. He sought to invest his regime with glamour, efficiency and a reputation for inflexible justice, but his devices for appealing to Indian sentiment ignored the rise of nationalistic feeling. Many of his policies, especially the partition of Bengal and university reorganization, provoked a volume of resentment which hastened the movement for Indian home rule. Curzon was also largely influential in securing the realignment of British Asiatic policy, with the defense of India by land as its pivot. This was manifested especially in the assertion of British hegemony in the Persian Gulf, the opening up of Tibet and the reorganization of the northwest frontier. He returned to England in 1905 and his subsequent career, which he concluded as foreign secretary from 1919 to 1924, was without distinction. Handicapped by his hauteur and love of display as well as by certain temperamental weaknesses, he was ineffective despite his unrivaled mastery of facts in enforcing his views and may be thought to have retarded rather than advanced the settlement of Europe.

LELAND H. JENKS

Works: *Russia in Central Asia in 1889* (London 1889); *Persia and the Persian Question*, 2 vols. (London 1892); *Problems of the Far East* (London 1894, 2nd ed. 1896); *Frontiers* (Oxford 1907); *Principles and Methods of University Reform* (Oxford 1909); *British Government in India*, 2 vols. (London 1925); *Leaves from a Viceroy's Notebook* (London 1926). See also a collection of his speeches, *Lord Curzon in India*, ed. by Thomas Raleigh (London 1906).

Consult: Ronaldshay, L. V. L. D., *Life of Lord Curzon*, 3 vols. (London 1928); Fraser, Lovat, *India under Curzon and After* (London 1911); Lawrence, W. R., *The India We Served* (London 1928); Mowat, R. B., *History of European Diplomacy, 1914–25* (London 1927); Marriott, J. A. R., "Lord Curzon of Kedleston" in *Edinburgh Review*, vol. ccxlviii (1928) 229–48.

CUSA, NICHOLAS OF. *See* NICHOLAS OF CUSA.

CUSHING, CALEB (1800–79), American jurist, statesman and diplomatist. After graduating from Harvard in 1817 Cushing devoted himself for some years to law and political economy, contributing essays on these and kindred subjects to the *North American Review* and other periodicals as well as translating into English (Boston 1821) Pothier's *Traité des contrats de louage maritime*. In 1826 he published a short but vigorous treatise, *A Summary of the Practical*

Principles of Political Economy (Cambridge, Mass.), in which he defended the protective tariff. From 1835 to 1843 Cushing was a member of Congress, where in 1841 he broke with the Whig party to uphold President Tyler, who later nominated him secretary of the treasury; but he was rejected by the Senate. As the first American commissioner to China Cushing negotiated the Treaty of Wang-Hiya in 1844 providing for the opening of the ports of China to United States trade. He served with great distinction as attorney general of the United States from 1853 to 1857, rendering highly significant opinions, among which was that favoring enforcement of the Fugitive Slave Law. He acted as counsel for the United States at the arbitration of the *Alabama* claims in 1871 and 1872, where his linguistic and legal skill was helpful in the successful settlement of the dispute. He published the proceedings of this arbitration in *The Treaty of Washington* (New York 1873). President Grant nominated him chief justice of the United States Supreme Court in 1873 but withdrew the nomination on account of partisan opposition. From 1874 to 1877 Cushing was minister to Spain, and it was during this period that his final contributions to diplomacy and the furtherance of international good will were made.

CLAUDE MOORE FUESS

Other works: *Review, Historical and Political, of the Late Revolution in France*, 2 vols. (Boston 1833); *Reminiscences of Spain*, 2 vols. (Boston 1833); United States, Department of Justice, *Official Opinions of the Attorneys General of the United States*, vols. vi–viii (Washington 1856–58).

Consult: Fuess, C. M., *The Life of Caleb Cushing*, 2 vols. (New York 1923); Newburyport (Mass.) City Council, *A Memorial of Caleb Cushing* (Newburyport 1879); Lyman, Anson M., "Caleb Cushing" in *Green Bag*, vol. xxiv (1912) 545–57.

CUSHING, FRANK HAMILTON (1857–1900), American ethnologist. He was the son of a Pennsylvania country doctor and philosopher and was largely self-educated. He early became interested in Indian remains and Indians and from boyhood combined collecting, acute observation and manual training in reproducing primitive invention and technology with much fantasy enactment of the prehistoric. With the stimulation and encouragement of George Kennan, Lewis H. Morgan, L. W. Ledyard, Spencer Baird and J. W. Powell he did work for the Smithsonian Institution at the age of eighteen and became at twenty-two a member of the Bureau of American Ethnology, with which organization he remained connected until his death. He lived at Zuñi from 1879 to 1885, excavated there and in the Gila valley from 1886 to 1888 and in Florida in 1895. Intense, intuitional, mystic, neurotic and in chronic ill health, with a streak of exhibitionism, Cushing possessed imagination and vivid insight amounting at times to genius and influenced most workers with whom he had personal contact. He had an extraordinary knowledge of Zuñi, but the fundamental monograph on the culture is by a successor, Matilda C. Stevenson, while his own writings for the most part remain disjointed fragments.

Cushing was no cabinet philosopher. He craved contact with phenomena, but he interpreted them from within himself—he "knew" their meaning with immediacy. When he presented data in organization it was according to some dramatic or symbolic system charged with significance by his personality. He derived the Zuñi numeral words elaborately and fantastically from a philosophy of hand manipulation in counting. Pottery was to him a product of attempts to represent that which interested primitive man in nature and a by-product of the use of basketry. When he found two types of burial and artifacts in Gila ruins he did not interpret them to be the remains of two successive culture periods, as they are now explained, but considered them evidence that society had been stratified into priestly nobles with esoteric rites and uninformed commoners. His observations were of the keenest, but almost impossible to disentangle from his imaginings.

A. L. KROEBER

Important works: *Zuñi Fetiches* (Washington 1883); "A Study of Pueblo Pottery as Illustrative of Zuñi Culture Growth" in United States, Bureau of American Ethnology, *Annual Report*, vol. iv (1886) 467–521; *Outlines of Zuñi Creation Myths* (Washington 1896); "Manual Concepts," "Primitive Copper Working," and "The Arrow" in *American Anthropologist*, vol. v (1892) 289–317, vol. vii (1894) 93–117, and vol. viii (1895) 307–49; *Zuñi Breadstuff*, Indian Notes and Monographs, vol. viii (New York 1920), published originally in *Millstone*, vols. ix–x (1884–85); "Preliminary Notes on . . . the Hemenway . . . Expedition" in International Congress of Americanists, *Compte-rendu*, vol. vii (1890) 151–94; "Exploration of Ancient Key Dwellers' Remains" in American Philosophical Society, *Proceedings*, vol. xxxv (1896) 329–448; *Zuñi Folk Tales*, a collection (New York 1901, new ed. 1931).

Consult: *American Anthropologist*, n. s., vol. ii (1900) 354–80, 768–71; *Scientific American*, vol. lxxxii (1900) 243.

CUSTODI, PIETRO (1771–1842), Italian journalist and economist. Custodi was a native of Piedmont and a lawyer by profession. During the period of unrest preceding the Napoleonic reorganization of Italy he became editor of two short lived republican newspapers, *La tribuna del popolo* and *L'amico della libertà italiana*. Napoleon caused him to be arrested but after the establishment of the Kingdom of Italy he restored him to favor, appointing him secretary general of the finance department of Milan and later state councilor. Under the empire Custodi was created baron. His fame rests upon the great *Scrittori classici italiani di economia politica* (50 vols., Milan 1803–16), in which he collected and elucidated with biographical and critical notices the writings of the chief Italian economists from the earliest times down to the beginning of the nineteenth century. To Custodi more than to any other individual is due the credit for the propagation throughout the scholarly world of the economic ideas evolved in Italy before Adam Smith. Many of the works included in his collection, such as the lectures of Beccaria, had never before been printed. Custodi also published *Cesare Beccaria* (Padua 1811), one of the early biographies of the great penologist, and *Storia di Milano* (4 vols., Milan 1824–25; later ed. 2 vols., Florence 1851), including and continuing the work by Pietro Verri. Together with Gioja and Romagnosi he founded in 1824 *Cui noli universali di economia publica*, which remained until its discontinuance in 1871 the leading Italian economic review.

LUIGI EINAUDI

Consult: Sangiorgio, G., *Pietro Custodi, economista* (Florence 1875).

CUSTOM. The word custom is used to apply to the totality of behavior patterns which are carried by tradition and lodged in the group, as contrasted with the more random personal activities of the individual. It is not properly applicable to those aspects of communal activity which are obviously determined by biological considerations. The habit of eating fried chicken is a custom, but the biologically determined habit of eating is not.

Custom is a variable common sense concept which has served as the matrix for the development of the more refined and technical anthropological concept of culture. It is not as purely denotative and objective a term as culture and has a slightly affective quality indicated by the fact that one uses it more easily to refer to geographically remote, to primitive or to bygone societies than to one's own. When applied to the behavior of one's own group the term is usually limited to relatively unimportant and unformalized behavior patterns which lie between individual habits and social institutions. Cigarette smoking is more readily called a custom than is the trial of criminals in court. However, in dealing with contemporary Chinese civilization, with early Babylonian culture or with the life of a primitive Australian tribe the functional equivalent of such a cultural pattern as our court trial is designated as custom. The hesitation to describe as custom any type of behavior in one's own group that is not at once collective and devoid of major importance is perhaps due to the fact that one involuntarily prefers to put the emphasis either on significant individualism, in which case the word habit is used, or on a thoroughly rationalized and formalized collective intention, in which case the term institution seems in place.

Custom is often used interchangeably with convention, tradition and mores, but the connotations are not quite the same. Convention emphasizes the lack of inner necessity in the behavior pattern and often implies some measure of agreement, express or tacit, that a certain mode of behavior be accepted as proper. The more symbolic or indirect the function of a custom, the more readily is it referred to as a convention. It is a custom to write with pen and ink; it is a convention to use a certain kind of paper in formal correspondence. Tradition emphasizes the historic background of custom. No one accuses a community of being wanting in customs and conventions, but if these are not felt as possessed of considerable antiquity a community is said to have few if any traditions. The difference between custom and tradition is more subjective than objective, for there are few customs whose complete explanation in terms of history does not take one back to a remote antiquity. The term mores is best reserved for those customs which connote fairly strong feelings of the rightness or wrongness of modes of behavior. The mores of a people are its unformulated ethics as seen in action. Such terms as custom, institution, convention, tradition and mores are, however, hardly capable of a precise scientific definition. All of them are reducible to social habit or, if one prefers the anthropological to the psychological point of view, to cultural pattern. Habit and culture are terms which can be defined with some degree of precision and

should always be substituted for custom in strictly scientific discourse, habit or habit system being used when the locus of behavior is thought of as residing in the individual, cultural pattern or culture when its locus is thought of as residing in society.

From a biological standpoint all customs are in origin individual habits which have become diffused in society through the interaction of individual upon individual. These diffused or socialized habits, however, tend to maintain themselves because of the unbroken continuity of the diffusion process from generation to generation. One more often sees custom helping to form individual habit than individual habit being made over into custom. In the main, group psychology takes precedence over individual psychology. In no society, however primitive or remote in time, are the interactions of its members not controlled by a complex network of custom. Even at an early stage of the palaeolithic period human beings must have been ruled by custom to a very considerable extent, as is shown by the rather sharply delimited types of artifacts that were made and the inferences that can be drawn from some of these as to beliefs and attitudes.

The crystallization of individual habit into custom is a process that can be followed out theoretically rather more easily than illustrated in practise. A distinction can be made between customs of long tenure and customs of short tenure generally known as fashions. Fashions are set by a specific individual or group of individuals. When they have had a long enough lease of life to make it seem unimportant to recall the source or original locality of the behavior pattern, they have become customs. The habit of wearing a hat is a custom, but the habit of wearing a particular style of hat is a fashion subject to fairly rapid change. In the sphere of language custom is generally referred to as usage. Uncrystallized usages of speech are linguistic fashions, of which slang forms a particular variety. Food habits too form a well recognized set of customs, within which arise human variations that may be called fashions of food and that tend to die out after a brief period. Fashions are not to be considered as additions to custom but rather as experimental variations of the fundamental themes of custom.

In course of time isolated behavior patterns of a customary nature tend to group themselves into larger configurations which have a formal cohesion and which tend to be rationalized as functional units whether they are such historically or not. The whole history of culture has been little more than a ceaseless effort to connect originally independent modes of behavior into larger systems and to justify the secondary culture complexes by an unconscious process of rationalization. An excellent example of such a culture complex, which derives its elements from thousands of disparate customs, is the modern musical system, which is undoubtedly felt by those who make use of it to be a well compacted functional whole with various elements that are functionally interdependent. Historically, however, it is very easy to prove that the system of musical notation, the rules of harmony, the instrumental techniques, the patterns of musical composition and the conventional uses of particular instruments for specific purposes are independently derivable from customs of very different provenience and of very different age, and that it is only by slow processes of transfer of use and progressive integration of all these socialized modes of behavior that they have come to help each other out in a complex system of unified meanings. Hundreds of parallel instances could be given from such diverse fields of social activity as language, architecture, political organization, industrial technique, religion, warfare and social etiquette.

The impermanence of custom is a truism. Belief in the rapidity of change of custom is exaggerated, however, because it is precisely the comparatively slight divergences from what is socially established that arouse attention. A comparison of American life today with the life of a mediaeval English town would in the larger perspective of cultural anthropology illustrate rather the relative permanence of culture than its tendency to change.

The disharmony which cumulatively results from the use of tools, insights or other manipulative types of behavior which had enriched the cultural stock in trade of society a little earlier results in change of custom. The introduction of the automobile, for instance, was not at first felt as necessarily disturbing custom, but in the long run all those customs appertaining to visiting and other modes of disposing of one's leisure time have come to be seriously modified by the automobile as a power contrivance. Amenities of social intercourse felt to be obstructive to the free utilization of this new source of power tend to be dismissed or abbreviated. Disharmony resulting from the rise of new values also makes

for change in custom. For example, the greater freedom of manner of the modern woman as contrasted with the far more conventionally circumscribed conduct of women of generations ago has come about because of the rise of a new attitude toward woman and her relation to man. The influences exerted by foreign peoples, e.g. the introduction of tea and coffee in occidental society and the spread of parliamentary government from country to country, are stressed by anthropologists more than by the majority of historians and sociologists as determinants of change. Most popular examples of the imposition of fashions which proceed from strategic personalities are probably fanciful and due to a desire to dramatize the operation of the more impersonal factors, which are much more important in the aggregate than the specific personal ones. With the gradual spread of a custom that is largely symbolic and characteristic of a selected portion of the population, the fundamental reason for its continuance weakens, so that it either dies out or takes on an entirely new function. This mechanism is particularly noteworthy in the life of language. Locutions which are considered smart or chic because they are the property of privileged circles are soon taken up by the masses and then die because of their banality. A much more powerful and exact knowledge of the nature of individual interaction, particularly as regards the unconscious transfer of feeling, is needed before a really satisfying theory of cultural change can be formulated.

Those customs survive the longest which either correspond to so basic a human need that they cannot well be seriously changed or else are of such a nature that they can easily be functionally reinterpreted. An example of the former type of persistence is the custom of having a mother suckle her child. There are numerous departures from this rule, yet both modern America and the more primitive tribes preserve as a custom a mode of behavior which obviously lies close to the life of man in nature. An example of the latter type of persistence, which may be called adaptive persistence, is language, which tends to remain fairly true to set form but which is constantly undergoing reinterpretation in accordance with the demands of the civilization which it serves. For example, the word robin refers in the United States to a very different bird from the English bird that was originally meant. The word could linger on with a modified meaning because it is a symbol and therefore capable of indefinite reinterpretation.

The word survival should not be used for a custom having a clearly defined function which can be shown to be different from its original place and significance in culture. When used in the latter, looser sense the word survival threatens to lose all useful meaning. There are few customs among us today which are not survivals in this sense. There are, however, certain customs which it is difficult to rationalize on any count and which may be looked upon as analogous to rudimentary organs in biology. The useless buttons in modern clothing are often cited as an example of such survivals. The use of Roman numerals alongside of Arabic numerals may also be considered a survival. On the whole, however, it seems safest not to use the word too freely, for it is difficult to prove that any custom, no matter how apparently lacking in utility or how far removed from its original application, is entirely devoid of at least symbolic meaning.

Custom is stronger and more persistent in primitive than in modern societies. The primitive group is smaller, so that a greater degree of conformity is psychologically necessary. In the more sophisticated community, which numbers a far larger total of individuals, departure from custom on the part of a few selected individuals, who may in turn prove instrumental for a change of culture in the community at large, does not matter so much for the solidarity of the group to begin with, because the chance individual of the group finds himself reinforced by the vast majority of his fellow men and can do without the further support of the deviants. The primitive community has also no written tradition to appeal to as an impersonal arbiter in matters of custom and therefore puts more energy into the conservation of what is transmitted through activity and oral tradition. The presence of documents relieves the individual from the necessity of taking personal responsibility for the perpetuation of custom. Far too great stress is usually laid on the actually conserving, as contrasted with the symbolically conserving, power of the written word. Custom among primitive peoples is apt to derive some measure of sacredness from its association with magical and religious procedures. When a certain type of activity is linked with a ritual which is in turn apt to be associated with a legend that to the native mind explains the activity in question, a radical departure from the traditionally conserved pattern

of behavior is felt as blasphemous or perilous to the safety of the group. There is likewise a far lesser division of labor in primitive communities than in our own, which means that the forces making for experimentation in the solution of technical problems are proportionately diminished.

In the modern world custom tends to be much more conservative in the rural districts than in the city, and the reasons are similar to those given for the greater persistence of custom among primitive peoples. The greater scatter of the rural population does not generally mean the more intensive individual cultivation of the forms of custom but rather a compensatory effort to correct the threats of distance by conformity.

Within a complex community, such as is found in modern cities, custom tends to be more persistent on the whole in the less sophisticated groups. Much depends on the symbolism of a custom. There are certain types of custom, particularly such as are symbolic of status, which tend to be better conserved in the more sophisticated or wealthy groups than in the less sophisticated. The modern American custom, for instance, of having a married woman keep her maiden name is not likely soon to take root among the very wealthy, who here join hands with the unsophisticated majority, while the custom is being sparsely diffused among the intellectual middle class.

The varying degrees of conservatism in regard to custom can be illustrated in the behavior of a single individual because of the different types of social participation into which he enters. In England, for instance, the same individual may be in the vanguard of custom as a Londoner but insistent on the preservation of rural custom as a country squire. An American university man may be disdainful of customary opinion in his faculty club but be meekly observant of religious custom on Sunday at church. Loyalty or departure from custom is not a simple function of temperament or personality but part and parcel of the symbolism of multiple participation in society.

Custom is generally referred to as a constraining force. The conflict of individual will and social compulsion is familiar, but even the most forceful and self-assertive individual needs to yield to custom at most points in order that he may gain leverage, as it were, for the imposition of his personal will on society, which cannot be conquered without the implicit capture of social consent. The freedom gained by the denial of custom is essentially a subjective freedom of escape rather than an effective freedom of conquest. Custom makes for a powerful economy in the learning of the individual; it is a symbolic affirmation of the solidarity of the group. A by-product of these fundamental functions of custom is the more sentimental value which results from an ability to link the present and the past and thus to establish a larger ego in time, which supplements with its authority the larger ego represented by the community as it functions in the present.

The formulation of customs in the sphere of the rights and duties of individuals in their manifold relations leads to law. It is not useful to use the term law, as is often vaguely done in dealing with primitive societies, unless the enforcement of customary activity be made explicit, being vested in particular individuals or bodies of individuals. There are no societies that are wholly free from the binding force of implicit law, but as there are also many primitive societies which recognize some type of legal procedure it seems much better to speak of law only in the latter case. There are, for instance, few American Indian tribes in which customary obligations are recognized as a system of law that is capable of enforcement by the community. Psychologically law prevails, but not institutionally. This is in rather sharp contrast to the legal procedure which has been developed by the majority of African tribes. Here there is not merely the law of custom in an implicit sense but the perfectly explicit recognition of rules of conduct and of punishment for their infringement, with an elaborate method of discovering guilt and with the power of inflicting punishment vested in the king. The example of African law indicates that the essential difference between custom and law does not lie in the difference between oral tradition and the written formulation of custom. Law can emerge from custom long before the development of writing and has demonstrably done so in numerous cases. When custom has the psychological compulsion of law but is not controlled by society through the imposition of explicit penalties it may be called ethics or, more primitively, mores. It is difficult to distinguish law and ethics in the more simple forms of society. Both emerge from custom but in a somewhat divergent manner. Mundane or human sovereignty becomes progressively distinguished from socially diffused or supernatural or impersonal sover-

eignty. Custom controlled by the former is law; custom controlled by the latter is ethics.

The agencies instrumental in the formation of custom are for the most part quite impersonal in character and implicit in the mere fact of human interrelationships. There are also more self-conscious agencies for the perpetuation of custom. Among these the most important are law and religion, the latter particularly in the form of an organized church and priesthood. There are also organizations which are sentimentally interested in the conservation of customs which threaten to go out of use. In the modern world one often sees a rather weak nationalistic cause bolstered up by the somewhat artificial fostering of archaic custom. Much of the ritualism of the modern Scottish clans is secondarily rather than lineally conservative.

If complicated forms of conscious manipulation of ideas and techniques which rule the modern world are excluded from the range of the term custom, the force of custom may be said to be gradually lessening. The factors which favor this weakening of custom are: the growing division of labor with its tendency to make society less and less homogeneous; the growing spirit of rationalism, in the light of which much of the justification of custom fades away; the growing tendency to break away from local tradition; and, finally, the greater store set by individuality. The ideal which is latent in the modern mind would seem to be to break up custom into the two poles of individually determined habit on the one hand and of large scale institutional planning for the major enterprises of mankind on the other.

EDWARD SAPIR

See: CULTURE; FOLKWAYS; HABIT; INDIVIDUALISM; TRADITION; CONVENTIONS, SOCIAL; MORALS; FASHION; ETIQUETTE; INSTITUTION; SOCIAL PROCESS; CONTINUITY, SOCIAL; CHANGE, SOCIAL; CONFORMITY; CUSTOMARY LAW.

Consult: Tylor, E. B., *Primitive Culture*, 2 vols. (7th ed. New York 1924); Boas, Franz, *The Mind of Primitive Man* (New York 1911), and *Anthropology and Modern Life* (New York 1928); Lowie, R. H., *Primitive Society* (New York 1920), and *Are We Civilized?* (New York 1929); Wissler, Clark, *Man and Culture* (New York 1923); Kroeber, A. L., *Anthropology* (New York 1923); Sumner, W. G., *Folkways* (Boston 1907); Sumner, W. G., and Keller, A. G., *The Science of Society*, 4 vols. (New Haven 1927–28); Wallis, W. D., *Culture and Progress* (New York 1930); Malinowski, Bronislow, *Crime and Custom in Savage Society* (London 1926); Hocart, A. M., "Are Savages Custom-bound?" in *Man*, vol. xxvii (1927) 220–21; Benedict, Ruth, "The Science of Custom" in *Century Magazine*, vol. cxvii (1929) 641–49.

CUSTOMARY LAW. In its origin customary law appears to be only a differentiated form of general custom. The basis of both law and custom is precedent, which, according to Holland, is illustrated by "the mode in which a path is formed across a common." One man crosses either by accident or design; others are likely to follow in the same track until a path is worn. Pollock cites the child's appeal to precedent in order to avoid some present parental prohibition, and the force of habit prevails in the whole early history of the race. But while the mechanical repetition of acts explains the origin of many usages which come to be recognized as law, it does not indicate the point at which the differentiation between law and custom occurs.

The problem of the nature of customary law has been prominent in juristic theory, and the conclusions reached by jurists have depended upon their views of the nature of law in general. The two dominating modern theories have been those of the analytical school of Austin and the historical school of Savigny. The former, regarding law as the command of the political state prescribing a certain line of conduct in all cases of a similar character, enforceable by specific sanctions in the event of disobedience, has tended to slight customary law and scarcely to admit its existence. On the other hand, the historical school has tended to exalt customary law as a spontaneous expression of the genius of a people, arising from its juristic consciousness and determining subjectively when rules shall be regarded as legal. Later jurists have variously exhibited the influence of both views.

Thus Maine issues a warning against the application of the Austinian view as a test of customary law. He implies that custom begins to be law when it is brought into dispute and some means is provided for declaring or recognizing its obligatory character. According to Munroe Smith customary law arises at "the point at which the infliction of penalties affecting the property or the person begins to be assured." In other words, custom does not become law until it acquires a clear and definite sanction. However much this may be true of a mature legal system, the better opinion is that it is not true of customary law. In early law sanctions are often imperfect and informal. Thus hardly anything more can be said than that custom becomes law when it is recognized in some way as governing a class of relations segregated as juridical, i.e. the family, debt, injury.

Although it is difficult to say exactly when

custom becomes law, it is possible to single out some of the factors in the transition. A custom comes to be accompanied by some ceremonial, borrowed no doubt from religious ritual but really differentiating the transaction as creating relations of an obligatory or formal character. The Hindu *Brahma vivaha* or the Roman *confarreatio* and mancipatory sale may be cited as instances. The religious nature of the ceremony gives the relations it creates a particular solemnity. Primitive formalism, indeed, surrounds the transactions of everyday life. Another step toward juridical consciousness may be illustrated by the regulations and safeguards that begin to surround the right of self-help—a prominent feature of primitive relations. The imperfectly obligatory character of early law is emphasized by the preservation of fictions of voluntarism in procedure, which thus helps to stress its customary basis.

It is a particular characteristic of customary law that the availability of a judge is more important than the availability of settled rules of law. The right of judgment thus has to be vested in some person or class of persons, e.g. in the priestly or aristocratic class; but later resort is had to more popular "law finders." Customary law, then, represents that intermediary stage in juridical evolution when law has ceased to be conceived simply as the will of the gods, *fas* (compare also the Hindu *dharma*), and its transgression as *nefas*, entailing the divine displeasure, and an additional sanction has been found in the fact that judgments are supposed to derive their force from the existence of popular custom.

The law finders have been very important in the early development of many systems. The early Roman law was known chiefly to the College of Pontiffs, to which even the judges resorted and which private parties consulted regarding court days and the proper steps to be taken in the formation of contracts and the conduct of litigation. The answers to these inquiries became precedents and were the forerunners of the *responsa prudentium* of later times. Among the ancient Hindus law was regarded as in the special custody of a learned priestly class. Among the early Teutons, however, the law speakers were not of a sacerdotal character. They were the elders, and their judgments had to be approved by the freemen, who gave, as it is said, the *Vollwort* (full word). In Iceland, typical of Scandinavia as a whole, a law speaker also was charged with the declaration of the law and the recital of the Thing rules of procedure every summer.

But even where popular approval is apparently necessary, it is of course the functionaries to whom the right of interpretation of customary law has been entrusted rather than the whole body of the people who shape it. For they not only declare what that law is but their utterances afford a precedent for similar declarations thereafter. Just as general custom is developed by following precedent, so customary law grows and expands in the form of such decisions. Customary law thus becomes a system of "case law," differing, however, from the modern type in the character of its authors. As Vinogradoff has very well put it, "we may say that customary law appears as the judge-made law of periods when the judges are still intimately connected with the people they represent, and feel bound to declare popular legal lore rather than to supply links in a system of learning."

The historical school conceived of customary law as the expression of the genius of a whole people. But in truth customary law is at first distinctly local and the law of only a very small locality at that. This is, indeed, one of the conditions of its growth. But as the customs of contiguous or affiliated tribes are likely to be similar, at least in their broader aspects, the political union of tribes through conquest usually results in the development of a customary law common to the people of a whole area. But naturally the process would not always be complete, for some localities cling more tenaciously to their customs than others.

Above all, customary law, being a primitive form of positive law, flourishes as unwritten law. "Except this," declares Sir Henry Maine, "there is no such thing as unwritten law." As soon as writing begins to be generally employed, law correspondingly ceases to be customary. But the art of writing is often known for very long periods before it is employed in expressing customary law in whole or in part. Writing was, for instance, known in Greece long before the code of Solon. It is felt rather that the reduction of the law to writing tends to undermine its popular or customary basis. When the step is taken it is usually in response to conditions of social conflict that have brought confusion into the law. Even while it remains unwritten, however, customary law may acquire in part a form of its own, as in gnomes or maxims. "The expression, in clear and memorable sayings," observes Munroe Smith, "of the rules implied in

the decisions . . . to primitive men seemed real law-making. . . . " Moreover, writing may be used at some stage of the judicial procedure without destroying the character of the law as customary; and indeed the law may continue to be regarded as such even after decisions are reported in writing, provided they are still supposed simply to express popular legal lore. For in a juristic sense law has been regarded as unwritten although it is not such in a literal sense. The Romans apparently interpreted the phrases *jus scriptum* and *jus non scriptum* literally, but modern civilians have applied the former only to commands issuing from the supreme power in the state. As a matter of terminology the application of the term customary law has often been purely arbitrary. Roman law has not been spoken of as customary after the Twelve Tables. Yet, after all, the jurisconsults were only law finders. The explanation would seem to lie in the maintenance of the fiction that their declarations of the law were only "interpretation" of the tables. Moreover, Roman law had become a learned system.

In a similarly artificial way the term customary law was applied at the close of the Middle Ages to the local bodies of law which had been crystallized after the dissolution of the Roman Empire, although they had then already entered upon a formal juristic stage. Customary law then meant hardly more than local law. But in the early mediaeval period true bodies of customary law had flourished. The times were well suited to such a development. It has already been pointed out that customary law is primarily local law, and the multiplication of local jurisdictions under the feudal system is well known. Since no strong central government existed, local popular justice alone could survive. Even the imperial Roman law was converted into subsidiary local custom. Family law and land law have always tended to be the special provinces of customary law, and this was especially true in the Middle Ages. Indeed, mediaeval law was developed in ways that recall all the characteristic factors of the evolution of customary law.

The importance of the law finders is an illustration. In the church these were naturally wholly sacerdotal. But in the temporal courts, which applied customs predominantly Germanic, the law finders were naturally lay and popular. In the Frankish Empire the *scabini* and in Scandinavia the later *lagmen* became official law finders. The customary law of mediaeval Germany grew from the findings of the *Schöffen*, or lay judges; doubtful cases were resolved by the adoption of a *doom*, i. e. a declaration as to the nature of the rule of customary law, after an official inquiry by the local law finders. In manorial communities the law for the current year used to be settled annually on definite days upon the basis of an official *inquisitio*. The manorial official (steward or bailiff) asked in the *halimot* (assembly) for guidance upon the law in a given case, and he received answer upon oath. The topics of customary law were more or less completely exhausted by this exchange. Declarations of rural custom, the *weistümer* or *offnungen*, were made annually at certain periods by the elders in the village assembly.

The variety of the mediaeval bodies of local customary law, variously compounded of indigenous and Romanic elements, is bewildering. In the various Spanish kingdoms prevailed the so-called local *fueros*; in northern France the *coutumes*. In the Teutonic regions of the north the early customary law applied in the ordinary German courts was known as *Landrecht*; but there were other forms, such as *Lehnrecht* (law of the fief), *Bauernrecht* (peasant law), *Stadtrecht* (town law), *Hofrecht* (manorial law) and *Zunftrecht* (guild law), all characteristic of the special types fostered by the feudal system. To illustrate beyond the orbit of western European law, the term *zakon*, common to several Slavic languages, once meant customary law and designated a system prevailing among the various nations using the Slavic tongues. The reception of the Roman law ultimately undermined, without completely destroying, these bodies of customary law. Roman law, embodied in the *Corpus juris*, was called *jus scriptum* in contradistinction to the customary law although it represented chiefly jurisprudential sources. But toward the close of the Middle Ages the customs, already modified by intrusions of Roman law, began to be reduced to writing and to become the domain of formal jurisprudence, thus indicating that they were losing their character as true customary law even though they remained local in application.

In Spain the earliest attempts to set forth any of the general law prevailing in any of the kingdoms were made with respect to the *fueros* of León and the *usatici* of Catalonia in 1068. But at the end of the tenth century the Conde de Castilla inaugurated the preparation of what ultimately became known as *El fuero viejo*. At the Cortes of Nájera in 1137 the *fuero* of this name, known also as *El fuero de los fijosdalgo*, or

Book of Decisions and Arbitrations, was ratified and the Cortes of the same place in 1176 made additions to the *El fuero viejo*, in connection with which Alfonso VIII in 1212, confirming charters granted by two of his predecessors, charged the hidalgos and nobles "to search their records and write down the good laws, customs, and decisions." And while the king withheld his approval even after this was done, it is said that judgments were rendered according to the *fuero* written in this book and according to these decisions until 1254–55, when Alfonso X issued the famous *Fuero real* for Castile. The *Compilación de Canellas* (named after the bishop who had prepared it), or the *De fuesca*, of 1247 reflects the customary law of Aragon. A general *fuero* for Navarre is ascribed to about 1237, although it may have been later, and was revised in the following century; while general *fueros* for Valencia were promulgated in 1239 and revised about a generation thereafter. In France the need of reducing the *coutumes* to writing finds earliest expression in the thirteenth century, but through private initiative, for public authority showed no interest. The *Grand coutumier de Normandie*, which codified the customary law of that region, was probably composed about the middle of the century. Soon there appeared Pierre de Fontaines' *Conseil à un ami*, which compiled the customs of Vermandois, relating to procedure, but combined them with extensive extracts from the *Corpus juris*; the *Livre de jostice et de plet*, less than half of which treated the *coutume* of Orléans, the rest being translations of Roman texts; and the *Établissements de Saint Louis*, treating the same *coutume* and that of Touraine-Anjou but with the usual translations from Justinian. About 1280 Beaumanoir, a scholar as well as a judge, wrote his *Livres des coutumes et des usages de viauvoizins*, which was not only a compilation of the customs but a treatise on customary law. Beginning in the same century there were compilations of the *coutumes* for Anjou, Berry, Poitou and Maine. About 1282 appeared the *Anciennes constitutions du châtelet* of the court of the provost of Paris containing the current rules of customary law and procedure; in the following century there appeared a compilation of customs for Brittany. Toward the end of the fourteenth century Jacques d'Ableiges compiled the *Grand coutumier de France*, treating largely of procedure and including rules from the *Coutume de Paris*; and Jehan Boutillier published his famous *Somme rural*, which includes the customs of northern France and exhibits the evolution which the customary law was undergoing. Thus by the opening of the fifteenth century the law in at least the part of France which had come to be known as *Le pays de droit coutumier* had been reduced to writing in fragmentary treatises generally accepted as authoritative. But there was a natural demand for compilations which would be official and more complete, and in 1453 Charles VII promulgated the *Ordonnance de Montils-les-Tours*, article 125 of which directed that the *coutumes* be officially compiled. There was a long delay in carrying out the project, and the first *coutume*, that of Ponthieu, was not actually written down until 1494. The *coutume* of Orléans was compiled in 1509; that of Paris, which became the model for the colonies, in 1510 and that of Brittany in 1539. It is estimated that the 360 groups of an earlier period were now divided into 60 general and 300 special *coutumes*. After their redaction a long line of learned French jurists busied themselves therewith. In the Germanic countries *Hofrecht* and *Stadtrecht* began to be written down quite early. A body of the former compiled at Reichenau dates from about 1150, although forged in the name of Charlemagne under the title of *Constitutio de expeditione romana*. A notable compilation of *Stadtrecht* for Mühlhausen in Thuringia was prepared about 1250 and toward the end of the same century the local laws of Goslar were compiled by order of the municipal council. These are but instances of numerous like productions appearing in various parts of Germany. Meanwhile, about 1230 both *Landrecht* and *Lehnrecht* were collected and published in Latin by the *Schöffe* Eike von Repkow as the *Sachsenspiegel*. It soon became not only a source but an authority throughout the country and as such naturally superseded the customary law which it embodied. It was imitated in the *Deutschenspiegel* (*c.* 1250) and the *Schwabenspiegel* a few years later, but these already show the influence of Roman law, which was in the process of reception throughout Germany.

The common law of England in its classical period well illustrates the conception of customary law. The English common law grew originally from the collections of tribal customary law made successively by Alfred, Edgar and Edward the Confessor. When the royal law courts obtained jurisdiction over the whole kingdom as a result of political centralization they welded these special local customs into one general custom of the realm, although some of the former

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survived—as in Kent, which even in Blackstone's day retained its custom of gavelkind in derogation of primogeniture. The local customs were originally popularly declared. This function was discharged in Saxon England by the wise men (*witan*) in the county courts; indeed, Parliament in the Middle Ages came to be considered the chief organ for the declaration of law. The name long borne by the developing system of English law was *Leges et consuetudines angliae* or "the custom of the realm." Indeed, Munroe Smith has asked: "If the English Common Law is not the general English custom, what is it?" But the question implies the answer. The very fact that it had become a general law shows that it had ceased to be customary. After the Year Books it was certainly developed by a professional class of lawyers and judges whose learning can hardly be called popular. It is true that the fiction was long maintained that the judges merely "found" a previously existing law and declared it; indeed, this idea is found in Blackstone, but it had long ceased to be true. The reported precedents were themselves considered as embodying the law and were authoritative and binding. This "case law" was thus quite unlike the so-called jurisprudence of the civilians, which was regarded merely as the opinions of those learned in the law. Case law was "scientific law" which was authoritative from the moment of its creation. Nevertheless, since the classical common law was almost exclusively a system of precedents it was most reminiscent of customary law. But in a highly developed legal system not all problems can be solved precedent by precedent, and legislation has come to play almost as great a part in common law as in civil law countries. While the common law as a whole has never been codified, vast portions of it have passed into statutory form. But in an earlier stage it showed itself strikingly capable of absorbing a whole body of customary law without the aid of legislation, e.g. the law merchant, a system of mercantile usage.

In all legal systems, however, advanced local customary law continues to play some supplementary part in the adjustment of local interests. The *Corpus juris civilis* was supposed to embody the entire Roman law, yet in the *Institutes* it recognized "the unwritten law which usage has approved." Customary law was recognized in turn, in derogation of the received Roman law, by the mediaeval jurists, canonists as well as civilians. The modern continental codes often recognize the old legal customs in certain respects; it is sometimes provided that where no statute is directly applicable the local custom shall be applied. Old types of land tenures or some of their incidents have survived in this way. Under the common law also special customs have sometimes been admitted although contrary to the general rule.

But when a custom is juristically recognized in this way it becomes part of the general law. If it is not a creation it is at least an adaptation of mature jurisprudence. This is shown by the fact that before it will be admitted it must pass certain juristic tests. Upon these, however, there has been very little agreement among jurists. The glossators held that a custom must meet the requirements of antiquity and reasonableness. Bartolus stipulated *longum tempus, tacitus consensus populi, frequentia actuum*. Under the canon law custom was recognized when it became *legitima praescriptio*, i.e. subject to the time requisites of prescription. Blackstone gives a long list of conditions: a custom must be immemorial, reasonable, continuous, peaceable, certain or clear, compulsory, consistent with the rest of recognized custom and not against an act of Parliament, and if against the common law it must be strictly construed. Generally, the more highly developed a legal system, the less likely it is to admit inconsistent custom. The word immemorial must not be too literally understood. In the common law the period of legal memory is supposed to run from the accession of Richard I (1189), but in practise a custom that goes as far as "living memory" is presumed to date from Richard I.

Besides the occasional recognition of old customary law in individually litigated cases modern times have afforded the phenomenon of its wholesale or extensive reception in some places. Hindu law, which is largely customary, is now being extensively applied in the courts of British India. Custom still plays a part in adjusting law to new situations even in highly codified systems and thus is a continuing source of contemporary law. This is particularly true in constitutional law, which even where a written constitution exists tends to become largely customary. International law has been called customary. One of the modes of infiltration of customary into positive law is through "interpretation" of the written law. Appeals are made to the "unwritten law" before juries in accordance with persistent prevailing conceptions of "right" and "wrong." In this way unpopular criminal statutes particularly have often been

practically nullified. When one considers the immense mass of modern legislation, often incoherent or anachronistic, it is interesting to recall certain intimations of the ancient Roman jurists that even law of legislative origin might be superseded by contrary custom.

CHARLES SUMNER LOBINGIER

See: LAW; JURISPRUDENCE; CUSTOM; ROMAN LAW; COMMON LAW; CIVIL LAW; CASE LAW; COURTS; CODIFICATION.

Consult: Puchta, Georg Friedrich, *Das Gewohnheitsrecht*, 2 vols. (Erlangen 1828–37); Schuppe, Wilhelm, *Das Gewohnheitsrecht* (Breslau 1890); Brie, Siegfried, *Die Lehre vom Gewohnheitsrecht* (Breslau 1899); Korkunov, N. M., *Lektsii po obshchey teorii prava* (8th ed. St. Petersburg 1908), tr. by W. G. Hastings as *General Theory of Law* (2nd ed. New York 1922) p. 410–19; Maine, Henry S., *Ancient Law* (new ed. by F. Pollock, London 1906); Brown, W. J., *The Austinian Theory of Law* (London 1912), and "Customary Law in Modern England" in *Columbia Law Review*, vol. v (1905) 561–83; Smith, Munroe, *A General View of European Legal History* (New York 1927) p. 269–309; Vinogradoff, Paul, *Custom and Right* (Oslo 1925), and "Customary Law" in *The Legacy of the Middle Ages*, ed. by C. G. Crump and E. F. Jacob (Oxford 1926) p. 287–319, *Common Sense in Law* (London 1914) ch. vi, and *Collected Papers*, ed. by H. A. L. Fisher, 2 vols. (Oxford 1928) vol. ii, chs. xxii–xxiii; Sadler, Gilbert T., *The Relation of Custom to Law* (London 1919); Pollock, Frederick, *Essays in Jurisprudence and Ethics* (London 1882), and *First Book of Jurisprudence* (6th ed. London 1929); Allen, C. K., *Law in the Making* (Oxford 1927) chs. i–ii; Holland, T. E., *The Elements of Jurisprudence* (13th ed. Oxford 1924); Gray, J. C., *The Nature and the Sources of the Law* (2nd ed. New York 1921) ch. xii; Laplanche, Jean de, *La réserve coutumière dans l'ancien droit français* (Paris 1925); Wehrlé, René, *De la coutume dans le droit canonique* (Paris 1928); Lambert, E., *Fonction du droit civil comparé* (Paris 1903); Ehrlich, Eugen, *Grundlegung der Sociologie des Rechts* (Munich 1913); Lowie, Robert H., *Primitive Society* (New York 1920); Sumner, William Graham, *Folkways* (Boston 1907); Continental Legal History series, vol. i (Boston 1912), and further authorities there cited. It should be noted also that a vast literature exists upon the various special bodies of customary law in ancient and modern times.

CUSTOMS ASSIMILATION. *See* COLONIAL ECONOMIC POLICY.

CUSTOMS DUTIES in the modern sense of the word are public taxes on goods crossing the border of a territory. They are taxes and not fees since there is no return service rendered by the corporate body which levies them. They may of course be accompanied by supplementary charges which partake of the nature of fees, such as charges for the use of special equipment in customs offices, for the storage and protection of goods and to cover the cost of trade statistics. Customs duties may be distinguished from other taxes fundamentally in that their predominant purpose is not financial but economic—not to increase state revenue but to promote home industries as against foreign competition.

Duties first developed into taxes levied at the boundary in the eighteenth and nineteenth centuries. Before that time duties levied on trade took the form of tolls for the use of streets, rivers, bridges and harbors or for protection and safe conduct of persons or goods. These were levied not at the borders but at important trade centers and market towns within the country, with no discrimination between import, export and transit goods and without regard to whether or not a similar fee had already been paid in another part of the country. Gradually there appeared a definite distinction between fees collected at bridges and city gates, which were called tolls (*octrois*, *Mauten*, *Akzisen*), and fees collected at the border on entrance to, or exit from, a national territory, which were called customs duties (*droits de douane*, *Zölle*).

This differentiation was called forth by mercantilist doctrines under which each country strove to become a self-sufficient economic territory and to regulate foreign trade in the manner most favorable to its own production and exports. Tariff for revenue only was subordinated to tariff for protection, and emphasis was laid on import duties. There were to be low rates or exemptions for goods which the country needed for manufacture and high rates on finished products which were competing with home industries. In the last quarter of the nineteenth century the increasingly sharp competition of overseas nations forced continental countries to extend protection to agriculture by import duties on such products as grains and meat. Export duties, which seldom appear and have been entirely abolished in most countries, may also serve an economic purpose if the country has a natural supply of raw materials which it wishes to reserve to domestic manufacture. Transit duties have been gradually discarded everywhere since the middle of the nineteenth century, for with the present great development of commercial relations it is no longer possible to regulate the transit trade for the benefit of home industries and exports; on the contrary, every country must strive to direct the largest possible amount of world traffic over its own railroads and steamship lines. On April 20, 1921, an international convention was conclud-

ed in Barcelona regarding free transit of goods.

The mercantilist trade policy, which led to the establishment of a system of frontier duties, required at the same time the abolition of all remaining internal tolls, which separated the different provinces or territories of the same state from one another. Tremendous obstacles, due principally to old political arrangements, had to be overcome in order to accomplish this. In some places these internal tariffs continued until very late times, as in Turkey, Brazil and especially in China. In the last named country the so-called likin taxes, the widespread application of which dates from the necessity of covering the cost of the suppression of internal uprisings during the sixties of the last century, were retained by the Chinese government in contrast to the customs duties which were pledged to foreign powers. They were legally abolished in 1930, effective January 1, 1931.

Although the fiscal motive of revenue from import duties has been pushed far into the background by the economic end of protection for home industries, it has not entirely disappeared. Duties purely for revenue still exist in all countries. They are usually import duties on goods which are not produced in the country, whose value is not increased by further manufacture after importation but which are intended for personal consumption, such as coffee, tea, spices and tobacco. They are the simplest and most effective taxes on consumers of foreign goods, and their only defect from the point of view of social political principles is that they must be levied on objects of mass consumption and cannot be graded according to the purchasing power of the consumer. Furthermore, the higher the duty and the greater the value of the article in relation to its volume, the greater the temptation for smuggling. In consequence it has often been found advisable to reduce the rate of a fiscal duty in order to increase its productiveness. Export duties may also bear the character of fiscal duties, but only when they are levied by countries so predominant in the supplying of some tropical agricultural product or some mineral product that they can pass on the burden of the tax to the foreign consumer without impairing the market for the product taxed. The possibility of doing this is decreased by the diffusion of animals and plants and by the invention of artificial substitutes.

Most duties, however, have become protective duties levied on the importation of goods whose domestic manufacture must be protected against foreign competition and on the exportation of raw materials and by-products which should be used in home industries. There is no very clear line of demarcation between fiscal and protective duties, for many a revenue duty affects some competing industry within the country. The revenue tariff on rice influences domestic grain cultivation and that on tropical fruits affects home cultivation of fruit. With the spread and increase of protective tariffs the financial profit from them has become of some importance for the national budget. Some nations derive more than half their revenue from customs. It is not possible to compare the percentages for the several countries, since the bases for the statistics are too diverse. Foreign trade is relatively much more important in smaller countries than in larger. In federations tariff revenue usually goes to the treasury of the union and consequently assumes a much greater importance than in countries where there is no division of revenue between federation and individual states.

The customs duties of a country are combined into a customs tariff according to some systematic arrangement, usually by groupings of goods. This tariff forms the basis for the negotiation of commercial treaties with other countries and therefore frequently contains high rates which can be lowered in the course of the negotiations to meet concessions from the other side. With an eye to these commercial treaties the tariff is rarely a single tariff, with one rate for each article regardless of the country from which it comes, but is usually a double tariff, composed of two columns, one with lower rates for most-favored-nations, the other with higher rates for all other nations. The double tariff may further be either a general and conventional tariff or a maximal and minimal tariff. In the first case the lower or conventional tariff consists of the reductions conceded to individual nations through commercial treaties; in the latter case both minimal and maximal tariffs are set by law and cannot be lowered by treaty concessions. The latter system protects home producers from unexpected and inconvenient changes through subsequent treaties but renders reciprocal tariff reductions more difficult, because the rates of the minimal tariff are secured through the mere granting of most-favored-nation treatment. This system, however, has spread considerably during the past decade, especially through French action. A tariff may consist of more than two columns, particularly

when it includes preferential rates between a mother country and her colonies. There is then a general rate for non-favored-nations, an intermediate rate for most-favored-nations and a preferential rate for the mother country or the colonies. French tariffs have sometimes contained even more rates for the same goods, because certain countries received rates lying between the maximal and the minimal.

There are also differential tariffs, which may consist either of a reduction in conventional or minimal tariffs or of an increase in general or maximal tariffs. Through the spread of most-favored-nation clauses since the middle of the nineteenth century the occurrence and the area of applicability of differential tariffs have been greatly diminished. Formerly there were levied frequent "flag surtaxes" (*surtaxes de pavillon*), percentual surcharges on goods brought in on ships sailing under foreign flags. These played a large part in the older trade policies of England and France and aimed at increasing the share of the country's own merchant marine in overseas trade. Their widespread use, however, affected most seriously those countries which were most interested in shipping. Surcharges for indirect imports (*surtaxes d'entrepôt*) were formerly laid on goods that on their way from producer to consumer passed through a third country, which then profited as intermediary. These still occur in several national tariffs. In Austria there was an isolated case of special rates for sea traffic as against land traffic, but the arrangement was successfully attacked as being incompatible with most-favored-nation treatment.

Favorable tariffs to effect a closer economic union between politically independent states have been tried repeatedly, but they are not compatible with preexisting most-favored-nation treaties. Preferential rates between mother country and colonies have become very important, particularly in the British Empire. Lately frequent antidumping duties have appeared, to combat the bad effects on home industries of foreign exports which could sell for less because of state export premiums, cartels and trusts, progressive depreciation of currency or poorer labor legislation. Customs laws also provide for tariff wars with countries which treat imports unfairly. The law empowers the government in such cases to levy retaliatory duties, which means raising all general or maximal rates by a certain percentage.

The basis of appraisal may be either ad valorem, according to the value of the article, or specific, according to some measure of quantity, usually weight. The great advantage of the ad valorem method is the automatic adjustment of the duty to the stage of manufacture as well as to variations in price due to differences in quality or market fluctuations. Its disadvantage is that the value is not definite and must be determined by the customs administration by difficult and always uncertain methods. Specific duties, on the other hand, are more convenient in that customs officials may easily determine them by weighing, measuring or counting. But under them the tax burden diminishes with the stage of manufacture, which increases value in relation to volume, and the proportion of the tariff burden to the value of the goods varies inversely with changes in price. The first objection is weakened by the graduation of specific duties as much as possible according to the various quality grades of the goods, although this again introduces the necessity for extremely complex and highly technical machinery for appraisal as well as an enormous expansion of the tariff list, which already in industrial nations contains hundreds of items. The second difficulty can be overcome only by the adoption of a new tariff, which always involves wearisome preparation and violent conflicts between opposing interests.

With the predominance of the protective over the fiscal viewpoint each country strives to make its political territory correspond to its customs area and to consider its political frontiers as customs boundaries, the crossing of which determines the collection of duties. This ideal is not always attainable, however, since the boundaries of a country are fixed by political treaties which emphasize such factors as military security and nationality of population and often seriously disturb economic relations of long standing. The unity of the customs area is further limited by the fact that a strip of territory ten to fifteen kilometers in width along the border is granted special privileges in order to help the border inhabitants to earn a livelihood and to develop agriculture on property which is cut in two by the boundary line. This border zone must be carefully watched for smuggling. It is often necessary to conclude a special treaty with the neighboring state concerning border trade, which is expressly excluded from most-favored-nation treatment. It sometimes happens that parts of its own political territory are excluded from a country's customs area or that sections of another state are included in it. Exclusion may be due to a desire to encourage

international traffic in the excluded zone by its complete freedom from customs, as in the so-called free ports and free zones. Or certain places may be so separated from their own country as enclaves or by geographical barriers that it is to their own economic interest to be attached to the customs area of another nation. Examples of this type appear in certain communities in Germany, Austria and Switzerland. Even entire small states may be incorporated in a foreign customs area. Thus the principality of Monaco is attached to France and Lichtenstein to Switzerland (having been joined to Austria before the war). Luxemburg was attached to Germany before the war and is now in customs union with Belgium. Incorporation into a customs territory differs from entry into a customs union in that the smaller state takes over the customs regulations and commercial treaties of the larger state without being able to influence their content, while the customs union rests on a basis of parity, so that previous acceptance must be sought before any measures of commercial policy are taken.

Customs duties are no longer the only means of protecting home industry against the unfavorable influences of international economic relations. Numerous other protective measures aside from legislation have been developed and applied by the administration or by organization among the people themselves. In countries where the railroads are state owned, railroad rates are often used for this purpose. To prevent this commercial treaties include the principle of internal parity, which permits no discrimination in transportation rates between domestic and foreign persons or goods. This parity has shown itself to be only a formality, however, for it does not hinder variations in import and export rates injurious to foreign traffic, which uses the same stretch of road as domestic traffic but usually in the opposite direction. In the direction of import traffic the freight rates are kept low on raw materials and semimanufactured products, which are not produced in sufficient quantities in the country but which are needed for production, and high on finished articles, which need protection against foreign competition. In the export direction rates are low on goods for which it is desired to encourage a foreign demand and high on raw materials which supply foreign competitors. By means of such differential railroad rates the effect of the home tariff may be strengthened and that of the foreign tariff weakened. The use of this protective measure is much easier than the laying of customs duties; for the latter, as government taxes, arise from extensive and difficult acts of legislation, while freight rates, which are a compensation for transport, can be altered by the railroad administration at any time.

In many European states veterinary police regulations and quarantines are abused for commercial purposes. The danger of the introduction of contagious animal diseases made import prohibitions necessary, and certain clauses were included in commercial treaties to provide for these by expressly exempting those goods which must be restricted on sanitary or safety grounds. By a widespread application of this measure cattle raising has been protected not only against the introduction of animal epidemics but also against foreign competition. Patent, trademark and copyright laws, passed for protection of industrial property, and laws against unfair methods of competition are frequently administered so as to hinder seriously the importation of foreign manufactures. In the case of public supplies the authorities are often obliged to give preference to home goods even when they cost more, and details of the terms of delivery may be formulated to the advantage of the home producer.

Finally, the people themselves can adopt a policy of self-help without government aid or even in the face of the government's express disapproval. Such were the boycotts on foreign goods not infrequent in the last decade and primarily political in their origin. More subtly economic and less openly aggressive are the attempts to create a preference for home goods by a heightening of the national consciousness through the creation of a national trademark or through general propaganda to "buy home goods."

The fixing of the tariff is a legislative right. It has, however, become more and more difficult in the course of time, partly because with the increasing specialization of customs duties more expert technical and economic knowledge is required, and partly because every item means interference with the conditions of a particular branch of industry and the relation between production and consumption. Here appears especially acutely a problem apparent also in other fields of economic policy—the problem of how to unite effectively the expert knowledge of interested parties, who cannot be impartial, with the impartiality of officials who are not sufficiently expert. Tariff battles over certain rates

often result in a compromise between opposing interests, so that they support each other's demands and seem to present a united front, as in the case of semimanufactured and finished products, and agriculture and industry in general. Such a compromise, however, is not necessarily in the interest of public welfare, for it may impose on other branches of industry or on the consumers burdens greater than the profit to the individuals concerned in the compromise. The final decision is made in parliament by political parties who are also influenced by particular interests.

In great industrial nations there have therefore been efforts toward a scientific tariff, to free tariff legislation from political agitation and to substitute a purely factual viewpoint. To prepare such a tariff commissions were established consisting of men who were not personally interested in particular fields of production and who would make unbiased investigations. The scientific method is useful for collecting and sifting material from statistical data and mercantile accounts, but it is not capable of proving positively the necessity of protection and of calculating numerically the height of duties. The United States Tariff Board (1909–12) set itself the task of determining the difference between the costs of production on the same goods at home and abroad for guidance in fixing tariff rates. The present United States Tariff Commission, established in 1916, follows the same policy. Aside from the fact that it is impossible to calculate accurately the difference in production costs, because no two enterprises in the same country have the same costs and because the method of calculation is always variable and open to question, such a method must miss its aim even if every difference so determined led to a correspondingly high protective duty. For this purely private viewpoint may result in protecting every branch of industry, even though the advantage to a particular branch may be more than canceled by far greater disadvantages to other industries or to the country as a whole. Whether and to what extent a protective duty is necessary cannot be determined strictly scientifically but only by a weighing of the economic and political arguments pro and con. It is therefore not a proper province for a non-partisan commission but must be left to the political decisions of legislative bodies. These bodies, of course, should be reformed to meet the ever greater requirements of specialized knowledge.

Like tariff legislation the administration of customs has more and more adjusted itself to economic rather than to fiscal requirements in spite of the fact that it still theoretically forms part of the finance administration of every state. In former times customs, like taxes, were often farmed out. Now, however, duties are everywhere collected by the state authorities. The organs of administration consist of the administrative service and the supervisory service. The former is concerned with the appraisal of goods and the collection of the legally fixed duties and the administration of accessory services, such as customs warehouses. The supervisory service, administered by a special revenue guard, watches trade along the border and attempts to prevent smuggling. Customs officials also furnish material for statistics of foreign trade and, at ports, for shipping. Neighboring states usually place their customs houses at the same points on the border to minimize the inspections which hinder traffic. They sometimes conclude customs cartels by which they bind their frontier officials to mutual cooperation in the prevention of smuggling.

The duties of officials in the collection of customs vary according to whether the country has adopted specific or a considerable number of ad valorem duties. In the case of specific duties officials must be able to discriminate technically between goods and their many grades of quality; for this purpose extensive testing stations with chemical laboratories and technical apparatus may often be necessary. For ad valorem goods the question is one of ascertaining the market value, which cannot be learned from the article itself but only from contemporary market conditions which themselves are not always self-evident. Prices indicated by the invoices of the importers are not acceptable because they may be wilfully listed at a lower amount for the customs, and the customs officers must therefore arrive at the truth through experts or independent investigations. The United States has its own officials, called appraisers, whose duty it is to keep constantly informed of the actual market value and wholesale price of the goods at the time of exportation to the United States in the chief markets of the country in which they were bought. When the appraised value is higher than the declared, a fine is added to the legal duty. Where the rates on goods differ according to the country of origin, that country must be ascertained, for which purpose many nations have prescribed certificates of origin.

Because of the diversity and indefiniteness of

the commercial nomenclature of goods and because of the continual appearance of new products it is easy for customs officials and the parties concerned to differ regarding the appraisal. A special procedure is usually provided for quick positive decision in such contests, but recourse is usually to the administration rather than to the courts. The chief customs official, who is responsible for final decisions, is allowed to base his decision on the judgment of an expert advisory body, the customs advisers. These decisions regarding the application of certain rates are collected and published to serve as standards for future practise. There may also be doubt as to which rate should apply to certain goods, resulting in a diversity of treatment in the different customs offices of the same country. A merchant in order to be able to base his calculation concerning the possibilities of importation on the actual customs burden may often have to import the particular goods experimentally. Even then he is not sure that the figures so established will hold for future cases. For this reason Germany in 1898 created a customs information service, which has since been imitated by many other countries. Under this arrangement the higher authorities are obliged to issue official information concerning the tariff on goods in answer to all inquiries, to which are attached definite statements regarding the origin and nature of the goods and samples or illustrations. The information is binding on all subordinate officers. A different decision may come into force only after a given period and after time has been provided for official answers to any questions.

The tariffs of different countries vary enormously in arrangement and nomenclature of goods, so that comparison of their rates and the statistical data on foreign trade based on them is extremely difficult. Efforts have therefore been made in recent times to establish a uniform international tariff classification. There are two opposing principles of arrangement: homogeneity of production, especially similarity of raw material (e.g. all articles made from cotton or iron) or of process (e.g. all goods for lathe work); and homogeneity of use (e.g. all clothing, although made of many different materials, or all means of transportation). Similarity of material is usually preferred as a basis of classification, although it cannot be applied absolutely, for many goods, such as machines and toys, are composed of various materials and can only be put in a common category on the basis of their use. In classification according to materials better account can be taken on the stages of production. This is important because the economic function of customs duties is the protection of national labor, whose employment increases with an increasing proportion of the manufacturing process. The lines between raw materials, semimanufactures and finished products are not sharp, for many raw materials undergo a process in immediate connection with the primary process in order to conserve them, as in the case of hides, or to save freight, as in the case of ores. Again technical concepts do not always coincide with those of commercial policy, for many goods which are technically semimanufactures are treated as raw materials in the tariff when the material from which they are made does not occur in the country concerned and importation in a partly worked state is desirable in order to save freight costs. Such is the case in European importation of copper from the United States. Gold and silver receive special treatment, for they serve chiefly as means of settling the balance of international payments and are therefore everywhere duty free.

As early as 1853 the statistical congress in Brussels expressed the need for a uniform system of trade statistics. As this presupposed an international uniformity in the naming and grouping of tariff items, the International Trade and Industry Congress in Paris in 1889 demanded a uniform scheme not only for the designation of goods for commercial statistics but also for the arrangement of the goods in the tariffs. The Conférence Internationale de Statistique Commerciale in Brussels in 1910 worked out a definite statistical classification of goods which combined 1831 tariff items into five different groups of goods as follows: live animals, foodstuffs and drinks, raw materials and simply prepared goods, manufactured articles and gold and silver bullion and coins. The Central European Economic Conference of 1912 in Brussels tried to create some uniformity, for these states at least, in order to facilitate reciprocal treaty negotiations. The World Economic Conference in Geneva in 1927 took the matter under consideration and recommended appropriate action to the Council of the League of Nations. This conference appointed in 1928 a committee of experts who worked out a schedule which consists of 21 sections, 86 chapters and more than 1300 items. The obstacles to the adoption of this schedule are still very great, involving more than mere formalities.

Differences in terminology can be eliminated only by more exact definitions, which may involve serious differences from colloquial usage. Problems of more decisive economic significance also enter. A tariff is fitted to the economic conditions of one country and cannot be transferred to another without alteration.

JOSEF GRUNTZEL

See: TARIFF; COMMERCIAL TREATIES; AD VALOREM AND SPECIFIC DUTIES; TRANSIT DUTIES; EXPORT DUTIES; FREE PORTS AND FREE ZONES; DRAWBACK; DUMPING; COLONIAL ECONOMIC POLICY; SHIPPING; CUSTOMS UNIONS; SMUGGLING; VALUATION; PORTS AND HARBORS; REVENUES, PUBLIC; COMMERCE; INTERNATIONAL TRADE; ECONOMIC POLICY; MERCANTILISM; PROTECTION; FREE TRADE.

Consult: Gruntzel, Josef, *System des Handelspolitik* (3rd ed. Vienna 1928), and *Economic Protectionism* (Oxford 1916); Crompton, George, *The Tariff* (New York 1927); Gregory, T. E. G., *Tariffs* (London 1921); Esslen, J. B., *Die Politik des auswärtigen Handels* (Stuttgart 1925); Ashley, William James, *Tariff Problem* (4th ed. London 1920); Taussig, F. W., *Free Trade, the Tariff and Reciprocity* (New York 1920), and *Tariff History of the United States* (7th ed. New York 1923); Ashley, Percy, *Modern Tariff History* (3rd ed. London 1920); Gerloff, Wilhelm, *Finanz- und Zollpolitik des deutschen Reiches* (Jena 1913); Weber, Robert, *System der deutschen Handelsverträge* (Leipsic 1912); L'Hote, Jules, *La douane en France et à l'étranger* (Poitiers 1922).

Considerable valuable material is contained in the documents of the International Economic Conference (Geneva 1927), especially Documents C.E.I. 23, 28, 32, 33, 37, and C.E.C.P. 71 (1).

CUSTOMS UNIONS. A customs union is an association of two or more independent tariff territories to form one customs area, involving the elimination of all interterritorial customs barriers and the adoption of a common tariff policy. Short of a complete merger with the loss of political sovereignty a customs union represents the highest degree of customs rapprochement between independent units. Looser forms of customs alliance are found in most-favored-nation treaties, in mutual preference systems and in reciprocity agreements. It is also possible to conceive of a customs federation having a common tariff policy for its members but allowing them to retain internal customs barriers. On the other hand, a customs union must be distinguished from customs annexation, an arrangement by virtue of which a territory is incorporated in a larger customs area without receiving formal representation in the body determining the tariff policy for this area. Similarly, extension of the tariff of a mother country to a colony involves involuntary customs assimilation.

To be really effective and enduring true customs unions must be based on the elimination of important differences in economic structure, in political and administrative organization and in the taxation systems of the member states; moreover, the authority in tariff matters must be delegated to a superior body and the independence of each member stringently limited. This is feasible only where customs unification is stimulated not merely by economic needs but also by important political factors. In the past the great driving force in the formation of customs unions has been the desire for economic integration of the national territory to provide the economic base of a national state. It was a manifestation of the same force that earlier led to the abolition of internal customs in territories which had already achieved political unity. The German Zollverein is the classic example of a customs union which laid the foundation for a great national state. The experience of South Africa, where a customs union was formed six years before the creation of the political Union of South Africa in 1909, is somewhat similar. In the United States the constitution adopted at the formation of the Union forbade interstate tariffs and provided for a common tariff authority. Both in Canada in 1867 and Australia in 1901 the economic unification of the provinces and states was simultaneous with political federation. On the other hand, where the political situation is unfavorable, the differences between the member states will be reflected in dissensions as to the tariff policy to be pursued, the distribution of revenues to be collected by the union, and similar matters, and will in the end prevent the creation of a customs union or force its speedy dissolution. This has been in part true of the Austro-Hungarian customs union and of the Swedish-Norwegian customs union, dissolved in 1905 with the disappearance of political conditions favoring close cooperation.

The history of the German Zollverein really began at the opening of the nineteenth century, when trade between German territories was hampered by the existence of sixty different customs systems and tariff walls. After the lifting of the continental embargo conditions were made even worse by the appearance of ruinous English competition. As early as 1816 associations of manufacturers had called the government's attention to these evils and asked for remedial measures. Their action led in 1818 to the passing of a new Prussian tariff which

aroused much uneasiness particularly among the smaller German states. It was followed by a series of tariff treaties between Prussia and the neighboring German states. The treaty with Hesse-Darmstadt in 1828 involved the establishment of a Prussian-Hessian customs union. The south German and a majority of the middle German states were alarmed at and opposed to the Prussian policy, so that in 1828 a south German customs union was formed by Bavaria and Württemberg, and in the following year Saxony took the lead in creating the middle German customs union. The formation of the national Zollverein proceeded thereafter very rapidly, as though impelled by an irresistible force. In the period 1828 to 1830 the Prussian-Hessian, the Württemberg-Bavarian and the middle German customs unions joined forces, and by January 1, 1834, customs barriers were abolished throughout most of Germany. While many south German and central German states were driven to join the union by growing economic and financial distress, Prussia was actuated mainly by a political consideration, the desire to eliminate Austria's leadership among the German states. Public opinion in Germany accepted the idea of the Zollverein with great enthusiasm, viewing it as a step toward the long desired German Empire.

The ideologist of the customs union movement was Friedrich List, who publicly advocated the idea of a national customs union as early as 1817. In his classical treatise, *Das nationale System der politischen Ökonomie* (Stuttgart 1840; tr. by S. S. Lloyd, London 1904), he offered a brilliant summary of the theoretical argument in favor of customs unions. List stressed the importance of the nation as a historical, cultural and political entity standing between the individual and humanity, asserted that one of the criteria of a normal nation is the possession of a territory adequate for its economic development and maintained that the modern way of correcting territorial inadequacies, in better accord with law and the welfare of the peoples than the older methods of personal union and conquest, is the association of states based on voluntary bilateral agreement.

Until 1867 the legislative power of the Zollverein was vested in an annual customs conference whose decisions had to be unanimous. Each full fledged member, as distinct from small territories which were represented by neighboring larger states, had one vote. The Prussian tariff of 1818 in a slightly modified form became the tariff of the union. Interstate trade was made entirely free. The few customs frontiers still left were intended to enable certain states to collect such indirect taxes as could not be made uniform. The member states retained their separate customs administrations, but these were made subject to uniform regulations drafted by a central office in Berlin. The net receipts of the customs houses were centralized and distributed among the member states in proportion to population.

The fact that the decisions of the customs conference had to be unanimous paralyzed the functioning of the Zollverein, because any alteration in tariff policy could be accomplished only after interminable negotiation. This situation was radically changed by the agreement of 1867, which replaced the customs conference by a federal council and a customs parliament, organs respectively of the executive and legislative power. These new bodies were composed of the Bundesrat and Reichstag of the North German Confederation and representative delegations sent by the south German states. Decisions were in both bodies subject to majority vote, but the southern member states still retained the right of veto for certain important cases. The Zollverein persisted in this form until 1871, when it was merged in the new German Empire.

There were several attempts to expand the German customs union into a central European or even a European union. Noteworthy among them was the project of the Austrian minister of commerce, Bruck, who in 1849 suggested the formation of a central European customs union to include the Zollverein, Austria and Hungary.

This union was obviously intended to serve a double purpose: the creation of an enormous free trade area with a population of seventy millions and the securing for Austria of political leadership side by side with Prussia. Bruck's plan was thwarted by Prussia when it concluded a most-favored-nation treaty with France in 1862, a step which brought it in line with the general free trade trend initiated by the famous Cobden Treaty between England and France.

The *Ausgleich* of 1867, which was a culmination of constitutional reforms begun in Austria in 1859, gave Hungary a voice equal with Austria's in deciding upon tariff matters and established a regime of decennial treaties between Austria and Hungary to regulate the tariff policy of the dual monarchy with reference to the outside world. Austria's economic rapprochement with Germany was perforce confined to the sign-

ing of a commercial treaty, and her exclusion from the German customs union was in part responsible for her elimination from the political union of the German states in 1871. The Austro-Hungarian customs union passed through many crises; difficulties were experienced particularly at each renewal of the treaty. Of special importance were the growing opposition on the part of the expanding Hungarian industries and the apportionment of contributions to the common treasury. It is not certain how the problem would have been solved had not the war intervened and brought in its wake the dismemberment of the dual monarchy and the dissolution of the customs union.

In the seventies the rapid shift of the commercial policies of various European nations in the direction of economic nationalism and protectionism caused great anxiety among the free traders and produced a crop of customs union schemes based on the principle of free trade. Prominent among them was the plan offered by the economist Molinari in 1879. It was somewhat similar to the Union de Midi of Léon Faucher, who in 1837 vainly agitated for the abolition of customs barriers between France, Switzerland, Spain and Belgium. Impressed by the success of the Zollverein, which he considered one of the greatest achievements of the nineteenth century, equal in importance to the spread of free trade policies, Molinari suggested the formation of a customs union which would include France, Belgium, Holland, Denmark, Austria-Hungary and Switzerland. He appreciated the difficulties of such an undertaking but argued that they could be overcome just as the obstacles to the continued functioning of the monetary, postal and telegraph unions had been successfully surmounted. It is certain, however, that Molinari underestimated the importance of national antagonisms in Europe and of class antagonisms within each country. In discussing this plan before the Société d'Économie Politique, Leroy-Beaulieu pointed out that it was impracticable because the present generation was not inclined to pacifism and that the experience of the Zollverein was not convincing since that union was based on "racial" homogeneity. He maintained that the proposed union, including many different races, would give rise to quarrels and dissensions and multiply rather than reduce the number of factors leading to war. Finally, he laid particular stress upon the difficulties which would arise in connection with fiscal problems. Although Molinari's plan found favor in certain free trade and pacifist circles in France, Switzerland and elsewhere, the ruling groups even in France were opposed to it. Bismarck believed that the new customs union would adopt protectionist policies and provoke reprisals on the part of England.

Another proposal which received official consideration was made at the 1880 international congress of commerce and industry in Brussels by a German delegate, Kaufmann. He urged the formation of an Association Douanière de l'Europe Centrale, which should include the three great powers, France, Germany and Austria-Hungary, and three smaller states, Belgium, Holland and Switzerland. He argued that this union would command a domestic market of from 125 to 150 million population and would be effective in meeting the industrial competition of England and the agricultural competition of America. But neither this proposal nor many others similar in character could be accepted by countries steadily drifting toward a mutually exclusive protectionism.

Other customs unions projected in the eighties were based on protectionist postulates rather than on free trade ideas. Thus agricultural interests sought in the customs union of European countries protection against the growing agricultural competition from overseas. For example, the leader of the agrarians, the Austrian politician Alexander Peez, proposed the formation of a European customs union in order to induce the United States to grant more favorable terms of trade to European countries. Of a similar character is the doctrine formulated in this period that the United States, the British Empire and Russia constitute three world empires which can be met on equal terms only by a customs union of the other European states.

In the subsequent period the commercial policies of the continental countries were dominated by imperialistic considerations. A policy directed toward colonial expansion and the acquisition of new markets through commercial treaties based on the existence of high protective tariffs left for the time being no room for customs unions. In this period only the agrarians demanded a customs union, but even they used it merely as an excuse to exact higher protective duties on agricultural products. The Mitteleuropäischer Wirtschaftsverein, founded in 1904, confined itself to urging closer relations through minor measures such as uniformity of customs formalities and the like.

In the same period customs unions were

linked up with imperialist thought in England, where Rhodes and Chamberlain advocated an imperial tariff. They proposed at first a system of imperial preferential duties, hoping thus to pave the way for a commercial union. While the hostility of the British electorate was reflected in the Liberal victory of 1906, opposition to these plans came also from the dominions. They were developing native industries and were little inclined to renounce tariff protection even against the mother country; moreover, customs duties were an important source of revenue to some of them. In the war and post-war periods a system of preferential duties between the United Kingdom and some of the dominions was gradually developed, and in the late twenties a movement for "empire free trade" was sponsored by Lords Beaverbrook and Rothermere. In 1930 the Imperial Conference discussed it as one of several ways for bringing about closer cooperation between the United Kingdom and the dominions, but so far no definite action has been taken.

On the American continent the customs union movement has been connected with Pan-Americanism, or the doctrine of the community of interests of all American countries. The First Pan-American Conference, called by Secretary of State Blaine in 1889, considered among other matters the possibility of a customs union between the United States and Latin America, but rejected the proposal in view of the enormous difficulties involved in the unification of customs tariffs of eighteen states with widely diverging economic structures and political aims. The subsequent Pan-American conferences never considered the question again. Membership of the majority of Latin American states in the League of Nations and the recent interpretations of the Monroe Doctrine by the United States make the possibility of a Pan-American customs union even more remote.

During the war an impressive project for a military and economic federation was developed by Friedrich Naumann in his *Mitteleuropa* (Berlin 1915; tr. by C. M. Meredith, London 1916). Naumann's final aim was an economically self-sufficient empire under German leadership extending from Scandinavia to the Near East and encompassing as its main constituents Germany, Austria-Hungary and Turkey, but as a first step he proposed a system of preferences and a customs alliance between the countries involved. In a sense this scheme reflected a shift in Germany from colonial ambitions to the ideal of a continental empire. Equally far reaching schemes for economic union were being drawn up by the allied powers at the same time. Both plans were to a considerable extent influenced by the war mentality and would probably have proved impracticable even had the termination of the war been accompanied by a restoration of pre-war conditions.

The peace treaties, on the contrary, created a number of new states, whose tariff policies, affected by the recrudescence of nationalism, disturbed the pre-war economic balance of the continent. The customs union projects agitated in this period had in view not so much distant economic goals as the mitigation of post-war maladjustments. In this category belong the *Anschluss* movement in Austria and the plan of a Danube federation to include the territories of the former Austro-Hungarian monarchy. The *Anschluss* movement has thus far been barren of results because of the unfavorable alignment of forces in international politics. The Danube federation seems to be doomed to failure, because in all of the new states nationalist feeling is potentially stronger than it had been in pre-war states and every movement resembling a return to the status quo ante is interpreted as an attack on their sovereignty and political independence.

Wider in scope is the Pan-Europa plan formulated by the Austrian writer Coudenhove Kalergi and based in large part on the old "three world empires" theory. Its advocates urge the union of the continental states as the only way of meeting the rapid economic expansion of the United States and the economic decline of Europe. The movement has scarcely gone beyond the stage of theoretical discussion; its success is doubtful in view of the closeness of economic ties binding many European states to overseas countries and of the wide divergence of the political interests of European states.

More recently the idea of European solidarity was taken up by the French foreign minister Briand, who in May, 1930, addressed in the name of the French government a memorandum to the European members of the League of Nations suggesting the establishment of a Union Fédérale Européenne. He placed emphasis on the political aspects of the union and stated clearly that the economic problem must remain subordinate to the political interests, thus rejecting for the present the idea of a European customs union. During the meeting of the 1930 League Assembly a committee of

European states was created for a further discussion of the Briand plan.

In the meantime the idea of European economic rapprochement found new support in the agrarian countries of eastern Europe. Representatives of the governments of Bulgaria, Czechoslovakia, Esthonia, Finland, Hungary, Lithuania, Poland, Rumania and Jugoslavia met at Warsaw in September, 1930, and organized an informal European agrarian bloc. The purpose of the bloc was to bring about close cooperation in matters of marketing and tariff policy and to strengthen the bargaining position of the member countries in negotiating with the industrial countries of Europe for reciprocal tariff privileges.

The League of Nations took manifold action against the economic crises of the post-war years. Its activity culminated in the International Economic Conference at Geneva in May, 1927. The conference did not discuss a customs union but passed resolutions favoring a reduction of customs duties, on which thus far no action has been taken. Generally speaking, reliance for the stabilization of international economic relations has in this period been placed upon the negotiation of commercial treaties aided by such private action as that of international cartels and other associations of producers.

There has been but one new customs union during the post-war years. It was agreed upon by Latvia and Esthonia in the treaty of 1927 but has not yet been established. The unification of tariffs and of allied economic legislation provided for in the treaty has proved to be an extremely difficult and slow affair. Latvia has concluded meanwhile a most-favored-nation treaty with Russia and has thus complicated the situation. It is doubtful whether this customs union, which was supposed to take effect in 1931, will ever materialize.

J. PENTMANN

See: CUSTOMS DUTIES; TARIFF; PROTECTION; FREE TRADE; COMMERCIAL TREATIES; ECONOMIC POLICY; COLONIAL ECONOMIC POLICY; IMPERIALISM; PAN-AMERICANISM.

Consult: Bosc, L., *Unions douanières et projets d'unions douanières* (Paris 1904); Pentmann, J., *Die Zollunionsidee und ihre Wandlungen im Rahmen der wirtschaftspolitischen Ideen und der Wirtschaftspolitik des 19. Jahrhundert bis zur Gegenwart* (Jena 1917); Todorovits, M. A., *Einheitliche Zollgebiete* (Munich 1908); Gregory, T. E. G., *Tariffs* (London 1921) chs. i and viii; Ashley, P., *Modern Tariff History* (3rd ed. London 1920); Matlekovits, A. von, *Die Zollpolitik der österreichisch-ungarischen Monarchie und des deutschen Reiches* (Leipsic 1891); Drage, G., *The Imperial Organization of Trade* (London 1911); Laughlin, J. L., and Willis, H. Parker, *Reciprocity* (New York 1903) ch. i; Grossmann, Eugen, *Methods of Economic Rapprochement* (Geneva 1926); *Europäische Zollunion*, ed. by Hanns Heimann (Berlin 1926); Hantos, E., *Europäischer Zollverein und mitteleuropäische Wirtschaftsgemeinschaft* (Berlin 1928); Pasvolsky, Leo, *Economic Nationalism of the Danubian States* (New York 1928); Marchal, J., *Union douanière et organisation européenne* (Paris 1929); Pilotti, Massimo, *Les unions d'états* (Paris 1929).

CUSUMANO, VITO (1843–1908), Italian economist. Cusumano was trained by Adolf Wagner in Berlin and became an adherent of the historical school and, with some important qualifications, of the socialism of the chair. He was professor at the technical institute of Palermo and afterward professor of finance at the University of Palermo. The book which established his reputation was *Le scuole economiche della Germania in rapporto alla quistione sociale* (Naples 1875). This book, in which the opinions and tendencies of the various Germanic trends were stated with great amplitude and objectivity, opened a new realm to Italian economic thought. It was not merely a piece of exposition but a brilliant critical analysis which aroused much controversy and started the tide of reaction against the dominance of Ferrara, who had been propounding the optimistic doctrines of Carey and Bastiat. Although the author manifested sympathy for the socialists of the chair he observed that such writers generally neglected to designate the limits that state intervention encounters in the interests of the dominant class on the one hand and in the interests of production on the other.

Although his later writings never equaled his first in brilliance or influence they contain valuable historical material and acute observations. In *Diomede Carafa, economista e finanziere italiano del secolo XV* (1870) he was the first to recognize many of Carafa's notable ideas on finance; his *Matteo Wesembecio, scrittore di materie finanziare nella prima meta del secolo XVII* (1880) and his monograph *Sull'economia politica e la scienza delle finanze nel medio evo* (1876) are collected in *Saggi di economia politica e di scienza delle finanze* (2nd ed. Palermo 1887). He also wrote *La teoria del commercio dei grani in Italia* (Bologna 1877), *Delle casse di ammortizzazione in Sicilia . . . secolo XVIII* (Palermo 1888) and an article on the history of the guilds in Sicily (in *Giornale degli economisti*, vol. v, 1890, p. 241–50). His *Storia dei banchi della Sicilia*

(2 vols., Rome 1887–92), which included his work on royal exchange in Sicily in the thirteenth and fourteenth centuries and that on private bankers' bills of Palermo in the fifteenth and sixteenth centuries, is significant not only for the facts revealed but also for the general history and theory of the instruments and institutions of credit and the history of the relationship between public and private banks.

AUGUSTO GRAZIANI

Consult: Loria, A., in *Economic Journal*, vol. xviii (1908) 332–34; Bresciani, C., in *Giornale degli economisti*, vol. xxxvi (1908) 410–11.

CUT-THROAT COMPETITION is a term frequently used to describe a degeneration of the competitive process which results in widespread selling below cost, in "spoiling the market." The term cut-throat is used to emphasize the element of wilfulness or even malevolence which was formerly assumed to have been an important factor in the adoption of certain competitive policies dictated by the desire to injure and eventually to eliminate rivals rather than directly to advance the fortunes of the concern adopting these policies. The contemporary emphasis is better carried by the phrase "ruinous competition," in which the stress is placed upon the general situation in which losses are inflicted upon the concern initiating such policies as well as upon its competitors. Neither of these phrases is necessarily coterminous with "unfair competition," which is a designation used for a group of competitive practises declared illegal. The degree of overlapping between these terms obviously depends upon the extent to which cut-throat or ruinous competition is outlawed.

There are several reasons for the development of cut-throat competition, particularly for the frequency and severity of price cutting. Theoretically this type of competition is bound to arise in industries of increasing returns when the failure of costs to expand proportionately with output is traceable to the influence of internal economies. Wherever the internal economies of large scale production continue throughout the entire range of effective demand, i.e. for whatever volume of output can be sold at a price covering the marginal cost of production, stable equilibrium is theoretically impossible until cut-throat competition has led, through the weeding out of all but the largest producer or through the curbing of competition by agreement, to the establishment of some degree of monopolistic control. In this connection perhaps the most important factor is the existence of unused capacity, particularly in the shape of fixed and specialized plants but also in the form of executive ability. Under such conditions it will presumably be to the advantage of a producer to expand his output so long as the additional product can be sold at a price in excess of the prime or direct costs of its production. Where a concern engages in the production of several lines of non-competing goods or services, or where special conditions exist which will permit the restriction of the effects of price reduction to the additional portion of the output, as in the case of dumping on a foreign market or of local or personal price discrimination, the temptation to expand and cut the price is correspondingly stronger.

It was early recognized that these conditions stimulating cut-throat competition are peculiarly prevalent in the field of transportation and local public utilities. It is probable, however, that similar conditions, although their causes may not be so readily discernible, develop in a great many other industries at certain stages in their expansion. Technical progress results generally in increasing the importance of the fixed and specialized plant, and although the ratio of fixed costs to total costs may not be so high in manufacturing industries generally as in public utilities, still the increasing instability and inelasticity of demand with the spread of style and fashion influences make imperative strenuous efforts to maintain a full utilization of capacity, however small the resulting contribution to the maintenance of the fixed plant. Moreover, the existence of seasonal and cyclical fluctuations in demand, coupled with the impracticability of storing output, is partially responsible for the fact that during a great deal of the time industry has at its disposal a capacity in excess of current effective demand. Furthermore, excess capacity is in a sense inherent in every competitive situation regardless of variations in the total demand. Each producer is constantly striving and occasionally succeeding for a time in deflecting a larger than normal share of the whole trade to his products. Since this tends to be interpreted as evidence of increasing favor with the buying public, there results an expansion of plant capacity by each of several competing producers in turn, which is practically certain to be intermittently unused.

Price cutting begun for the innocent purpose of increasing output is usually met by retaliation

from competitors, with the result that the general body of producers or traders is drawn into the struggle. Under such circumstances the reduction of prices inflicts losses upon every concern in the trade, losses which are quite likely to be irreparable for the majority, although they may be only temporary and even eventually recoupable for the lowest cost producer in the industry. The struggle resolves itself into an endurance contest in which the concern with the longest purse is likely to win. In such trade warfare other weapons in addition to price cutting are usually employed. Striking examples are found in commercial bribery, particularly of a competitor's customers, in defamation of competitors and their products, in the provision of auxiliary services, such as repairs, and of supplementary trade inducements in excess of customary standards, such as free delivery. There can be no doubt of the mischievous consequences of resort to the foregoing and similar practises. They tend to make competition privately unendurable and socially wasteful. It is well known that competitive policies of this type have been adopted by combinations which seek to eliminate competitors or force them to join the combination. But it is now generally recognized that their use by so-called big business has latterly tended to diminish, while their employment by harassed and ill managed little concerns appears to be growing relatively more common.

On the whole, however, cut-throat competition is less prevalent now than it was in the second half of the nineteenth century. In some areas, where the tendency toward a degeneration of competition was plainly inescapable and where the social waste involved in cut-throat practises was clearly recognized, amelioration was provided by governmental intervention which permitted the establishment of monopoly under some form of public ownership or administrative control. Over the greater part of the field of manufacture and trade, however, in most modern states private checks have been chiefly relied upon for escaping the evils of cut-throat competition, although these voluntary means, in so far as they are cooperative in character, are generally subject by law to judicial or administrative scrutiny. In the nineteenth century pools and "gentlemen's agreements" upon prices were the most common of these voluntary means. At present trade associations and industrial institutes are the most conspicuous organizations of this type. They have succeeded to a certain extent in making their function of eliminating ruinous price cutting respectable, but they have only partially succeeded in making price cutting itself disreputable. The methods employed are diverse: education in cost accounting, adoption of uniform basing points for price quotations, interchange of statistical information upon every aspect of the business situation, both for each producer and for the trade as a whole, and the like. Conformity of individual producers to the standards set by the trade is in the last analysis enforced by the lively sense of the need for self-preservation, although measures of coercion against recalcitrant firms are by no means unknown even today.

Private efforts to check the destructive tendency in competition have been generally tolerated by governments because of the advantages accruing therefrom in stabilizing business conditions and in improving the competitive position of a country in foreign markets. By the Federal Trade Commission Act of 1914 the American government has created an agency to exercise public control over destructive competition in trade. The aim of the regulation of business practises by the Federal Trade Commission is not entirely or even primarily to assist business in avoiding self-destruction. But in discharging its function of safeguarding the public against fraudulent, deceptive and predatory practises the commission has brought about an appreciable elevation of the plane of business competition.

MYRON W. WATKINS

See: COMPETITION; UNFAIR COMPETITION; PRICE DISCRIMINATION; OVERHEAD COST; COMBINATIONS, INDUSTRIAL; TRUSTS; TRADE ASSOCIATIONS; BASING POINT PRICES; DUMPING; GOVERNMENT REGULATION OF INDUSTRY; FEDERAL TRADE COMMISSION.

Consult: Marshall, Alfred, *Principles of Economics* (8th ed. London 1922) p. 374–76; Clark, J. M., *Studies in the Economics of Overhead Cost* (Chicago 1923) ch. xxi; Bell, Spurgeon, "Fixed Costs and Market Price" in *Quarterly Journal of Economics*, vol. xxxii (1917–18) 507–24; Ripley, W. Z., *Railroads; Rates and Regulation* (New York 1912) chs. ii–iii; Jones, Eliot, "Is Competition in Industry Ruinous?" in *Quarterly Journal of Economics*, vol. xxxiv (1919–20) 473–519.

CUZA, ALEXANDER JOHN (1820–73), Rumanian ruler and agrarian reformer. Cuza was born in Moldavia of an old landed family. He was educated in Paris and took part in the Rumanian revolution of 1848. In 1859, in the absence of any foreign prince to assume the

office, Cuza was chosen first ruler of the united provinces of Moldavia and Muntenia. His reign was marked by several great reforms. In 1864 he made all education free and elementary education compulsory; in the same year he introduced universal suffrage; and above all, with the help of Mihail Kogălniceanu, he carried through the great rural reform of 1864. Mainly because of the powerful opposition to this rural reform he was forced in 1866 to abdicate and emigrate.

Cuza's rural reform had two distinct aspects: one constitutional, the other economic. Cuza and his friends, filled with the ideas of the French Revolution, aimed to effect the complete legal emancipation of the peasants, most of whom were still bound to the land by servile ties. Likewise, in keeping with laissez faire, the landlords were released from restrictions which still qualified their title to the land. The main fight was over the extent of freehold to be given to the former serfs. Since cattle grazing was the chief occupation of the peasants, their new holdings were made to vary with the number of animals in their possession. The new holdings, running between 2.30 and 7.87 hectares, were less than those the peasants had previously farmed. The peasants were also given the poorest and worst placed land and made the victims of many other abuses. Moreover, they paid compensation for the abolished servitudes, but the landlords retained free the surplus land of the estate although by ancient right it was a reserve of the villages. Finally, the peasants were left dependent on the landlords for additional grazing land, for loans in kind or cash, and after Cuza's departure they lost all political rights. Hence the reform marked the emergence of the latifundia, which characterized Rumanian agriculture until 1918, and the depression of the peasants to a state of pauperized freeholders, because its well intentioned makers had subordinated economics to the glamour of legal liberty.

DAVID MITRANY

Consult: Damé, Frédéric, *Histoire de la roumanie contemporaine* (Paris 1900) bk. ii; Mitrany, David, "The Land and the Peasant in Rumania" in Carnegie Endowment for International Peace, *Economic and Social History of the World War*, Rumanian series (Oxford 1930) p. 47–62.

CYNICS. This word, derived from the Greek κυνικοί (dog people), is used to describe the school of Greek philosophy founded by Antisthenes (*c.* 450–366 B.C.), son of an Athenian citizen and a Thracian slave woman. Many of Antisthenes' followers were of Thracian descent, like Metrocles and Hipparchia; or Asiatic Greeks, like Bion and Diogenes; or Phoenicians, like Menippus; in short "bastards" of that class from which the motion of Aristophon had recently taken away the full rights of citizenship, to which they could have aspired under Pericles. Antisthenes was a teacher in the gymnasium reserved for boys excluded from the academy and the lyceum because of their mixed or doubtful ancestry. This gymnasium was located near a sanctuary of Heracles, called Κυνόσαργες (*Cynosarges*), "dog's wattle," "kennel," because, according to one of several popular legends, here Heracles brought up from the underworld the "shining dog," Cerberus. Antisthenes according to Diocles (Diogenes Laertius, VI: 13) was nicknamed "the simple dog," but the term "dog people" was not popularly used until a disciple of Antisthenes, Diogenes of Sinope, proudly adopted the nickname "dog," first applied in derision to those "bastards" by the well born Athenian boys.

Cynism, the stern and bitter philosophy of a group of outsiders, was social criticism aimed at shocking all conventions and prejudices of polite society (*épater le bourgeois*). As such it follows the tradition of the sophists, the first to claim a knowledge of economic, social and political science more profound than that possessed by practising statesmen and business men. It was a startling novelty when mere foreigners without citizens' rights boldly claimed the right to criticize because they had devoted thought and reasoning to affairs of state and society. The cynics started a systematic propaganda for the rationalization of all the traditional and necessarily largely irrational relations between men. The stonecutter Socrates questioned the professional knowledge of every citizen, including even the self-appointed teachers of the new wisdom. Whatever "gentlemen" (καλοὶ κἀγαθοί) had been wont to accept as the self-evident rules of good behavior was now mercilessly analyzed by a few nobodies.

The new intellectualism was skeptical toward the established order of society. The privileges of nobility were regarded as empty by Lycophron, the inequality of freeman and slaves as unnatural by Alcidamas, both of them disciples of Gorgias. The small city-state seemed intolerably narrow and narrow minded to these wandering teachers and preachers who felt at home wherever their Greek language was under-

stood or even—like Democritus or Herodotus—wherever they could indirectly communicate with intelligent foreigners—the λόγιοι ἄνδρες of all nations. Rivalry between Greek cities as well as local patriotism appeared contemptible to Gorgias; Hippias welcomed all his hearers, Athenians as well as strangers. A world embracing enlightened despotic monarchy like Persia would invite favorable comparison with the mob rule into which the democracy of the petty Greek republics was fast degenerating. The traditional morals, civic usages and proprieties of the cultured Greek "gentleman of independent means" are questioned and criticized by comparing them with the more useful ways of life of the proletarian "banausic" worker and the "happier" and more "natural" life of barbarians and primitives. Antisthenes must have known the Orphic simple life of the Euripidean Hippolytus as well as that of the pious hermits (κτίσται) of his mother's Thrace, who lived ascetically in the woods, far from civilization, abstaining from animal food and contact with women. In any case there have always been men unwilling or unable to conform to the exigencies of communal life in society. Like the tramp, or hobo, of today there were in Greece men who fled from the company of their fellows, roaming in the woods like solitary wolves (λυκάνθρωποι) or stray dogs (κυνάνθρωποι). Antisthenes' glorification of a life imitating that of wild animals, Diogenes' (as well as Rousseau's) craving for a return to nature and a natural, simple life, are the philosophic sublimation of this atavistic asocialism of the lonely hunter, who abandons the pack to fend for himself and to obtain what ages later the cynic philosopher calls the αὐτάρκεια of the man who has assimilated himself to the gods by becoming independent (from society) and self-sufficient.

Socrates had taught Antiphon that "to have no wants at all is an attribute of godhead, to have as few wants as possible the nearest approach to godhead" (Xenophon, *Memorabilia*, 1 : 6, 10). In a society in which it is impossible for a pauper or a slave to enjoy the pleasures of life reserved for the rich and mighty there is always space for the growth of a consolatory philosophy or religion which teaches the humble that they may become free by liberating themselves from the tyranny of their own lusts and passions or even become rulers by governing themselves according to the laws of virtue and godlike by not wanting what they cannot get. In a luxurious civilization based on manifest injustice and violence virtue seems to demand that the righteous man should remain poor and turn his back upon all the refinements of culture.

To Antisthenes the primitive natural life of the Thracian settlers, the free roaming through the wilds of the initiates of the Thracian hunter god, Dionysus Zagreus, of the werewolves clad in animal hides and assimilating themselves to the beasts, the adventures of the mythical Heracles with his club and his lion's skin wandering over land and sea, fighting against the evils oppressing humanity, seemed superior to the cultured ways of men living in enclosed towns. Protagoras in his book on human origins had praised the technical progress made possible through the Promethean invention of fire; the cynic would answer to this panegyric of progress that man had degenerated through the use of fire, clothes and houses, that urban life was the beginning of all injustice, that inventions have made man more miserable than before, and that therefore Prometheus was justly punished by Zeus for starting men on the road to evil.

Every object of Athenian national pride—not even excepting the glorious memories of the Persian wars—was reviled by the cynics. To them the pageant of the numerous Hellenic gods and the creations of the great poets and artists of Hellas were nothing but conventionalized fancies, the divinity being by nature (φύσις) one and indivisible (although it might have a plurality of ethical attributes) and certainly not to be conceived as similar to any image made by man. The cults of the state were bluntly rejected, the practise of virtue declared to be the only sacrifice worthy of the divinity; prayer was to be resorted to not in order to obtain material benefits but only to secure the help of the divinity in achieving justice. The Dionysiac festivals which had given birth to the glory of Attic drama were called "spectacles for fools." The athletic beauty of the καλοὶ κἀγαθοί was belittled as an attribute on which a bronze statue might justly pride itself but not a living being. One isolated concession to the traditional Greek worship of physical perfection was to be found in Antisthenes' book on love, marriage (polygamic) and the procreation of children, where the rough semibarbarian taught the eugenic principle that a wise man should wed a handsome woman. The cynics recognized no other nobility but that of virtue, no liberty but that acquired through freeing oneself from the tyranny of

one's vices. When about to be sold as a slave Diogenes asked, "Who wants to buy himself a master?" The cynic despised wealth and preferred to live as a beggar. For his morose philosophy joy was but a negative phenomenon amounting only to the absence of pain. Sensual pleasure was considered almost as bad as madness. Fame and distinction had no lure for the cynic, who was not afraid of evil repute. Love as a passion for a particular mate seemed unreasonable to Antisthenes, who would "have shot Aphrodite if he could have done it," not content with merely wounding her hand, as the Homeric Diomedes had done. Ridiculing competition for a particular woman's favor he was satisfied with the cheapest prostitute, for whom no other man cared. Even masturbation is defended by Diogenes as a simple and legitimate method of getting rid of an irrational itch; "would that hunger were as easy to assuage," said the Sinopian. As to food, the cynic was satisfied with what nature produces of her own will. He wanted no undergarment as long as he could fold his cloak in two; he needed no house as long as he could sleep under the colonnade of a temple or public building, in a barrel or under whatever shelter he might find. Diogenes thought it foolish that a useless statue should be bought for three thousand drachmas, when two copper coins were the usual price of a quart of nourishing barley flour.

Philosophy itself, that is, all theoretical speculation without immediate practical significance, seemed a useless pastime of rich idlers to these proletarian thinkers. Even in antiquity there were those who said that cynism was not a philosophy but a mere way of life (Diogenes Laertius, VI : 103). The radical proletarian materialism of Antisthenes, who would not admit as real anything that could not be grasped with hands (Plato, *Theaetetus*: 155E), will be best understood in the light of Lenin's passionate defense of materialism against the subtle "empirio-criticism" of Richard Avenarius. When Socrates confessed that his interest lay exclusively in mankind and its problems he unwillingly turned away some of his pupils from pure science and the joys of disinterested intellectual adventure. While this did not prevent keen minds like Plato and Aristotle from following their own urge for theoretic speculation and scientific research, the heavy intellect of Antisthenes (the "late learner," as Plato called him) clung obstinately to that antiscientific attitude, trying to justify it by a curious logical theory according to which no judgments but judgments of identity can be true. If this were correct it would follow that only tautological statements can be true and that therefore all scientific statements are either truisms or falsehoods. The error consists of course in the supposition that the copula "is" in the judgment "man is good" has the same meaning as in the judgment "twice two is four."

Less primitive is Antisthenes' thesis that a thing, being simple, cannot be defined and that therefore a definition can only be a description of the parts as components of a whole (Plato, *Sophist*, 251–64). Moreover, he denies—thus voicing the earliest distinct expression of nominalism—the reality of general ideas, saying that he could see a horse but not "horseness," thus ignoring the biological reality of the animal type horse, which continually reproduces itself through seminal transmission from one pair of individuals to another. The lost book of Antisthenes on education and names was probably designed to refute the Heraclitean theory that the names of objects—which a child learns to know in the course of his education—are significant of the essence of things and hence to criticize the belief that any real knowledge can be derived from etymology. For Antisthenes the names were obviously just so many proper names of individual things by which to call them, so many conventional handles attached to the objects for an exclusively practical purpose.

Developing in this and other ways the negative conclusions of Socratic dialectics the founder of cynism disparaged scientific research and learning in order to exalt common sense, moral character and above all the self-denying ascetic endurance of Socrates.

The frequent statements that Antisthenes—although himself a prolific writer—considered even reading and writing unnecessary and dangerous achievements are quite trustworthy, since even Plato thinks that man may have paid dearly for Thoth's invention of the alphabet by a weakening of his memory.

The social and political ideals of the school were expounded in Antisthenes' book *On Law or on the Commonwealth* (Περὶ νόμου ἢ περὶ πολιτείας). Under the influence of the Orphic doctrine that men are like a herd of cattle owned by the gods and guided by divinely appointed "shepherds" and "archshepherds" Antisthenes glorified the primeval epoch when, under the reign of Kronos, no states existed and a single

herd of men was tended by sage wardens knowing all human and animal languages. According to the cynic ideal this is the way men should have gone on living, Greeks and barbarians together, united by obedience to one common law, one herd under one shepherd, one flock under one "shepherd of nations," the wisest and most righteous of all men, a state of affairs which Plato (*Republic*, II: 372–73) contemptuously called a constitution fit for pigs only.

The classic exponent of the theory that humanity was not to be divided into Greeks and "barbarians" but into honest and dishonest people is the celebrated geographer Eratosthenes of Alexandria, the pupil of the cynostoic philosopher of Chios, Ariston. Eratosthenes remarked (Plutarch, *Moralia*, 328B–329D), that Alexander the Great claimed to have put into practise the project Zeno conceived under the influence of Antisthenes. The publicists of the Ptolemaic Empire were not slow to make use of this argument, and there is no doubt that the policy of Alexander and of the first Ptolemies to bridge the gulf between Greeks and barbarians and to fuse them into one imperial people derived its leading ideas from cynic cosmopolitanism rather than from the uncompromising belief in Hellenic supremacy over all servile nations of Alexander's teacher, Aristotle.

It is a great pity that neither Antisthenes' treatise on law and commonwealth nor Diogenes' *Republic* (Πολιτεία) have been preserved. What is known of the latter is very little: according to the Sinopian no state is worthy of the name unless it embraces the whole world, nothing but the whole world being worthy to be called the cosmopolitan's fatherland. No private property was to be tolerated. Women and children were to be held in common as in Plato's republic.

Most interesting are Diogenes' ideas on money. No gold but only a fiduciary currency consisting of sheep's knucklebones (ἀστράγαλοι), such as the people used instead of dice for gambling, was to be used in the republic of Diogenes. Such money can be multiplied through breeding more and more sheep or goats, each slaughtered animal yielding four knucklebones. If the number of circulating ἀστράγαλοι grows through breeding, that is, through increased production and consumption of meat, skins and wool, the exchange value or purchasing power of the single knucklebone will gradually diminish. Thus hoarding will prove unprofitable. Diogenes, the son of the banker Hikesias of Sinope, had been exiled together with his father, according to Diocles, for having in the capacity of state banker and city mint farmer debased the currency of his native town. This was not of course a case of criminal forgery or counterfeiting, as ignorant interpreters of the text have believed: the death penalty rather than exile would have been the proper reward of such a crime (Demosthenes, XXIV; c. Timocrates, 212–14). It is the typical case of the state banker lending to the community the good silver which it needs for meeting its debts to foreign creditors and obtaining in return the privilege of issuing token money (or semifiduciary currency). The profits of the financier responsible for such an inflationary monetary policy would naturally be confiscated and he himself exiled as soon as the evil consequences of the debasement of the monetary standard brought a deflationist opposition into power. Diogenes seems to have remained a deliberate advocate of a freely but moderately inflated currency without intrinsic value.

Diogenes' ideas on monetary reform are not isolated in that restless epoch of transition. The curious pseudo-Platonic dialogue Ἐρυξίας [ascribed by Suidas (ed. by I. Becker, Berlin 1854, p. 46) to Socrates' pupil Aeschines and obviously connected with the cynic school through its tendency to make a wise and healthy man with few wants appear happier than the richest of the rich] explains the relative and subjective nature of what is commonly believed to be wealth. Starting from the current view that wealth consists in having many treasures (χρήματα) the author discusses certain fiduciary currencies which have no value outside a particular country, such as the officially sealed leather purses of Carthage, with unknown contents, instead of the weighed quantity of gold dust which they were originally supposed to contain. Wealth being defined as that which is useful to (certain) men, the author tries to show that gold and silver are not wealth because they are neither consumable goods nor instruments of production. The specious argument is not carried to its logical conclusion, but the whole conversation is an obvious echo of contemporary propaganda to supplant metallic money by some kind of fiduciary currency.

The Ἐρυξίας also contains an interesting discourse on professional intelligence as wealth, exchangeable against the various necessities of life. This section owes its existence to the dis-

cussions concerning the remuneration of the teachers of wisdom, which was initiated by the attacks of Socrates and Plato against the sophists who offered "wisdom for sale." Thus for the first time in history an attempt was made to define the economic status of the intellectual worker, a modern conception entirely foreign to the aristocratic prejudice of antiquity, which considered salaried work as banausic, essentially proletarian and unworthy of an educated gentleman. The economic assimilation of exchangeable intellectual services to paid manual work is quite in the line of cynic asceticism, which strives to glorify work and exertion (πόνος) of every kind, especially disagreeable heavy labor, at the expense of leisure and the idleness of the rich. The apotheosis of the restless toiler and wandering philosopher Heracles—the patron saint of the *cynosarges* sanctuary—is the expression of the cynic idealization of the proletarian worker's, the wayfaring intellectual's and the slave's way of life.

Crates was the author of a utopian work, of which we know only the initial verses. A few fragments remain of the yarn of Onesicritus, the cynic steersman who sailed with the fleet of Alexander the Great from the mouth of the Euphrates along the Persian and Karmathian coast to India. Their chief interest lies in the account of the curious meeting between the adept of the moderate intellectual asceticism of Greece and the fanatic self-tormentors of Hinduism roasting their bodies on glowing stones under the parching rays of a tropical sun in order to accumulate magic virtue or merit with an eye to future rebirth. Even if the interpreter had been more competent, Onesicritus and the *sanyasi* whom he calls Calanus would scarcely have understood each other.

Cynism has been called the philosophy of the Greek proletariat. In reality it expresses rather the thought and feelings of the disillusioned, *bourgeois déclassé*, the "parlor pink" revolutionary in thought but not in action. While the top dog and the under dog are quite naïvely agreed about the value of the bone for which they are continually fighting, the cynic cares too little for anything but his private peace and quiet to put up a real fight against the existing order of things. Like Diogenes, who asked to be buried on his face because the world would soon be turned upside down, these intellectuals, not unlike modern halfway socialists, aesthetes and quietistic intellectual critics of contemporary vulgarities and hypocrisies, were not really anxious to overturn society; they felt sure it would collapse of itself very soon after their own death. They undertook neither scientific study nor agitation for a reordering of social life but having uttered their protest sought individual liberation each for himself.

Their teaching was tolerated by the Greek and Roman world partly because they supplied that sermonizing, preaching of morals and "soul saving" which the official clergy, concerned only with magic and ritual, cared nothing about. They were begging voluntary missionaries of what they considered truth, justice and virtue, "shepherds" (ποίμενες) and overseers (ἐπίσκοποι). Furthermore, their teaching that poverty and wealth, slavery or freedom, make no difference to real well-being (ἀδιάφορα)—embroidered upon by the stoic school and again and again repeated by the itinerant missionaries of the Christian faith who inherited the hairy cloak, the staff and the wallet as well as the technique of the popular moralizing sermon developed by the cynic preachers Bion and Teles, and finally adapted to the new theology by the "Christian Cynics"—was quite acceptable to the wealthy ruling classes. It answered somehow their own vague discontent with most of the coarse pleasures that unintelligently applied wealth can procure and their longing for real peace, security and freedom. Moreover, it fostered among the downtrodden poor and the exploited slaves the shiftless resignation with their fate and that hopeless absence of social and economic aspirations which Ferdinand Lassalle has so fiercely damned as one of the worst obstacles barring the way to a better social order. The beautiful marble statues of Antisthenes and Crates which have come down to us did not stand originally in a slaves' ergastulum or a worker's house, where nowadays we might find a cheap print of a portrait of Karl Marx, but in the cool parks of a wealthy Roman's Tusculum.

ROBERT EISLER

See: PHILOSOPHY; ETHICS; SOPHISTS; CYRENAICS; INDIVIDUALISM; RATIONALISM; MATERIALISM; ASCETICISM; ICONOCLASM; COSMOPOLITANISM; STOICISM; CHRISTIANITY.

Consult: Diogenes Laertius, *Lives of Eminent Philosophers*, tr. by R. D. Hicks, 2 vols. (Loeb Classical Library, London 1925) vol. ii, bk. vi; Schwartz, E., *Charakterköpfe aus der antiken Literatur*, 2 vols. (4th ed. Leipsic 1911–12) vol. ii; Diels, Hermann, "Aus dem Leben des Cynikers Diogenes" in *Archiv für Geschichte der Philosophie*, vol. vii (1894) 313–16;

Fritz, K. von, "Quellenuntersuchungen zu Leben und Philosophie des Diogenes von Sinope" in *Philologus*, supplementary vol. xviii (1926) no. 2; Wilcken, Ulrich, "Alexander der Grosse und die indischen Gymnosophisten" in Preussischen Akademie der Wissenschaften, *Sitzungsberichte*, Philosophisch-historische Klasse, 1923 (Berlin 1923) p. 150–83; Pöhlmann, R. von, *Geschichte der sozialen Frage und des Sozialismus in der antiken Welt* (3rd ed. Munich 1925); Clerc, M., *Les métèques athéniens* (Paris 1893); Francotte, H., *De la condition des étrangers dans les cités grecques* (Paris 1904); Girard, P., *L'éducation athénienne* (2nd ed. Paris 1899); Eleutheropulos, A., *Wirtschaft und Philosophie*, 2 vols. (2nd ed. Berlin 1900–01) vol. i, p. 256–71; Jones, W. H. S., *Greek Morality in Relation to Institutions* (London 1906); Croiset, A. and M., *Histoire de la littérature grecque*, 5 vols. (Paris 1887–99) vol. iv, p. 245–54; Erdmann, J. E., *Grundriss der Geschichte der Philosophie*, 2 vols. (4th ed. Berlin 1896), tr. by W. S. Hough, 3 vols. (London 1910–21) vol. i; Gomperz, T., *Griechische Denker*, 3 vols. (Leipsic 1896–1902), tr. by L. Magnus and G. G. Berry, 4 vols. (London 1901–12) vol. ii; Joël, K., *Geschichte der antiken Philosophie*, vol. i– (Tübingen 1921–) p. 862–925; Bevan, E., "Hellenistic Popular Philosophy" in Bury, J. B., and others, *The Hellenistic Age* (Cambridge, Eng. 1923) p. 79–107; Robin, L., *Le pensée grecque* (Paris 1923), tr. by M. R. Dobie (London 1928); Überweg, F., *Grundriss der Geschichte der Philosophie*, 5 vols. (12th ed. Berlin 1923–28) vol. i, sect. 35, 58, 68, 86; Mühl, Max, *Die antike Menschheitsidee* (Leipsic 1928); Eisler, Robert, *Orphisch-dionysische Mysteriengedanken in der christlichen Antike*, Vorträge der Bibliothek Warburg 1922–23, pt. ii (Leipsic 1925) p. 52–58; Decharme, P., *La critique des traditions religieuses chez les Grecs* (Paris 1904) p. 217–19; Apelt, O., *Beiträge zur Geschichte der griechischen Philosophie* (Leipsic 1891); Joël, K., "Die Auffassung der kynischen Sokratik" in *Archiv für Philosophie*, n.s., vol. xiii, pt. i (1907) 1–24, 145–70; Maier, Heinrich, *Die Syllogistik des Aristoteles*, 2 vols. (Tübingen 1896–1900) vol. ii, pt. ii, p. 11–19; Hirzel, R., *Der Dialog*, 2 vols. (Leipsic 1895) vol. i, p. 108–29; Helm, Rudolf, "Kynismus" in Pauly's *Real-Encyclopädie der classischen Altertumswissenschaft*, ed. by Georg Wissowa and Wilhelm Kroll, vol. xii (new ed. Stuttgart 1925) cols. 3–23.

CYRENAICS. Socrates and his disciples did not inquire into how man lived and by what motives he was actuated but into how man ought to live and act in order to be εὐδαίμων—literally, to have a good time or a good fate. Their incidental contrast of what the ordinary untaught man actually did with what he ought to do, an unconscious mixture of normative doctrine and descriptive psychology, is characteristic of all ancient attempts to establish a satisfactory theory of values, that is, of motives of human action. Positive and negative values (αἱρετὰ καὶ φευκτά), good and evil, were thus not so much what man craves and what he abhors but what he ought to embrace and what he ought to reject. Thus values were ethical, and ethics is far older than analysis of the mechanism of volition and emotion.

The earliest and nearest approach to a psychological theory of values is in the doctrines of Aristippus of Cyrene (*c.* 435–*c.* 365), a pupil of Socrates, and of his followers. His fundamental thesis is that all living beings (ζῷα, animals) crave pleasure (ἡδονή) and flee from nothing so much as from pain. Thus nature (φύσις) testifies that pleasure alone is desirable in itself, all other things being sought only because and in so far as they give pleasure. Aristippus could not ignore the fact that the grim Antisthenes went about protesting passionately that he would prefer madness to pleasure. This he called a mere perversion (διαστροφή). Of the paradoxical but deeply rooted longing for occasional pain (which explains not only self-torment but also the attraction for the "sympathetic" spectator of tragic drama and poetry, bullfights, catastrophes, burial ceremonies and the like) Aristippus gave a wrong but widely accepted explanation, saying that "the lamentations of actors are heard with pleasure, real wailings, however, with pain."

Another curious flaw in Aristippus' argument is that he should assert that all living beings or all animals seek pleasure, thus pretending to know that animals have the capacity for what we call pleasure and pain, when by his own theory (Sextus Empiricus, *Adversos mathematicos*, VII: 195) each man knows only his own sensations. For the rest, Aristippus' method of reasoning is similar to that of his cynic adversary: the animals are set up as models for man, and the natural state of things is supposed to be superior to the perversion made possible through civilization.

The modern theory (C. G. Lange, William James, Hugo Münsterberg, Georg Simmel and others) that emotions—far from being the ultimate motive of volitions—are but the psychological reflections of successful or unsuccessful, appetitive or repulsive, volitional efforts, was unknown to antiquity. Since voluntarist theory of values (wealth being whatever man wants, illth what he shuns) as well as the biological and energetic (thermodynamic) explanations of values (positive value attaching to what furthers life, i.e. adds energy to the living system or helps to avoid loss of energy and vice versa) was inaccessible to an age ignorant of theories of natural selection and the survival of the fittest,

ancient speculation could only oscillate between an emotionalist and an intellectualist theory of motivation. The psychological mechanism of intersubjective sympathy (*Mitgefühl*) was unknown to the Cyrenaics and their adversaries. They could find no bridge between egotistic and the so-called altruistic group feelings, or social emotions. This inadequacy of Cyrenaic psychology was, however, hardly responsible for Aristippus' view of patriotic self-sacrifice as absurd, a wise man's fatherland being the world and his wisdom too precious to be sacrificed for fools. The cynic cosmopolitan, Diogenes, who considered virtue and not pleasure the goal (τέλος) of the wise man's every action, would not have been more ready to die for his city than Aristippus. The latter's attitude in this respect is in marked contrast to that of his later compatriot, Synesius of Cyrene (d. *c.* 414 A.D.), who wrote that it was necessary to defend civilization against the raids of the African savages, and to that of the late Cyrenaic Anniceris, who taught that it was good and sweet to do something for one's fatherland (one wonders whether he would have admitted that it is *dulce . . . pro patria mori*) and even to sacrifice oneself for friends and relations. Yet even he is embarrassed for a hedonistic explanation of such altruistic actions. Curiously enough he admits that such altruistic values cannot be established on a mere rational basis (λόγος), but that a habit forming education (ἀνεθίζεσθαι) must contribute toward overcoming our egocentric dispositions, so that we may learn to take pleasure in the pleasure of others. This is the nearest approach to an understanding of the psychology of group feeling of which ancient intellectualism was capable.

It should be noted that the Cyrenaic definition of pleasure as a gentle emotion in contrast with pain as a rough stormy emotion somewhat anticipates modern knowledge that pleasure or pain is a function of intensity, of the psychic stimulation, agreement passing into irritation when the intensity of stimulus transcends a certain limit.

Diogenes Laertius (II: 94) attributes to the Cyrenaic Hegesias a remarkably modern relativist statement: "Nothing is by nature (in itself) agreeable or disagreeable; it is rarity and strangeness (novelty) or satiety which make a thing agreeable or disagreeable." The history of art indeed shows a continual search for new, unfamiliar sensations and the sudden rejection of experience grown tedious through too frequent repetition. Hegesias was the first to plead for an effort at understanding criminals instead of judging them. Nobody, says Hegesias, sins of his own free will, but rather under constraint of some passion. He should not be hated but reeducated.

Like the cynics, the Cyrenaics did not care for scientific research or philosophic speculation, because of the incomprehensibility (ἀκαταλῆψία) of physical knowledge. Our senses can grasp only subjective sensations. For these we have names in common (e.g. white or sweet) without knowing whether we all mean the same impression; we know nothing about the things themselves and may be absolutely mistaken about them. We do know our sensations and cannot mistake them.

The Cyrenaics regarded the dialectic art (logic) as useful, one of its most important uses being the destruction of superstitious beliefs engendered by popular religion. The wise man must free himself from the fears caused through belief in supernatural beings. Theodorus, the atheist, taught—as did Socrates' disciple Kritias, tyrant of Athens—that religion is only good to keep the masses in subjection. The wise man, however, is free to do as he chooses; if he wanted to, he could without fear commit adultery, theft and sacrilege. This complete amoralism was of course just as purely theoretic as that of Friedrich Nietzsche; Theodorus certainly taught like Aristippus that even if there were no laws the wise man, free to do what he likes, would observe every law, because by acting otherwise he would cause more pain than pleasure to himself.

The Cyrenaics, the right wing of the Socratics, were on the whole just as satisfied with existing laws as the cynics were dissatisfied with them. As members of the ruling class they are obviously conservatives, convinced that the existing social order is the best possible in this imperfect world. It is very characteristic that in order to denote the exact opposite of pleasure all Cyrenaic philosophers contemptuously used the word labor or grind (πόνος), so worshiped by the radical cynics. In fact, to know the minds of the beautiful athletically trained Greek gentlemen of the classical age, whose portrait statues were done by Praxiteles and Lysippus, we cannot do better than turn to what the sources tell us about Aristippus, a rich owner of several estates. Wealth, he said, is essentially different from a shoe: it cannot be too large. He earned as much as he could through teaching

and through displaying his wit at the court of Dionysius of Syracuse, telling the wealthiest tyrant of antiquity that he expected to be paid handsomely for what he had to offer. A man of the world with most refined manners and distinguished deportment, he could wear his embroidered purple robe, the rough hairy cloak of Diogenes or no clothes whatever with equal grace and dignity. He delighted in exercise and sports, in the refined pleasures of the table and in those which love—conceived as a high art of flattering all the senses—could offer to men who cultivated their bodies with no less care than their minds. He could not but despise the sorry wisdom of those who define happiness —as Epicurus was to do later on—as the mere absence of pain. The halcyon serenity of Aristippus' genial personality is not of course essentially connected with his hedonism. Hegesias, nicknamed πεισιθάνατος, although his follower, said that, strive as we may, we cannot attain happiness and therefore life is not worth living.

ROBERT EISLER

See: PHILOSOPHY; ETHICS; PSYCHOLOGY; HEDONISM; ALTRUISM AND EGOISM; CYNICS.

Consult: Diogenes Laertius, *Lives of Eminent Philosophers*, tr. by R. D. Hicks, 2 vols. (Loeb Classical Library, London 1925); Stenzel, P., "Kyrenaiker" in Pauly's *Real-Encyclopädie der classischen Altertumswissenschaft*, ed. by Georg Wissowa and Wilhelm Kroll, vol. xii (new ed. Stuttgart 1925) cols. 137–50; Überweg, F., *Grundriss der Geschichte der Philosophie*, 5 vols. (12th ed. Berlin 1923–28) vol. i, sect. 36; Erdmann, J. E., *Grundriss der Geschichte der Philosophie*, 2 vols. (4th ed. Berlin 1896), tr. by W. S. Hough, 3 vols. (London 1910–21) vol. i; Croiset, A. and M., *Histoire de la littérature grecque*, 5 vols. (Paris 1887–99); Watson, John, *Hedonistic Theories from Aristippus to Spencer* (Glasgow 1895); Gomperz, T., *Griechische Denker*, 3 vols. (Leipsic 1896–1902), tr. by L. Magnus and G. G. Berry, 4 vols. (London 1901–12) vol. ii; Eleutheropulos, A., *Wirtschaft und Philosophie*, 2 vols. (2nd ed. Berlin 1900–01) vol. i, pt. i; Eisler, R., *Studien zur Werttheorie* (Leipsic 1902); Jones, W. H. S., *Greek Morality in Relation to Institutions* (London 1906); Bevan, E., "Hellenistic Popular Philosophy" in Bury, J. B., and others, *The Hellenistic Age* (Cambridge, Eng. 1923) p. 79–107; Robin, L., *La pensée grecque* (Paris 1923), tr. by M. R. Dobie (London 1928); Apelt, O., *Beiträge zur Geschichte der griechischen Philosophie* (Leipsic 1891); Hirzel, R., *Der Dialog*, 2 vols. (Leipsic 1895) vol. i; Maier, Heinrich, *Die Syllogistik des Aristoteles*, 2 vols. (Tübingen 1896–1900) vol. ii, pt. ii, p. 11–22; Pater, Walter, *Marius the Epicurean* (new ed. New York 1926) chs. viii–ix.

CZARTORYSKI, ADAM JERZY, PRINCE (1770–1861), Polish statesman. After receiving a thorough education at home and abroad he was unofficially ordered by Catherine II to proceed to St. Petersburg, where he entered government service and became an intimate friend of Grand Duke Alexander. In 1799 he was appointed minister to Sardinia. Following the death of Pavel in 1802 he was ordered by Alexander to return to Russia and was appointed, first, assistant to the minister of foreign affairs and, two years later, acting minister.

As minister Czartoryski conceived the plan of a European confederation under Russia to be directed against Napoleon and worked for the restoration of Poland and for the free autonomous union of all Christian Balkan peoples under the protection of the Russian emperor. Although he resigned from the ministry in 1806 Czartoryski, still in high office and influential, continued his political activities on behalf of a restored Poland. In 1814–15 he was the principal advocate of an autonomous kingdom of Poland as a part of Russia with proper constitutional safeguards for the rights of peasants, towns and the Jews. In the years 1815 to 1830 he remained the spokesman of progressive conservatism in the Polish senate. With the outbreak of the Polish insurrection of 1830–31 Czartoryski was put at the head of the revolutionary government, but his hope that better results would be obtained through diplomatic intervention prevented him from displaying very energetic action on behalf of the insurrection.

Following the failure of the insurrection Czartoryski emigrated to France. As émigré he remained the recognized leader of the conservative element in Polish society. He was the guiding spirit in all Polish activities, chiefly in 1848 in Prussia, in 1849 in Hungary and in 1854–56 in Turkey. He also acted on behalf of the freedom of the eastern Slavs, the Czechs, the Hungarians, the Rumanians and the Italians, often without success.

Czartoryski held that a reorganization of Europe on the principle of national sovereignty would promote universal peace. Through his followers he also initiated a strong movement for the industrial development of Poland.

MARCELI HANDELSMAN

Important works: *Essai sur la diplomatie* (Paris 1830, 2nd ed. 1864); *Mémoires du Prince Adam Czartoryski et correspondance avec l'empereur Alexandre Ier*, 2 vols. (Paris 1865, 2nd ed. 1887), tr. by Adam Gielgud (London 1888).

Consult: Zaleski, B., *Zywot ksiecia Adama Jerzego Czartoryskiego* (Life of Prince Adam Jerzy Czartoryski) (Poznan 1881); Gadon, L., *Ksiaze Adam Czartoryski podczas powstania listopadowego* (Adam

Czartoryski during the November insurrection) (Cracow 1900); Dupuis, C., "Les antécédents de la Société des Nations: le plan d'Adam Czartoryski et d'Alexandre" in Académie des Sciences Morales et Politiques, *Séances et travaux . . . Compte rendu* (1929) pt. ii, p. 25–54; Handelsman, M., *Les idées françaises et la mentalité politique en Pologne au XIXe siècle* (Paris 1927); Askenazy, S., *Napoleon a Polska*, 3 vols. (Warsaw 1918–19), French translation by H. Grégoire, vol. i– (Brussels 1925–); Handelsman, M., "La question d'orient et la politique yougoslave du prince Czartoryski après 1840," and "Les éléments d'une politique étrangère de la Pologne (1831–1856)" in Académie des Sciences Morales et Politiques, *Séances et travaux . . . Compte rendu* (1929) pt. ii, p. 394–433, and (1930) pt. ii, p. 107–38.

CZERKAWSKI, WLODZIMIERZ (1866–1913), Polish economist. Czerkawski taught economics at the University of Cracow from 1897 until his death. He confined his interests chiefly to problems of economic theory, and it was he who did most to familiarize Polish economics with the principle of marginal utility and in general with the theories of the Austrian school. He trained a number of young scholars and raised the professorial chair at Cracow to the position of an important center of theoretical investigation.

Czerkawski's chief theoretical work, *Teorja czystego dochodu z ziemi* (Theory of the net income of land) (Lemberg 1893), shows the strong influence of the Austrian school, from whose premises, however, he has drawn extremely subjective conclusions. Czerkawski understands value exactly as do the Austrians, but his interest is almost exclusively confined to subjective value. Not commodities but their values interest economics; profits and income are to be regarded only as increment values; production is neither the only nor the necessary source of income. He disputes a number of principles of classical economics, such as the equality of profit ratios, the law of supply and demand and the principle of costs, and indicates instances where the subjective valuation may stand in direct opposition to these principles. He criticizes the Ricardian theory of rent, but also disagrees with Böhm-Bawerk in that he regards the distinctions between land and capital and between interest on capital and rent of land superfluous. In concluding he offers a theory that is based upon the combination of the principles of imputation and of lower valuation of future commodities. Czerkawski has not attempted the application of this theory to concrete cases. In economic policy Czerkawski favored the development of the cooperative movement and unquestionably leaned toward government interference in economic matters.

LADISLAUS ZAWADZKI

Other works: "Wielkie gospodarstwa ich istota i znaczenie" (Large enterprises, their nature and significance) in Akademija Umiejętności, *Rozprawy i sprawozdania z posiedzeń Wydzialu Historyczno-Filozoficznego*, 2nd ser., vol. ix (1896); *Naczelne zasady organizacyi gospodarstwa społecznego* (Chief principles of the organization of the national economy) (Cracow 1898); *Polityka Ekonomiczna* (Economic policy) (1905) in collaboration with J. Milewski; *Kwestja Sjonizmu* (The question of Zionism) (1908); *Gęstość zaludnienia w Galicji* (Density of population in Galicia) (1911).

Consult: Strasburger, Edward, "Ś. p. Wlodzimierz Czerkawski" in *Ekonomista*, vol. xiv, sect. 1 (1914) vii–xvi.

CZOERNIG VON CZERNHAUSEN, KARL, FREIHERR (1804–89), Austrian statistician. On completing his studies at Prague and Vienna in 1828 he entered government service, and in 1841 he became chief of administrative statistics in the Austrian ministry of finance. During the time that the statistical bureau was a department in the short lived ministry of commerce Czoernig held the position of chief government statistician, and before his retirement in 1865 he served for three years as president of the central statistical commission of Austria. From 1850 to 1852 he was in charge of organizing the Central Marine Authority in Trieste, and for many years he headed the department of railroad construction, which was responsible for the development of the Austrian railway system.

As chief statistician Czoernig brought to his office a new conception of the purpose of government statistics. It was to be no longer a mere tool in financial administration but a study of all phases of economic and social life of the country by an independent government agency coordinating the statistical data which had been collected by various departments of the government as a by-product of their work. With this purpose in view Czoernig elaborated methods of collection and scientific presentation of statistical material and established close contacts with other government departments. Where official cooperation was impracticable he relied upon semipublic agencies; in 1844, for example, he submitted questionnaires directly to more than 7000 industrial enterprises—a bold innovation at the time. In 1857 Czoernig drafted and piloted through to enactment the law which reorganized the Austrian population census. Throughout his

career he was in favor of giving the widest publicity to statistical information, and with the widening of the basis of parliamentary representation he began to publish small statistical annuals in addition to the regular bulky source books.

Czoernig also published a number of valuable statistical monographs under government auspices. They include a series of maps showing the geographical distribution of industries in Austria and *Das österreichische Budget für 1862* (2 vols., Vienna 1862), a study which assured him lasting recognition among students of comparative finance. Perhaps his most important work was an ethnographical map of the monarchy completed in 1853 after thirteen years of effort and followed by *Ethnographie der österreichischen Monarchie* (3 vols., Vienna 1857), which represents a portion of a projected comprehensive account of the history and contemporary status of the numerous national groups. His *Österreichs Neugestaltung, 1848–1858* (Stuttgart 1858) also bears upon the statistical study of nationalities.

KARL PRIBRAM

Consult: *Statistische Monatschrift*, vol. xv (1889) 545–54, with bibliography.

DAGUESSEAU, HENRI-FRANÇOIS (1668–1751), also known as d'Aguesseau, French magistrate of the reigns of Louis XIV and Louis XV. He was one of the most distinguished of the chancellors who flourished under the French system of *parlements*. Personal elements played a great part in the mode of judicature of the times, and the character of Daguesseau was marked by an extraordinary integrity, sincere piety and irreproachable morality. He could, however, often be weak and vacillating, as is shown by his change of front with respect to the ratification of the bull *Unigenitus*. Daguesseau is considered the first great master of forensic eloquence in France. But he carried his oratorical style over into his voluminous writings, which as a consequence are tiresome. As a magistrate he banished corruption from the tribunals; he was responsible for improving the forms and uniformity of procedure; he was influential in ascertaining more accurately jurisdictional limits. It was, however, through his *grandes ordonnances* that he left his most permanent marks upon French jurisprudence. He took up in detail the great draft of Lamoignon, *Arrestez ou lois projetées* (1703). Upon the topics which Daguesseau covered he is said to have written in advance entire chapters of the future *Code Napoléon*. The most important of the *ordonnances* which he drafted may be said to be those on gifts (1731), wills (1735) and entails (1747). His work thus marks an epoch in French jurisprudence and his name ranks with that of L'Hôpital.

The latest and most complete edition of the works of Daguesseau is that of Pardessus (16 vols., Paris 1818–20).

R. K. GOOCH

Consult: Butler, C., *Memoir of the Life of Henry Francis d'Aguesseau* (4th ed. London 1830); Boullée, X. A., *Histoire de la vie et des ouvrages du chancelier d'Aguesseau*, 2 vols. (Paris 1835); Monnier, J. F., *Le chancelier d'Aguesseau, sa conduite et ses idées politiques* (2nd ed. Paris 1863), and *Mémoire sur les ordonnances de d'Aguesseau* in Académie des Sciences Morales et Politiques, *Séances et travaux . . . Compte rendu*, 3rd ser., vol. xxvi (1858) 273–93, 367–400, and vol. xxvii (1859) 47–76; Valée, O. de, *Le duc d'Orléans et le chancelier d'Aguesseau* (Paris 1860); Thézard, L., *De l'influence des travaux de Pothier et du chancelier d'Aguesseau sur le droit civil moderne* (Paris 1866); Bardoux, A., *Les légistes, leur influence sur la société française* (Paris 1877); Viollet, Paul, *Droit privé et sources, histoire du droit civil français* (3rd ed. Paris 1905).

DAHLMANN, FRIEDRICH CHRISTOPH (1785–1860), German statesman, political writer and historian. Dahlmann was born at Wismar and studied at the universities of Copenhagen and Halle. He was made professor of history at the University of Kiel in 1813 and became secretary of the Deputation der Schleswig-Holsteinischen Prälaten und Ritterschaft, defending their rights against Denmark at the diet of the German confederation. In 1829 he became professor at Göttingen, collaborated in the formation of the Hanoverian constitution of 1832 and represented for a short time the university in the second chamber. When in 1837 King Ernst August began his rule by breaking the constitution, Dahlmann was the leader of the seven professors of Göttingen who protested against this violent act. He was deprived of his chair and exiled, together with his colleagues Gervinus and Jakob Grimm, and came in 1842 to the University of Bonn. In 1848 he became a member of the Committee of Seventeen appointed by the diet of the old confederation to frame a constitution, and the product of their deliberations was almost wholly the work of Dahlmann. In the national assembly at Frankfort he was the leader of the center group, whose ideal was the formation of a constitutional empire under the Prussian hegemony, and he was also a member of the Erfurt parliament of 1850. Disappointed in his political hopes he withdrew to Bonn,

where he devoted himself solely to his academic studies.

Dahlmann's fame rests more on his political influence than on his historical work. His most important work, *Die Politik, auf den Grund und das Maass der gegebenen Zustände zurückgeführt* (Göttingen 1835), reveals him as a typical representative of constitutional liberalism. The English constitution, rooted according to Dahlmann in the old Germanic ideals of freedom, was the best instrument of government and as such worthy of imitation. In his historical works too, such as his *Geschichte der englischen Revolution* (Leipsic 1844; tr. by H. E. Lloyd, London 1844) and *Geschichte der französischen Revolution* (Leipsic 1845), both of which he republished as *Zwei Revolutionen* (2 vols., Leipsic 1853), Dahlmann is most interested in constitutional problems. These works, often referred to as marking the turn from moral to political historiography, are full of severe admonitions to both the governments and the governed. The most voluminous of his scientific works is the *Geschichte von Dänemark* (3 vols., Hamburg 1840–43), which carried the story as far as the Reformation. It is vigorously written and is a good example of the philological-critical method.

ALFRED STERN

Consult: Springer, A., *Friedrich Christoph Dahlmann*, 2 vols. (Leipsic 1870–72); Waitz, G., *Friedrich Christoph Dahlmann* (Kiel 1885); Treitschke, H., *Historische und politische Aufsätze*, 3 vols. (5th ed. Leipsic 1886) vol. i, p. 348–434; Lorenz, O., *Die Geschichtswissenschaft*, 2 vols. (Berlin 1886–91) vol. i, ch. ii; Christern, H., *Friedrich Christoph Dahlmanns politische Entwicklung bis 1848* (Leipsic 1921).

DAHN, FELIX LUDWIG SOPHUS (1834–1912), German jurist and historian. Dahn was a professor of law at the universities of Munich, Würzburg, Königsberg and finally at Breslau, where he remained from 1880 to 1910. He taught and wrote on commercial law, German legal history and the philosophy of law.

Dahn belonged to the contemporary historical school of jurisprudence and held that every culture develops its own system of law which can be understood only in terms of the economic, social and other cultural conditions which gave rise to it. This legal philosophy is most clearly expounded in his brief article on the growth and character of law entitled "Vom (über) Werden und Wesen des Rechts" in *Zeitschrift für vergleichende Rechtswissenschaft* (vol. ii, 1879–80, p. 1–10; vol. iii, 1881–82, p. 1–16). He denied the natural rights theory of law and emphasized an opposing concept, namely, that the two elements which determine the law of a nation are the national characteristics and "the complex of historical conditions in space and time" which tend to modify them. He refused to restrict jurisprudence to the classical systems of Roman and German law and insisted that the only differences between early law and that of modern epochs were those due to historically different conditions, a concept in line with the theories of Bernhöft, Georg Cohn and Josef Kohler, who in their *Zeitschrift für vergleichende Rechtswissenschaft* tried to formulate a universal history of law on modern ethnological and sociological bases.

Dahn's works on the history of law were, however, of more permanent significance than his rather unoriginal studies in legal philosophy. The most important of these historical works is the *Die Könige der Germanen* (12 vols., Munich 1861–1909), a vast mine of information on German-Roman history and governmental organization to the break up of the Carolingian Empire. It is particularly valuable for the legal history of that period.

A profound nationalistic sentiment pervaded all Dahn's writings. He repudiated cosmopolitanism and insisted that individuals could be classified only in national groups. He held that nationalism was instinctive and defined the state as the unification of a national group for the protection and development of its law and culture. Dahn's philosophy marks him as one of the scholars who strengthened German nationalistic trends, especially in connection with the new German codes which were established after the war of 1870.

LEONHARD ADAM

Important works: *Urgeschichte der germanischen und romanischen Völker*, 4 vols. (Berlin 1881–89); *Geschichte der deutschen Urzeit*, 2 vols. (Gotha 1883–88); *Prokopius von Caesarea* (Berlin 1865); *Die Vernunft im Recht, Grundlagen der Rechtsphilosophie* (Berlin 1879).

Consult: Meyer, H. O., *Felix Dahn* (Leipsic 1913).

DAIL EIRANN. *See* IRISH QUESTION; LEGISLATIVE ASSEMBLIES.

DAIRY INDUSTRY. Dairying is one of the oldest of industries and has existed in some form in most parts of the world. In some instances, as among a number of African tribes, the entire culture of a people has centered around their cattle, whose economic use was primarily for supplying milk and as draft ani-

mals. Butter and cheese making existed at least as far back as 2000 B.C. Until recent times, however, dairying has been primarily a family or tribal enterprise for local consumption, although some products reached more distant markets. Butter and cheese were generally produced by handicraft methods at the place of milk production; some cheese was made in neighboring caves. The growth of large cities and numerous improvements from the sixteenth century on in breeds of cattle, in cattle feed and in various dairy implements prepared the way for the development of the modern dairy industry.

Dairying in America as in other countries was for a long time a family enterprise rather than an industry. The keeping of cows, like the vegetable garden, was merely a part of a self-sufficient family economy. As agriculture passed out of the pioneer stage there was an excess of dairy products over family and local requirements. An outside market was sought for these products, and as there were very few large city markets in the United States which could absorb the excess production, foreign markets were sought. But the low quality of the product was a serious drawback: a great quantity of butter shipped from America to the English market in the early part of the nineteenth century was used not as a food but as a grease for machinery.

It was not until the 1870's that any real work was done toward the improvement of the quality of American dairy products. During this decade the United States Department of Agriculture gave serious attention to methods of handling milk and cream upon the farm and to the manufacture of butter, and soon the dairy industry became an important branch of specialized American agriculture. About the middle of the last century a few butter and cheese factories were started here and there; by 1880 the local cheese factory had practically displaced cheese making on the farm, and during the next two decades butter factories or creameries were started in almost every important dairying community. This shift from farm household to factory production in the United States is indicated in Table 1. Although as much as 30 percent of the butter produced in 1926 was still farm made, most of it was consumed on farms and did not get into the main channels of trade.

Similar shifts between farm and factory occurred late in the eighteenth and early in the nineteenth century in most of the important

TABLE I

SHIFT IN PRODUCTION FROM FARM TO FACTORY IN BUTTER AND CHEESE MAKING IN THE UNITED STATES, 1859–1926

YEAR	BUTTER PRODUCTION (IN 1,000,000 LBS.)			CHEESE PRODUCTION (IN 1,000,000 LBS.)		
	FARM	CREAMERY BUTTER		FARM	FACTORY CHEESE	
		OUTPUT	PERCENT OF TOTAL		OUTPUT	PERCENT OF TOTAL
1859	460	*	*	104	*	
1869	514	*		53	109	67
1879	777	29	4	27	216	89
1889	1024	181	15	19	238	93
1899	1072	421	28	16	283	95
1909	995	627	39	9	311	97
1919	708	868	55	*	399	
1926	615	1452	70	4	427	99

* No figures are available.

Source: Adapted from United States, Department of Agriculture, *A Handbook of Dairy Statistics* (1928) tables 46 and 59.

dairy regions of Europe. The increased productivity of the factory played an important part in the change from raising cattle for meat to dairying in Europe, America, Australia and New Zealand. At the same time the factory was needed to develop dairying and to make it more profitable when the newer grain and cattle regions of America began to compete with the older agricultural sections and a shift to intensified agriculture became necessary.

Instead of placing milk in pans for the cream to rise the farmer now uses a mechanical separator which not only gives a better product but assures the separation of all the butter fat from the milk. The Babcock cream tester perfected about 1890 enabled the farmer to determine the exact fat content of his product. In the factory machinery has been developed to perform practically every process in such a way that high quality products are almost universally assured. Increased chemical knowledge has changed a great deal of cheese making from a traditional rule of thumb procedure to a scientifically controlled, standardized manufacturing process. The technical scientist has provided also a means of safe and quick transportation and a means of storage which is not only cheap but also preserves quality.

The different phases of the dairy industry are characterized by various types of organization. On the farm relatively small scale individualistic units generally on a family basis dominate milk production. There are notable exceptions, however, particularly in production for city use, and organizations of farmers have exerted an important influence even in this

phase of the industry. Cow testing and bull associations have played an important part in increasing production in most of the leading dairy countries. The purpose of the former is to select the best producers and eliminate unprofitable cows from the herd on the basis of tests made and records kept by an expert employed by the association; the purpose of the latter is to improve the breed. In Denmark there were 1038 cow testing associations in 1924 with 394,181 cows under test, nearly a quarter of all cows in the country. Much has been done by similar associations in the United States during the last few years to improve the quality of dairy cows and to increase the production per cow, which has been low in comparison with that of other countries. There were 1143 dairy herd improvement associations (formerly called cow testing associations) with more than 500,000 cows under test in 1930; and the average production of cows in testing associations was approximately 7500 pounds, or more than 50 percent above the average for the country. In several countries of Europe and in New Zealand a large number of dairy farmers purchase their implements and feed through cooperative societies.

The creamery and the cheese factory are typically small establishments having few workers, although there has been a decided tendency toward larger units, as in the case of centralizers which collect milk or cream from considerable distances in sparsely settled regions. In the case of butter factories there has been a marked increase in horse power used per establishment, as is indicated for the United States in Table II. A number of factories are owned by individuals or corporations to whom the farmers sell their milk or cream outright. In some instances, as in the case of the Chicago meat packers, large corporations have owned a chain of creameries; and in other cases proprietary creameries have formed combinations. The cooperative, however, is the outstanding feature of the industry. In the United States, for example, 2100 of a total of 3715 creameries of all types in 1927 were cooperative, and the cooperative creamery is of even greater importance in most of the other leading dairy countries. The cheese cooperative is not quite as prevalent. In most cases the cooperative factory manufactures into butter or cheese the milk delivered to it by the local farmers, who are its sole owners, and sells the product to dealers. Profits are divided among members in proportion to the milk they have delivered. In a more elementary and less frequent form of cooperation the manufactured product is returned to the farmers in proportion to the milk they have supplied. This is merely an outgrowth of the cheese rings that appeared in the United States during the first half of the last century, in which each farmer of a community in turn made his neighbors' milk into cheese on the farm.

Although well organized local cooperatives afforded savings in manufacturing to dairy farmers most of them were weak as marketing organizations. To meet this problem federations of dairy cooperatives or cooperatives having numerous creameries or cheese factories were developed to increase the farmer's bargaining power and secure higher prices for him, to widen markets and to improve, grade, standardize and advertise dairy products. Among the most outstanding cooperatives of this type are the Land o' Lakes Creameries, Incorporated, which has about 450 local creameries, mostly in Minnesota but scattered from Michigan to North Dakota, and which attempts to sell a standardized brand of butter directly to jobbers and to chain store companies; the National Cheese Producers' Federation of Wisconsin and the Tillamook County Creamery Association of Oregon, which together handle about a tenth of the total cheese production of the United States; the Federal Danish Cooperative Butter Export Association; and the New Zealand Producers' Association, which markets dairy products as well as imports requirements and dairy machinery. The All Russian Union of Dairying Cooperatives (Maslocentr) claimed 6175 affiliated cooperatives with a membership of 1,431,400 in 1928 and along with its affiliated cooperatives manufactured and marketed the bulk of the country's butter and cheese and marketed most of its milk, rationalized and mechanized numerous creameries, spread agricultural knowledge, supplied its member cooperatives with machinery and started to prepare the way for collective dairy farming. A further extension of marketing cooperation exists in the federations of cooperative societies for the export of butter, especially in Denmark, the Netherlands, New Zealand, Soviet Russia and Finland, and of cheese, especially in Switzerland.

Between the cooperative and the individual or corporate form of dairy organization are joint stock companies with cooperative features. These are particularly important in the United States. They differ from the usual cooperative

in that a stockholder need not be a patron, the capital stock is divided into equal shares and the members usually cast one vote for each share of stock. Farmers are paid for their milk or cream on delivery, and profits are divided on the basis of stock held.

Cooperation to improve conditions in the industry has not been limited to the producers. There have been many trade associations in the manufacturing and distribution phases of the business for the purpose of gathering trade statistics, analyzing operating statements, consideration of trade policies and the handling of trade disputes, which have brought great advantages not only to those engaged in the industry but to the public at large. These trade associations are the agencies whereby the dairy industries can meet with the farmers' cooperative organizations, which act as representatives of the producers, for consideration of mutual problems. Another organization which serves the entire dairy industry is the National Dairy Council. It does scientific research in the field of nutrition and works with medical, educational and other organizations for the improvement of health. This organization was founded in 1919 in the United States and similar work is being carried on in other countries. The primary object of the Dairy Council is to popularize the importance of an adequate use of dairy products and thereby improve the public health and increase the sales of dairy products.

The American and Canadian country cheese boards on which a considerable amount of cheese was formerly sold deserve special notice. They included cheese factory salesmen and cheese buyers or dealers; the latter had restricted privileges and generally had no vote. The boards declined when more cheese was sold off the boards than on them and when quotations could be established only with difficulty.

In contrast to butter and cheese the bulk of condensed, evaporated and powdered milk is manufactured by corporations. Cooperatives have generally been unsuccessful in this field except in a few instances where a number of cooperative condenseries have combined to sell their products. With increased mechanization and the growing need for expensive machinery and for quantity production the ownership and management of condenseries have passed from proprietary units and small corporations to large corporations. In a number of instances, however, condenseries and creameries merely manufacture the surplus milk of large urban milk distributing companies; and in some cases condensed milk is a side line of ice cream or butter manufacture. In ice cream manufacture also the trend has been toward large scale production under the domination of corporations. Ice cream plants are frequently controlled by city milk distributing companies.

In the United States dairying is the largest single branch of agriculture with the exception of raising livestock for slaughter. It is estimated that the annual value of its products is almost $3,000,000,000. The percentages of the total milk production of the country utilized for different purposes in 1926 were: butter 36; cheese 3.5; condensed, evaporated and dried products 3.8; ice cream 3.7; fresh milk for household use 46.7, fed to calves 3.3, wasted 3. The size and growth of factory production in the leading branches of the dairy industry, other than milk supply, are indicated in Table II.

TABLE II

FACTORY PRODUCTION OF DAIRY PRODUCTS IN THE UNITED STATES, 1899–1929

YEAR	NUMBER OF ESTABLISHMENTS	WAGE EARNERS	VALUE OF PRODUCTS (IN $1000)	HORSE POWER
		BUTTER		
1899	5,275		84,080	
1909	4,783	11,563	194,999	78,123
1919	3,738	17,641	583,163	94,962
1927	3,519	20,096	739,011	145,973
1929	3,409	17,805	700,868	
		CHEESE		
1899	3,299		26,520	
1909	3,560	2,704	44,263	11,638
1919	3,530	3,997	143,455	24,411
1927	2,738	3,520	118,448	20,976
1929	2,699	3,328	112,633	
		CONDENSED AND EVAPORATED MILK *		
1899	38		11,889	
1909	136	4,164	35,295	11,588
1919	401	13,675	339,507	49,178
1927	464	7,390	200,086	63,969
1929	520	6,992	207,494	
		ICE CREAM **		
1919	3,475	19,155	189,483	102,646
1927	2,961	21,927	301,645	206,315
1929	3,071	21,534	310,538	

* Includes powdered milk.
** No figures are available for 1899 and 1909 for ice cream manufacture.

Source: Compiled from census reports on manufactures: vol. ix (1900) p. 435–36; vol. viii (1910) p. 351 and 376; vol. viii (1920) p. 180 and 187; biennial census of manufactures for 1927, p. 49 and 134; preliminary sheets of the census of manufactures for 1929.

Governments all over the world have given aid to the dairy industry in the improvement of technical processes, in the marketing of

products and through tariffs, bounties and stabilization plans to increase the price to the producers. They have also set up certain quality standards pertaining to dairy products. In practically every dairy country there are some governmental grades upon which butter and other dairy products are sold and prices quoted. In the United States these governmental grades were instituted in 1925 and have superseded exchange or board of trade grades. The regulations pertaining to quality and grades have protected the consumer in the same manner as the pure food laws, and in most instances the primary purpose back of these regulations has been to afford such protection and to place competition between manufacturers and dealers upon an equal basis.

Regulations pertaining to the care and handling of cream and milk on the farms have been promulgated for the purpose of assuring the best quality products. Most fluid milk markets and many market areas for manufactured products have regulations pertaining to the methods of handling milk on the farm and in the manufacturing plants. In many instances these regulations touch even the actual delivery of the products: dairy products, for example, are required to be kept in refrigerators in retail stores.

Some governments have passed laws pertaining to competitive practises and trade agreements. In the United States it is unlawful for sellers to make agreements which are considered to be in restraint of trade. These laws apply to the dealer in dairy products just as to dealers in other classes of goods and are for the primary purpose of protecting the consumer against undue price enhancement and the small business unit against extinction. In some countries, however, agreements between dealers to maintain prices are legal on the theory that profits should be assured to dealer and producer.

From a production standpoint the dairy industry in the various countries can be compared on a basis of total production, number of dairy cows and yield per cow. In 1930 the United States had approximately 22,500,000 dairy cows on farms. This number is exceeded only by India and Russia. On a basis of milk yield per cow the United States' yearly average was estimated in 1930 as 4600 pounds. This average is exceeded by that of practically every dairy country in the world; the highest average, almost ten thousand pounds, is that of the Netherlands.

The importance of the dairy industry in the national life of a people, however, cannot be measured by the total number of dairy cattle or the total production of dairy products but rather by the percentage of the people engaged in and dependent upon it. The dairy industry is from this standpoint most important in the Netherlands, Switzerland and Denmark. In certain sections of the United States, particularly in the heavy cheese and butter producing regions of Wisconsin and Minnesota and the fluid milk areas surrounding our large cities, dairying holds a similar position.

The importance of dairying and dairy products to the national life can be measured also by the per capita consumption of dairy products. The annual per capita consumption of whole milk varies from approximately four tenths of a gallon in Japan to eighty-four gallons in Finland; that of butter from two and eight tenths pounds in Italy to thirty-four pounds in New Zealand; and that of cheese from one and eight tenths pounds in Chile to twenty-four pounds in Switzerland. The annual per capita consumption of these products in the United States is estimated to be as follows: milk fifty-five gallons, butter eighteen pounds and cheese four pounds.

The international trade in dairy products gives some indication of the relative importance of the dairy industry within various countries. Denmark, New Zealand, Australia and the Netherlands are the leading exporters of butter and cheese, while Great Britain and Germany are the largest importers. The United States is the leading exporter of condensed and evaporated milk; Canada, Switzerland and Australia also export considerable quantities.

In Australia, one of the leading butter exporters, the dairy farmers are operating under what is called the Patterson plan to stabilize the price of butter. Just how well this plan or any other plan will succeed is uncertain in view of a heavy world production. It is quite probable that any scheme which aims to fix prices at levels not justified by market conditions will tend to fail, just as the British rubber control and the Brazilian coffee valorization plan have failed.

The dairy industry should have as its goal two fundamental things; a decrease in cost of production and an increased consumption. The cost of production can be decreased at two points: on the farm through use of better cows and better feeding methods, which will give increased production per cow or a decreased cost per unit; and in the marketing and process-

TABLE III

INTERNATIONAL TRADE IN BUTTER AND CHEESE, 1929
(IN 1,000,000 LBS.)

	BUTTER	CHEESE
	EXPORTS	
Denmark	351	15
Netherlands	104	211
Irish Free State	63	—
Russia	56	—
Sweden	55	—
Finland	37	5
France	17	40
Italy	2	72
Switzerland	—	70
New Zealand	184	198
Australia	103	5
Argentina	37	—
Canada	1	93
	IMPORTS	
Great Britain and Northern Ireland	718	335
Germany	296	147
France	10	51
United States	3	76
Canada	36	2

Source: Adapted from *International Review of Agriculture, Monthly Crop Report and Agricultural Statistics*, vol. xxi (1930) 267.

ing phases of the dairy industry, where there are several possibilities of decreasing costs. Better roads and more efficient trucks will reduce the transportation cost; improved technique in manufacturing will reduce manufacturing cost. Selling costs can be reduced through the tempering of competition between various operating units, which entails a heavy expense for the maintenance of salesmen, advertising, solicitors and expensive sales campaigns. If the public demands the safety of competition it will have to continue to bear its expense. If competitors could make agreements relative to competitive practises, selling costs would be greatly reduced. There seems to be very little danger that the public interest would be impaired under such a procedure, provided there were some public agency to regulate competitors.

From the standpoint of public interest an increased use of dairy products is one of the most important problems before the industry. This is true because an ample use of dairy products is vital to health. Nothing should be done in the producing and marketing of dairy products which would tend in any way to limit consumption. An increased consumption can be brought about by educating the public concerning the value of dairy products and by operating the agencies of production and marketing in such a way that prices will be sufficiently low to enable the consumer to purchase ample quantities.

JOHN T. HORNER

See: MILK SUPPLY; AGRICULTURE; LIVESTOCK INDUSTRY; AGRICULTURAL SOCIETIES; STOCK BREEDING; AGRICULTURAL COOPERATION; AGRICULTURAL MARKETING.

Consult: Pirtle, T. R., *History of the Dairying Industry* (Chicago 1926); Smith, J. Russell, *The World's Food Resources* (New York 1919) ch. xi; World's Dairy Congress, 1923, *Proceedings*, 2 vols. (Washington 1924); Hertel, Hans, *Andelsbevaegelsen i Danmark* (Copenhagen 1917), tr. and adapted by H. Faber as *Cooperation in Danish Agriculture* (London 1918); Ratner, Grigorü, *Die landwirtschaftlichen Genossenschaften in der Sowjet-Union* (Berlin 1928), tr. by Margaret Digby (London 1929); Wiest, Edward, *The Butter Industry in the United States* (New York 1916); Hunziker, Otto F., *The Butter Industry* (2nd ed. La Grange, Ill. 1927), and *Condensed Milk and Milk Powder* (4th ed. La Grange, Ill. 1926); United States, Tariff Commission, *Milk and Cream* (1929); Erdman, Henry E., *American Produce Markets* (Boston 1928) p. 28–45, 149–52, 173–79, 410–12; Comish, N. H., *Cooperative Marketing of Agricultural Products* (New York 1929) chs. vi–viii; Hibbard, Benjamin H., *Marketing Agricultural Products* (New York 1921) ch. xxix–xxx; American Institute of Agriculture, *Marketing Dairy Products*, 20 vols. (Chicago 1922–24); Misner, E. G., "Farm Management Problems in the Northeastern Dairy Belt" in *Journal of Farm Economics*, vol. vii (1925) 251–73; International Labour Office, *The Part Played by Cooperative Organisations in the International Trade in Wheat, Dairy Produce and Some Other Agricultural Products* (Geneva 1926); International Institute of Agriculture, *Milk and Milk Products* (Rome 1924); United States, Department of Agriculture, "The Dairy Industry" in *Yearbook 1922* (1923) p. 281–394; United States, Dairy Division, *A Handbook of Dairy Statistics*, by T. R. Pirtle (2nd ed. Washington 1928); United States, Department of Agriculture, "Dairy Statistics" in *Statistical Bulletin*, no. xxv (1929); United States, Bureau of Foreign and Domestic Commerce, "Apparent per capita Consumption of Principal Foodstuffs in the United States," by E. G. Montgomery and C. H. Kardell, *Domestic Commerce Series*, no. xxxviii (1930). See also annual reports of the chief of the Dairy Division of the United States Department of Agriculture, published separately since 1925.

DALHOUSIE, TENTH EARL AND MARQUESS OF, JAMES ANDREW RAMSAY (1812–60), British statesman and colonial administrator. Dalhousie showed conspicuous ability on the Board of Trade in the midst of the transport and commercial revolutions of the 1840's. As head of "Dalhousie's Board," a pioneer advisory and regulative department, he waged a losing

struggle, in a period dominated by laissez faire tendencies, for government regulation of railway construction and operation. This achievement and the Indian connections he had through his father, who had been commander in chief in India, and his influence with Wellington marked him early for Indian responsibilities. From 1848–55 he served as governor general of India with the avowed mission of stimulating "material and moral progress." Such acts as those securing to persons who had been converted from Hinduism full rights as citizens, sanctioning remarriage of Hindu widows and instituting plans to provide native education along western lines represented innovations in the traditional Indian social structure which were entirely consonant with British public opinion. Equally startling to India and welcome at home were Dalhousie's economic measures: the introduction of the penny postal system, the encouragement of such public works as irrigation and the inauguration of a vast program for railway and telegraph construction. The main lines of railway development in India were outlined by Dalhousie in a famous minute, and it was due to him that the policy of government guaranties of invested capital, with close supervision of construction and management, was adopted for the railway companies.

Dalhousie's administrative energies were unexpectedly turned to political problems which culminated in tremendous annexations of territory to British India. Thus territory was gained on the frontiers when the second Sikh war led to the conquest of the Punjab, the Burmese war to the seizure of Pegu and the Crimean War suggested the foundations of the British protectorate in Baluchistan. Dalhousie did not invent, but he provided the principal applications of, the "doctrine of lapse," whereby in the case of seven dependent states the government was taken over by British India in default of heirs to the native rulers. He rewarded prolonged misgovernment in Oudh with deposition of the ruling family and annexation. The sepoy revolt, which broke out soon after Dalhousie's retirement, was attributed by many to his excessive zeal in these instances. It is probable, however, that his political acts served chiefly to fan into a flame the smoldering conflict of cultures involved in his program of alterations in Indian institutions.

Dalhousie possessed many traits common to the Peelite school of statesmen, such as industry, devotion to duty, a high sense of political honor, a masterful disposition, a pride of place and a readiness to assume responsibility. In these traits and in his policies for India may be found early anticipations of the collectivism and imperialism of the succeeding generation of British statesmen.

LELAND H. JENKS

Consult: Lee-Warner, William, *The Life of the Marquis of Dalhousie, K. T.*, 2 vols. (London 1904); *Private Letters of the Marquess of Dalhousie*, ed. by J. G. A. Baird (Edinburgh 1910); Arnold, E., *The Marquis of Dalhousie's Administration of British India*, 2 vols. (London 1862–65); Trotter, L. I., *Life of the Marquis of Dalhousie* (London 1895); Hunter, W. W., *The Marquess of Dalhousie* (Oxford 1890). For Indian views of Dalhousie's administration: Dutt, Ramesh, C., *The Economic History of India in the Victorian Age* (4th ed. London 1917); Lalla, N. N., "Lord Dalhousie and the Faithful Allies of the British" in Bombay Historical Society, *Journal*, vol. ii (1929) 15–50. For Dalhousie's railway work: Cleveland-Stevens, E. C., *English Railways* (London 1915) ch. vi; Jagtiani, H. M., *The Role of the State in the Provision of Railways* (London 1924). See also *Cambridge History of the British Empire*, vol. iv, *British India 1497–1858*, ed. by H. H. Dodwell (Cambridge, Eng. 1929) p. 554–57, 581–88; Jenks, L. H., *The Migration of British Capital to 1875* (New York 1927) p. 211–13.

DAMAGES are dollars and cents won by an encounter at law. The loss or injury for which compensation is exacted may be irreparable; it may be so personal or vital that a pecuniary equivalent is unthinkable. Yet the simple device of righting wrong by the payment of money has a reputable use almost as comprehensive as the domain of human control. It has a place along with the offering of life or liberty or property in appeasing the gods, removing the guilt of sin and expiating the offense of crime. It is employed as an agency of discipline in a host of voluntary associations ranging from mystic cults to business enterprises. In the law it variously serves the ends of atonement, retribution, vindication, punishment, example and compensation. Its meaning in common speech has been converted into a technical term; a tangle of processes and standards make up a complex, developing and not too clean cut law of damages.

Among primitive peoples, generally at least, the redress of grievances was direct. The kin group was the unit in social organization; the responsibility for personal conduct was collective; the misdeeds of the fathers were visited upon the children. The dominant principle of the blood code was the *lex talionis*, an eye for an eye, a cut for a cut, a bump for a bump. Among many folk—the Kaffirs, the early Semites, the tribes of South Africa—there was a long list of

offensive acts for which the relatives of victims demanded a return in kind. The kindred ideas of atonement and restitution were extended from persons to valuables; an injury to chattels was to be made good by the destruction or the replacement of an equivalent property. The expiation of harm by blood was sanctified in religious rite; it survives in the sacrificial death of the god, the mystery of the Eucharist and the doctrine of the vicarious atonement.

A significant event in the emergence of law was the commutation of blood into money. The elders in folkdom, aware of the cost of protracted strife and indecisive result, little by little established more peaceful methods of composing differences. The feud was subdued into an expiatory combat with an umpire and rules; blows were replaced by a public exchange of expostulations; parties came to wage their laws with compurgators, who were clansmen armed with oaths instead of weapons. The principle of equivalence found a less bloody application in a system of fines applied to petty offenses and extended even to wrongful death. There came into being long catalogues of assorted wrongs, each with its own wergild set against it. In comprehensive tables the detriments were often graduated according to the age, sex and caste of the injured; nor was the ability of the wrongdoer to pay left out of account. The invention and extension of the device of composition by money brought the duty of seeking satisfaction within the realm of order.

The quest of damages has marked out the path of the law. As claim followed claim in endless succession, crude agencies of adjustment became courts; private bargaining was subdued into a due process of law; and the magic of ritual gave way before judicial inquiry. In the course of legal events causes involving personal satisfaction came to be affected with an interest to the community; gradually the public and the private concern with forbidden conduct were distinguished; and from a common source, with realms which overlapped, the law of crime and the law of tort took their separate ways. The state in the cause of order undertook to punish and to prevent acts fraught with peril to society; in its code a life continued to claim a life, major offenses imposed the loss of liberty and only minor breaches of the peace were to be wiped out by fines. The courts in the settlement of personal quarrels were powerless to restore injured parties to their former positions or to undo what had been done; they were compelled to resort to compensation in righting wrong, making good loss and appeasing outraged feelings. Rights are nominal until they are challenged and courts accord or refuse recognition. The substantive rules are the secretions of a process of procedure. In the civil and the common law alike the code of damages is the product of continuous litigation.

As folk usage through the Roman code has become the civil law, ordeal has given way to inquiry. The lingering formalism has been detached from the trial of the issue. The evidence is taken in advance, the proceedings are simple and relevant, the arguments of counsel are brief, the record contains only a few typewritten pages, the liability and the amount of the verdict are decided by judges. The discretion lies largely with the trial court; if there is appeal the whole case is retried. The officers of the court are appointees, learned in their trade, skilled in the art of induction, "free from the obscure sentiments and prejudices" of the laity. It is their task to apply to the changing permutations of fact called cases a few simple and clean cut principles of law. The rule that "everyone is liable for the harm which he does, not only by his wilful acts but also by his negligence or inadvertence" approaches strict liability. It is softened in its application by the interpretation of its general terms and by rules relating to actions which may be maintained and the ways by which they are to be pressed forward to judgment. The measure of damage tends to approximate actual loss. In the civil law the matter of damages may be reduced to a few dominant principles and a multitude of specific holdings; it contains little of intermediate generalization.

In the common law a rational way of decision has only slowly emerged out of trial by combat. The appearance of witnesses in open court, the art of examination and cross examination, the office of judge as umpire, the reference of issues to the jury of laymen for decision, the recourse to an appellate court because of error, and kindred rules of the game attest a surviving spirit of conflict. The rite and ordeal, out of which law has emerged, long left their mark upon process and pleading; the correct performance of a ceremonial without misuse or mistake was essential to an efficacious result. The rigid set of rules applicable to injury and satisfaction was stubbornly accommodated to the flexible demands of justice. As ordeal gave way to law, there were at first lawful awards without substantive rules for damages, since liability and compensation were

wholly within the discretion of the jury. The lawyers, overzealous to make testimony serve causes, came to be restrained with rules of evidence. The judges, sensing the need for a measure of order in a chaotic task, won control over the mechanism of trial and laid down a few simple rules by which the facts of particular cases were to be judged. A claim was established if the wrongdoer had acted wantonly or had been negligent or was to be charged with fraud. But such general words are themselves rather terms of judgment than objective marks; each of them demanded translation into more specific and relevant language. The sequence of specific acts which made up conduct and the circumstances called "the facts" did not easily lend themselves to legal labels. The judges were compelled to expound and to apply their rules; and in exposition and application new rules of a more detailed character emerged. In the course of trial by law —in the complaint and demurrer, in the clash over the admissibility of testimony, in the instructions to the jury, in the disposition of the motion for a retrial—the judge was compelled or found opportunity to make his rulings. As from the lips and pens of a myriad wearers of the ermine ruling followed ruling, the discretion of the jury was limited, the province of the judge was marked out and the primitive rules of wantonness, negligence and fraud were elaborated into a mighty and complicated code of damages. In time the appeal courts in ruling upon prayers for reversal because of error came to impose a veritable body of rules upon trial courts. The developing law of damages is all of it a communal creation of a continuing bench.

The law of damages in tort has the intricate character of the human stuff out of which it is made. The catalogue of wrongs comprehends bodily injuries, wounded feelings, departed affections, impaired reputations, losses of life and a wide assortment of harms to property. These arise from personal brawls, family quarrels, trespass, the collision of motor cars, industrial accidents and the everyday course of business; they are to be attributed to conduct in which malice, negligence and blind chance are variously blended. The concern of it all is either the human wear and tear incident to the activities of an everyday world or luckless happenings which come in the wake of muddled behavior; it is not easy to discover for such items a legal common denominator. The conflict of testimony, which is not unusual, makes the facts uncertain; the motives back of unfortunate occurrences are not to be read as in an open book. The categories used to comprehend acts—wantonness, malice, negligence, fraud; reasonable precaution, foreseeability, last clear chance; *vis major*, act of God—are catholic zones of tolerance and intolerance. The use of such concepts as duty, fault and cause in an attempt to rest liability upon a non-arbitrary basis makes decisions plausible rather than helps them along. Where judgment is beyond dispute, the recitation of the appropriate rule is enough to dispose of the case. Where the applicable principle is uncertain, fault or cause or duty as well as liability is in doubt; the law and its non-legal basis have to be determined together. At every step in the development of the doctrine by which responsibility for industrial accident was gradually shifted from the employee to the employer the courts recited "no liability without fault"; although in official language the terms were connected by a "therefore," they changed their meaning together. The resolution of issues by judicial combat, the activities of ambulance chasing lawyers, the abuse of expert medical testimony, the swearing to the other fellow's hurt and the purposive tactics of attorneys whose fees are contingent upon success have left their imprint upon the law.

Accordingly, the judicial commutation of wrongs into moneys bears the flexible marks of an institution developed out of conflict. The loss for which pecuniary satisfaction is sought must be real, not hypothetical; certain, not speculative; immediate, not indirect. It must be a consequence of the harmful act of the wrongdoer. The conduct of the person who sues must be untainted by such legal fault as will make him responsible; his recovery is not to extend to losses which might have been avoided or to consequences which might have been averted. An injury to possessions or to purse demands the pecuniary equivalent of restitution; an injury to person calls for adjustment by a scheme of rules beset with historical survivals, reasonable standards and imputations of responsibility. A person aggrieved by a wrongful act of little consequence may appeal for vindication and claim nominal damages. A victim of bodily harm or of fright or anxiety attended by physical consequences may have in lieu of satisfaction compensatory damages. If the act of which complaint is made is reprehensible, there may be added exemplary damages. Such awards—a testimony to the lingering use of private law to serve a punitive purpose—are not unknown in cases

involving assault, trespass, nuisance and deceit; they are common in actions based on slander, libel, seduction, malicious prosecution and false imprisonment. A distinction between general damages, which may be claimed because of the depraved character of the injurious act, and special damages, which must be proved in the particular case, cuts athwart the whole subject.

The state quite consciously may make a private action in tort the instrument of a public purpose. It may by legislative act make the wrongdoer liable for actions or practises which it seeks to prevent to the extent of double or even quadruple the amount of the actual damage. The statutes of various states have permitted compensation to two, three or fourfold the amount of the injury for such offenses as embezzling money from a deceased person, the negligent setting of a fire, malicious prosecution, forceable entry and detainer, the receipt of deposits by the officials of an insolvent bank and discrimination in charges by railways. The federal government in an attempt to increase the hazards of monopoly has provided in the Sherman Act that anyone "injured in his business or property" by an illegal restraint of trade may "in addition to the cost of the suit" recover "threefold the damage by him sustained." The actions which have been brought are not free from uncertainties; harm consciously contrived is in a going society not easily disentangled from the vicissitudes to which business enterprise is subject. In its application the provision is not limited to competitive business establishments; the most notorious judgment in the history of the act has been an assessment of triple damages in favor of employers against the members of a labor union. The provision for a multiple of damages may be a substitute for or a supplement to criminal prosecution.

Apart from tort, especially in the more modern branches of the law, the subject of damages invites a simpler statement. In cases arising out of contract the issue is much less clouded with imponderables. If the penalty for infraction is denominated in the bond—and is within the limits of legal recovery—the judgment is clear. Claims are to be allowed for the value of the use of an article, for a difference between contract and market price, for a loss incurred or a gain prevented by a failure in performance. But if the agreement is not in writing or there is no provision against the contingency or untoward events befall, the courts proceed as if there had been a concurrence of minds and set up as a standard for default "what was in the contemplation of the parties." The bother comes from such attending circumstances as the non-delivery of machinery and a stoppage in production, the failure to fill orders and a loss of customers, the delay in discharging debts and an impairment of credit. In suits involving infringement of patents the way of recovery is marked out by such concepts as "savings by the use of the invention," "profits in sales" and "reasonable royalties"; in litigation over trademarks compensation is awarded for the value of the custom wrongfully taken away. In the taking of property for public use or by eminent domain an award of damages is no more than the naming of a price in a forced sale. In all such instances the rules have a verbal precision, the judge exercises authority and the jury possesses a circumscribed discretion. But the law is not yet so standardized as to make the facts of no account or to deny to resourceful attorneys the use of strategy.

For the measurement of damages the courts have been able to contrive only approximate standards. The range of injury to person and to property is limitless; the incidence of wrongful act is not easily disentangled; the end of the mischief may lie in the unknown future. In the prevailing social order the domain of the pecuniary calculus is still a narrow one; where best established its way of computation is inexact; the bench and box must work with different degrees of precision at their miscellaneous problems in commutation. The process yields its most definite results in appraising standardized goods for which there is a ready market and a stable price. It is most capricious in assessing personal injuries; harms lie beyond the frontier of the money economy; a measure for depreciation of body, mind or repute is not yet to be had. The readiest guide, capacity to earn, is applicable to only a fraction of the cases; in the instance its full yield to the individual is less than his total loss; in the aggregate it constitutes a far heavier burden than can be imposed. In the heat of combat it is impossible to keep related matters away from the jury; in collision cases damages are invariably higher if it is known that an insurance company rather than the reckless driver is the real defendant; a corporation pays more for its tortuous acts than an individual. The unseemly conduct of the plaintiff may be pleaded "in mitigation of damages." In suits in tort damages were once said to be "at large"; in spite of the power of the bench to set aside verdicts which are plainly inadequate or plainly excessive

and the oversight of appellate courts, standards at least for the immediate future must continue to be in the making.

The institution of damages is not proof against the impact of a developing culture. The devices of accountancy are helping appraisal along from guess to approximation. The resort to commercial arbitration permits escape from outworn rite and a more direct attack upon the issue. The compensation of industrial accidents has been recognized as a necessary cost of production; statutes have replaced the common law; standard rates have been set down for classified injuries; the subject has passed from torts to administrative law. A beginning has been made to compel motorists to carry liability insurance; proposals for vehicle accident compensation are being introduced in many legislative bodies. The good old custom of dealing at arm's length is gone; in the current structure of markets many intermediaries connect the maker and the user of a ware. As a result privity of contract no longer covers the transaction; the action is tort and the device of third party beneficiary permits consumers to sue negligent manufacturers. As corporations plan for a more distant tomorrow, waste, delay and uncertainty make of damages a more and more inadequate remedy. In a business system which must keep going there is an increasing resort to equity to enjoin wrongful conduct and to compel specific performance. As conditions change, the remedies of equitable relief and pecuniary compensation are remade, the fields of contract, torts and administrative law shift their frontiers and the law newly performs its appointed task.

Here as in other of its domains the theory of law is not quite in accord with the fact. It affects to settle disputes on the basis of established principles; it contrives to adapt its standards of judgment to a changing necessity. There is an absence of hurry and a lack of neatness; a constructive task is performed with a backward look—but that is the way of the law.

WALTON H. HAMILTON

See: SPECIFIC PERFORMANCE; LIABILITY; TORTS; CONTRACT; NEGLIGENCE; STATE LIABILITY; EMPLOYERS' LIABILITY; WORKMEN'S COMPENSATION; COMPENSATION AND LIABILITY INSURANCE; COURTS; PROCEDURE.

Consult: *Sources of Ancient and Primitive Law*, and *Primitive and Ancient Legal Institutions*, compiled by Albert Kocourek and John H. Wigmore, Evolution of Law series, vols. i–ii (Boston 1915); Jenks, Edward, *A Short History of English Law from the Earliest Times* (Boston 1912); Holmes, O. W., *The Common Law* (Boston 1881); Sedgwick, A. G., *Elements of the Law of Damages* (2nd ed. Boston 1909); Beale, J. H., *A Collection of Cases on the Measure of Damages* (3rd ed. Boston 1928); Mechem, F. R., *Cases on Damages*, American Casebook series (St. Paul 1909).

DANA, CHARLES ANDERSON (1819–97), American newspaper editor. He brought to American daily journalism a greater personal culture than perhaps any other man excepting William Cullen Bryant and Edwin L. Godkin. In 1841 Dana was one of the founders of the Brook Farm Association. He was in Europe during 1848 and wrote a work (republished as an introduction to Proudhon's *Solution of the Social Problem*, ed. by H. Cohen, New York 1927) introducing the philosophy of Proudhon to America and forecasting the necessity of revolution to compel "the bourgeoisie . . . to live by their own labor." His radicalism waned, however, during the period in which he was employed by the New York *Tribune*. After quarreling with Horace Greeley he resigned and became an assistant secretary of war, chiefly to report confidentially to Lincoln and Stanton on Grant's habit of drinking. In 1868 he became editor of the New York *Sun*, with which his name is usually associated. Dana opposed slavery expansion but fought the abolitionists, was an enemy of labor unions and especially of strikes, but a supporter of Kossuth. In American party politics he was an independent whose next move was always unpredictable. He helped write Grant's biography for a campaign document but often assailed him as president. He was complaisant for years about Tammany graft but in the end helped bring about Tweed's downfall. He fought Hayes and Garfield, Cleveland and Blaine. Yet despite his vacillations and cynical attitude his journalistic influence was marked. He encouraged good reportorial writing and trained a group of noteworthy authors. Godkin of the *Evening Post*, disgusted with the crime, suicide and scandal which were Dana's original contribution to American journalism in the *Sun's* columns, often berated him editorially, and their bickerings led to the *mot*, famous in that day, that the depravity of New York City was due to the fact that "every morning the *Sun* makes vice attractive, and every night the *Post* makes virtue odious." Behind the epigram was at least this truth, that the *Sun* was a success and set a style copied by many American papers. Dana was the author of *The Art of Newspaper Making* (New York 1895) and, with George Ripley, of the *New American Cyclopaedia* (New

York 1858–63) as well as of the revised edition (1873–76).

SILAS BENT

Consult: Wilson, James Harrison, *Life of Charles A. Dana* (New York 1907); O'Brien, Frank M., *Story of the Sun* (2nd ed. New York 1928); Nevins, Allan, *The Evening Post: a Century of Journalism* (New York 1922); Mitchell, E. P., *Memoirs of an Editor* (New York 1924); Bent, Silas, *Ballyhoo: the Voice of the Press* (New York 1927); Parrington, V. L., *The Beginnings of Critical Realism in America, 1860–1920*, Main Currents in American Thought, vol. iii (New York 1930) p. 43–47, 151–54.

DANCE. The dance is an externalization of emotional energy by means of muscular movement. It is practised not only by men in every degree of civilization and culture but also by many types of animals, especially birds. Its purpose may generally be said to be the expression of concepts and experiences that transcend the rational means of expression of the particular individual.

Sometimes the dance is performed for the sake of its effect upon the dancer himself and sometimes for the sake of its effect upon the onlooker. In the former case it functions as a form of auto-intoxication, whether this end is deliberately sought or is merely an incidental result. Its purposes in this connection may be divided roughly into simple play, sex stimulation, the production of religious or other ecstasy and escape from emotional distress.

Where the effect upon the onlooker is the objective, the process is kinaesthetic. Movement is the most elementary means for the expression of emotional states and follows naturally and without conscious effort upon conditions of pleasure or pain in varying forms and degrees. The mental or emotional state of the dancer is translated, deliberately or impulsively, into movements which when perceived by the onlooker arouse in him sensations of muscular sympathy, and these in turn associate themselves through memory with mental or emotional states which have or might have produced similar muscular effects in his own experience. Thus ideas are conveyed from the mind of the agent to that of the spectator through kinaesthesis. The object of dances performed before an audience may be the transference of aesthetic images, the simple conveying of information, the excitement of sex impulses or the establishment of a relationship between the individual and the group, whether of superiority or of unity.

In all these cases the dance differs from the muscular activity of play and simple practical accomplishment by assuming a form, based fundamentally on rhythm with its concomitants, such as accent, repetition, contrast, for the transmission of an inner feeling. With the development of this aspect of form aesthetic elements are introduced which lead the dance away from purely individual and social considerations into the field of art.

Physiologically dancing serves two somewhat different purposes. On the one hand it is a vent for excitement, and on the other hand it actually stimulates excitement. This has led to some confusion especially in considering the extent of sex as a motive for dancing; for while there are undoubtedly numerous illustrations of such motivation it is nevertheless true that since sexual impulses are excited by dancing, many dances that have their origin in other sources are attributed erroneously to this cause because they have led eventually to sexual indulgence.

This confusion arises especially in the consideration of play dances. The major function of play, whether in man or in animals, is to discharge a surplus of energy. Periods of particular gaiety are common to most animals, as well as to young men, and find their outlet in vigorous physical activity. In birds, because of their natural physical buoyancy, this is more marked than in mammals and is also more easily observable. W. H. Hudson describes elaborate dances performed by the lapwing, rupicola and scissortail both on earth and in air, involving group activity and regular figurations. Similar dances are common to penguins, ostriches, pheasants, plovers, stilts and even to various species of insects and fish. These manifestations are not confined to the mating season, although under the added excitement of sexual impulses they reach a higher degree of vigor and perfection of execution. Similarly, men have enjoyed play dances from the earliest times. Often, as in the case of the corroborees of the Australian aborigines, their conclusion is orgiastic, for the dance can be said to be inherently the root of the orgy, the sexual act itself being in the nature of a dance. These results, however, are not the motivation of a large class of dances which are sometimes considered to be of sexual beginnings.

Courtship dances are undoubtedly motivated by sex and are an almost universal practise. Among the Australasian tribes they are found

in varying forms with the one common characteristic that it is the men who dance and the women who watch. Frequently the dancers give competitive exhibitions of skill in handling the spear and other weapons, and the women select the ones who please them most. North American Indians in many instances have been found to use similar methods. The function of the dance in these cases is not only to give expression to sexual impulses but also to excite them, both in the dancer and in the onlooker. Dancing as a means of sexual selection was recognized and consequently both attacked and defended down through the Middle Ages and even into modern times.

Among activities designed primarily to stimulate rather than release energy may be cited the production of frenzy which has made dancing a part of the practise of many religious sects and their votaries. The mad bacchantes of ancient Greece and the whirling dervishes of the East are common illustrations. Priests and prophets of many savage tribes and even of more civilized peoples have danced themselves into delirium in order to induce possession by their particular deities, and in these states of frenzy have delivered their oracles. Frequently the ability to accomplish this type of ecstasy has been the test of priesthood. It is found among the Bororos of South America, the sect of Russian dissenters known as Khlysti, the mediumistic shamans of the Turanians and in present day America among the Shakers.

This power of dancing to produce autointoxication of an extreme sort has been applied also to other than religious ends. In periods of great personal or communal stress, due perhaps to plagues, famines, revolution or other calamities, the dance has been resorted to, on the one hand to provide violent diversion and on the other hand to cause through its excessive indulgence a state of unconsciousness.

In primitive society dancing plays an important part in every phase of activity. The advance of civilization has so largely displaced the necessity for dancing as a vital practise that it is in fact to primitive groups that we must turn to find its full value exemplified. Among primitive men the mystery surrounding all natural phenomena gave rise to tribal celebrations of every event of any importance in the life of the individual and of the group as an affair of religious as well as of social moment. These celebrations were frequently accompanied by rituals of protection or dedication as well as by ceremonies of purely tribal significance and personal expressions of joy or grief. That these rites should have found form in dances is entirely logical, for even the most natural movements, when backed by intense feeling, assume larger dimensions and stronger stresses and, as the outgrowth of a particular purpose instead of merely generic excitement, slip naturally into rhythm and form.

It is difficult to make any narrow divisions in these dances between those which were religious and those which were social and occupational, for the lines were apparently loosely drawn in the minds of the men themselves. Their chief concerns were the problems of maintenance and increase, and these prompted their dances as well. Agriculture occupied a large share of their attention and made a basis for the mimetic dances of daily activity which were a popular source of entertainment. But the mystery of growing things involved magic and religion, and agricultural fertility related itself at once to sex. We see this combination of motives clearly illustrated in the agricultural worship of Cybele and Attis in Asia Minor and in the Dionysiac rites of Greece. It is equally a problem to separate those dances which affect the individual from those that affect the group, for there is an inevitable effect upon the individual even in a dance which is chiefly of group concern, and those dances which deal with the individual bear directly upon the life of the group as well. Thus in celebrations of birth, healing, puberty, circumcision, marriage and death the participation in simultaneous movements for a common purpose by others than those immediately concerned tends to establish solidarity. Some dances, largely processional in nature, have as their specific object the parading of strength and the establishment of respect for authority; but even in those designed for other ends the unification of the group is made habitual in the minds of its members by communal dancing.

In certain ceremonials which concern the individual the social aspect is more marked than in those mentioned above. For example, the dance at the ritual of initiation, which invests the initiate with the full rights of maturity, bears closely on the affairs of the group. So does the ceremonial celebration which restores a member to full fellowship after a period of tabu for disease, childbirth, mourning or the like.

Initiation ceremonies in addition to their

avowed purpose also serve a secondary purpose in some cases, as in the *boras* of the Kamilaroi of Australia and the rites of certain Bantu tribes. They include dances of a pantomimic nature designed to teach the youths to abstain from homosexual practises. It is likely, however, that the purpose is not wholly moralistic and that the occasion is seized upon as one of license. In the case of girls there exists the custom in many tribes of a dance at the celebration of puberty in which the young dancers are instructed in sex matters by the older women.

Initiation rites belong also to secret societies as well as to society in general. The Orphic mysteries which arose in savagery and extended into Greek civilization, the Eleusinian and Cabiric mysteries, the Mithraic mysteries of Rome, all involved induction by ceremonial rites and dances. Relics of these practises, devoid of dancing, still exist in modified forms in connection with freemasonry, Roman Catholic and Jewish confirmation rites, ordination of priests and profession of nuns.

One of the most universal types of dancing with group significance among primitive peoples is that which accompanies labor activities requiring unity of action. In nearly all savage tribes there grew up the office of a presultor whose business it was to demonstrate and set the pace for joint movement enterprises. It is perhaps significant of the relation which has always existed between religion and dancing that the presul, or bishop, of the church got his name from this word, which means simply leader of the dance. The practise of working to rhythmic beating or chanting in order to achieve greater unity and efficiency of movements has been very general through the centuries and is widely prevalent at the present time. An obvious example is to be found among the Negro laborers of the southern United States, who slip quite naturally into a sort of dance with improvised vocal accompaniment under a leader in all their joint labors. Malay and Polynesian boatmen are also especially skilful in working together by means of movement to a common rhythm.

The dance serves a similar practical purpose in matters of warfare. War dances not only constitute a popular form of entertainment but serve at the same time to crystallize group solidarity and, in the absence of formal military organization, to provide training and drill for actual fighting. In the time of a campaign their major function is to stimulate the warriors to a high pitch of courage and excitement, in which the fear of death is made to disappear from consciousness as far as possible. Here, however, as in so many other cases, there is also the admixture of a strong element of religion or magic. The violent demonstrations of the dancers are partly directed toward frightening the enemy after the manner of an incantation. Also, after hostile engagements have been concluded, dances are frequently performed, as among the Arunta of Australia, to frighten away the vengeful ghosts of the enemy dead. There are of course martial dances of victory and, of a quite different nature, intertribal dances of peace at the conclusion of warfare. War dances are found among all savage groups whose existence depends upon success in battle. Outstanding examples are the North American Indians, the Dahomans, the Kaffirs, the head hunters of Ceram, who always send a company of fantastically dressed Jakalele dancers ahead of the fighting line, and the Maoris, whose war dance is especially terrifying.

Such dances as those just mentioned, in which magic is invoked to destroy antagonists, are also employed against less tangible forces of opposition such as drought, barrenness and pestilence. In French Guinea dancers armed with weapons and agricultural implements perform dances which are designed to ward off evil spirits hostile to the crops, and similar agricultural ceremonies of protection and defense are found on every hand. Frequently such dances as these take the form rather of processions than of dances in the stricter sense of the word.

The procession has apparently the same two functions more or less all over the world: on the one hand it serves to protect the object which is encircled in the march, and on the other hand it is able to cause its destruction. The protective aspect of the procession is seen in such instances as the Panathenaic procession of Athens, "beating of the Bounds" and the mediaeval Maypole dances; and it seems probable that the circling of the walls of Jericho was an example of the destructive purpose. Among the Chinese elaborate processions with both music and dance are conducted to frighten away the cholera. In ancient Rome the Salii, priests of Mars, performed a violent dance to dispel the forces of blight and infertility, and similar colleges of armed priests existed elsewhere in Italy. The Luperci made an annual circling of the Palatine hill wearing goatskins

and striking with thongs all the women they met to insure fertility and easy delivery. The *Perchtentanz* of Salzburg, performed every ten years or so, is a relic of the primitive dance of placating a hostile deity. It is performed by men exclusively, some of them wearing elaborate and costly headdresses and accompanied by partners dressed as women, and others, wearing hideous devil and animal masks, who fight and scream throughout the dance. The bells worn by English morris dancers were originally for the purpose of frightening away evil spirits.

In general, these dances are mimetic in character, for it is a cardinal principle of ancient magic that imitation has a supernatural power. The enactment of a situation in mimicry is believed to have the power to bring that situation into being. Evidences of this are found in a great number of dances of different sorts. In agricultural dances the rain and the sun are invoked mimetically, and phallic symbols are carried in processions and dances to insure fertility. It is also a practise in hunting dances to affect the prospective prey by imitating its movements. Similarly mimetic dances are performed before or around the totem to promote the propagation and welfare of the species.

The faith of the savage in these dances to propitiate angry deities or to destroy hostile men or influences probably arose from his realization of the effect of dancing upon himself and his observation of its effects on others. The question of distance from the objects to be affected did not enter into his consideration, for the whole process lay in the realm of the unknown and mysterious.

It is natural that death should be surrounded by elaborate rites and dances. Indeed, the funeral procession still retains a part in the social customs of the modern western world as well as in the more ritualistic parts of the earth. Among primitive men funeral dances were generally performed for the welfare of the departed spirit and for the protection of the survivors from evil influences. Many of the ceremonials were mimetic and were intended to influence the dead by sympathetic magic. Sometimes the dead man's outstanding accomplishments were reenacted for the benefit of the survivors, and pantomimic fights and rope pullings were performed over his grave. The return of the spirit was a possibility greatly feared, and consequently every precaution was taken to prevent it. To this end the Arunta of Australia perform a wild dance, wearing elaborate headdresses and carrying weapons with which they beat the air to drive the spirit away from its former habitation and into the grave. The earth over the grave is then stamped securely into place. Similar stamping dances are found in Guiana. In the funeral processions of the Roman nobility the dead man and all his ancestors were represented by persons resembling them in stature and wearing wax portrait masks.

Marriage is a cause for much dancing of a different character, largely concerning itself with sex practises and fertility. There are also dances of welcome to visitors, celebrations of peace, of the change of season and of numberless other events. But the dancing of primitive men was by no means confined to special occasions. It constituted the major part of his recreation. Whether even these purely pastime dances can be separated from ritual significance, however, is a question; for the life of the savage was not divided into clearly defined periods of labor and of play but was more unified, with everything related to the two problems of nature: maintenance and increase.

Pastime dances are largely mimetic and except for those which are designed for sexual stimulation usually recount past experiences or look forward to future ones in battle, the hunt or other daily practises. Among warlike peoples the war dance is the chief amusement. The Dahomans almost invariably introduce a representation of the great tribal custom of decapitation. The routine occupations, whatever they may be, are the basis for pantomimic dances. The primitive man seems to take a special delight also in animal dances of as great accuracy as possible. Those dances which deal with more personal problems provide an emotional release not only for the dancer but, through kinaesthetic sympathy, for the onlooker as well and are the root of both the art dance and the drama.

In some of the dances where sex is involved the men dance alone, as in the courtship dances; in others the women dance alone; and in a few instances both sexes dance together. Frequently in the women's dances a sarong is wound and unwound about various parts of the body to emphasize its lines.

In all primitive dances music of some sort is an inseparable feature. It is employed by the dancers themselves, either in the form of clinking ornaments or of clapping and stamping to accent the rhythm of the movements.

Frequently singing is added to intensify the expression of feeling or even to tell a story. These and other methods are employed also by the onlookers as a vicarious participation in the dance. In its natural form this music is essentially rhythmic and non-melodic.

In the dancing of primitive society are to be found all the elements of the dance, and civilization has only modified them without adding anything basic. Because it is the most elementary medium for the expression of the perception of life, it is natural that it has declined in social importance with the growth of more intellectual means of expression. As a matter of fact its history is the history of this decline in every direction except that of art. The survivals, however, are numerous even in contemporary practise. Especially in religion has the dance retained its place to a large extent. This is true in both eastern and western religions except those which have grown out of the Reformation.

The Israelites employed dancing in their religious as well as their secular practises. Certainly the dances of the virgins of Shiloh were part of a religious festivity. In orthodox Jewish congregations religious dances are still performed to some extent, as at the feast of Simhat Torah. Dancing was used extensively in the worship of the Greeks and Romans. About the ninth or tenth century in India there arose a caste of dancing girls who were attached to the larger Hindu temples. Ceremonial processions and dances form an important part of the rituals of the Chinese and Japanese. In both the orthodox and Roman Catholic churches processions still retain their importance, and in some cases actual dancing is performed. In the cathedral of Seville, for example, the dance of the *seises* is performed by boys before the high altar three times a year.

In spite of this persistence in the church the dance has always been subject to censure by religious authorities because of its sexual implications. This censure has been by no means confined to the Puritans, against whom it is usually held as an indication of particular narrowmindedness. The papal decretals forbade clerics to witness mimetic performances because they usually dealt with love. In the Buddhist period in India the Brahmans were not allowed either to see dancing or to hear music, for both were considered devices of the prostitute. In earlier civilizations non-clerics, among them Cicero and Juvenal, frequently inveighed against dancing. Its practise was closely associated with prostitution, and the lowering of the standing of dancers was accelerated by the rise of professional dancers in civilizations where social dancing was not generally practised, as for example in Rome and the East. From this professional class, however, although it was involved as both a cause and an effect in the ostracism of the dance, developed the art of the theatrical dance, which reached a high state as a more or less individual art in the pantomimes of the Roman stage.

In the fifteenth century, with the rise of the court ballets in which the nobility participated, social dancing was again restored to favor. The first recorded ballet was performed at Tortona in 1489 as a celebration of the marriage of the Duke of Milan. Catherine de' Medici later introduced the custom into France, and for many years rulers vied with each other in the splendor of their productions. In France the dancing period reached its climax in the reign of Louis XIV, who was an enthusiastic patron of the art and a skilful dancer himself. During his reign his ballet master, Beauchamp, made a number of important innovations. He adapted the *branle*, as it was danced in Poitou, to court use under the name of the minuet, and he introduced women into the ballet. He was also responsible for the formulation of the five positions which have remained the basis of the ballet technique ever since. When the king withdrew his patronage, as he did in later life, the dance again became a social outcast and was taken over by the theater.

The countryside had never ceased to dance. It continued to celebrate the same occasions that had inspired the savages to dance, and celebrated them in fundamentally the same way. Ceremonial dances were often repeated and handed down long after their original meaning had been forgotten. While the court dances, because of the elaborate costumes and accoutrements of the nobles, were necessarily formal and stately, the country dances were not bound by such conventions. Kissing was a popular feature of many folk dances, and they were generally lively, sometimes boisterous. Little by little these folk dances had found their way into the court, modified sufficiently to give them dignity and to make possible their performance in court regalia. As the development of an age of artifice, courtliness and graceful manners the dance at this period was naturally an extremely artificial manifestation. It was

related to the surface of living rather than to reality, as it had been in its earlier manifestations. The modern theatrical dance, then, has grown almost entirely from this beginning. Since its premise was manner and not matter it languished with the decay of superficial courtliness. Its continued existence has depended upon the battle fought by all its greatest leaders to restore its essential vitality.

Noverre, in the middle of the eighteenth century, bent all his efforts to the perfection of the *ballet d'action*, a form which made pantomime of more importance than technical display. Noverre's purpose was to relate his art once more to the inner rather than the outer life. On the strength of his reform the dance was revivified for almost a century. Delsarte, in the nineteenth century, felt a horror for gestures that had no meaning, and although his crusade for genuine expression was carried on in the field of the drama it was of considerable value to the dance. Isadora Duncan threw aside entirely the basis of the dance as it was established in the court of Louis XIV and built up a new creed, the cardinal principles of which were largely those of primitive dancing. Mary Wigman has carried the reform even farther and has restored music to its original relationship with dancing, that is, to the position of an auxiliary.

The new movement in the dance, which is entirely a product of the present century, has found a strong foothold in Germany and the United States. Its object is not only to develop new theatrical forms but to restore dancing as a social element to its former position. The decreased significance of the social dance today has developed naturally from the tendencies of all civilizations to relegate matters of sex and courtship to privacy. Moreover, dancing as a community feature has become less necessary with the development of a mechanized era in which distances have been reduced and daily life has begun to entail a much closer association of people than ever before. Because the dance is so intimately related to human experience it feels very quickly changes in habits of thought and reflects its period with great fidelity. Thus increasing freedom in the relations of the sexes has been paralleled by increasing freedom in dance forms. The embrace of the waltz caused consternation at the end of the eighteenth century, the turkey trot of 1912 had the same effect, and the introduction of western ballroom dancing into Japan, where men and women had never before danced together, has created a considerable problem there. The professional dancer has met with a succession of similar difficulties, from the shortening of the ballet skirt by Camargo early in the eighteenth century to the introduction of barefoot dancing by Isadora Duncan at the beginning of the twentieth. The "lay dance" movement in Germany, which has a large following, restates the theory of Isadora Duncan that everybody should dance, and teaches those types of movement which are native to the individual, instead of sets of traditional steps and figures. Rudolf von Laban has been a pioneer and leader in this movement.

The teaching of dancing, which had as its earlier function the inculcating of courtliness in the bearing of individuals in social life, developed into a more independent profession when the ballet lost its royal patronage and was forced into the theater. Through the many years since then it has provided a livelihood for teachers fitted to prepare dancers for public careers and to make social dancers proficient in the popular forms of the day. With the modern movement, however, the range of the teaching profession has been greatly increased. "Lay dancing" has created a large element of amateur art dancers, comparable to the long accepted element of amateur singers and pianists. The dance has also been recognized as an aid to health and physical culture, and has been introduced into many general educational systems. The profession of dancing, including both teaching and public practise, has attained not only considerable proportions but also a degree of economic solidarity. At present it has both local and national organizations for collective action and "trade" publications in the United States and in most of the countries of Europe.

JOHN MARTIN

See: PLAY; RELIGION; MAGIC; FERTILITY RITES; BIRTH CUSTOMS; DEATH CUSTOMS; INITIATION; SECRET SOCIETIES; RITUAL; CEREMONY; MUSIC; DRAMA; ART; ROYAL COURT; FESTIVALS; AMUSEMENTS, PUBLIC.

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(New York 1897) ch. viii; Crawley, A. E., "Processions and Dances" in Hastings' *Encyclopaedia of Religion and Ethics*, vol. x (Edinburgh 1919) p. 356–62; Wallaschek, Richard, *Primitive Music* (London 1893) ch. vii; Mead, Margaret, *Coming of Age in Samoa* (New York 1928) ch. viii; Evans-Pritchard, E. E., "The Dance" in *Africa*, vol. i (1928) 446–62; Laban, Rudolf von, *Gymnastik und Tanz* (3rd ed. Oldenburg i.O. 1926); Levinson, André, *La danse d'aujourd'hui* (Paris 1929); Brandenburg, Hans, *Der moderne Tanz* (3rd ed. Munich 1921); Ellis, Havelock, *The Dance of Life* (London 1923) ch. ii.

DANIELSON, NIKOLAY FRANTSEVICH (Nikolay-on) (1844–1918), Russian economist. Danielson was born in Moscow. He studied in St. Petersburg at the Commercial Institute and the university and became a bookkeeper in one of the banking institutions of that city. He attracted attention as the first translator of *Das Kapital*, the first volume of which appeared in Russian in 1872. In the course of his work Danielson established personal contact with Marx and Engels and for years remained their correspondent on problems of Russian economics (see *Die Briefe von Karl Marx und Friedrich Engels an Danielson*, Neudrucke marxistischer Seltenheiten, vol. iii, Leipsic 1929).

In his *Ocherki nashego poreformennago obshchestvennago khoziaystva* (St. Petersburg 1893; French translation, *Histoire du développement économique de la Russie depuis l'affranchissement des serfs*, Paris 1902) Danielson supplied the socialistic Narodniki party with an elaborate theory of Russian economic development. He claimed that Russian capitalism would destroy the natural peasant economy and yet remain without any possibilities of successful development and that Russia would thus pass from a natural peasant economy to some form of socialistic economy without going through an intermediary stage of completely developed capitalism. His argument was based on the assumption that the course of economic development in the period 1861 to 1891, marked by the rapid growth and impoverishment of the rural population and by the imposition of heavy taxes on the peasantry particularly burdensome because of falling agricultural prices, constituted the general law of Russian economic evolution. He differed from Vorontsov, another eminent representative of the Narodniki, in that he underestimated the power of the Russian peasant economy to withstand the inroads of capitalism, and he aroused the criticism of Russian Marxists of the revolutionary orthodox wing as represented by Plekhanov and Lenin as well as of the evolutionary revisionist wing as represented by Struve when he denied the potentialities of Russian capitalism. His analysis did not appear convincing to Marx and Engels nor was it borne out by the subsequent economic development. The period between the publication of his work and the beginning of the World War witnessed the increase of peasant holdings and a rising economic standard of the peasants which provided a market for the products of large scale industry.

PETER STRUVE

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DANIELSSON, AXEL FERDINAND (1863–99), Swedish journalist, popular leader and pioneer of socialism. As a young student he assisted the tailor August Palm in the publication of the newspaper *Socialdemokraten*. In 1887, after Hjalmar Branting became editor of this paper in Stockholm, Danielsson went to Malmö, where he launched the newspaper *Arbetet* and assumed leadership of the labor movement in southern Sweden. As an inspiring popular speaker and as an eloquent and brilliant writer he was loved, feared and respected. For his antiparliamentarian agitation and ruthless onslaughts upon the existing order, particularly upon the courts of Malmö, he was sentenced to eighteen months' imprisonment. After this experience Danielsson inclined toward Branting's less radical policy of parliamentary tactics and in 1893 and again in 1896 was elected to the Riksdag.

Danielsson was an irreconcilable enemy of the anarchistic tendencies in the party. As early as 1888 he had outlined a Swedish socialistic program. Not until 1897, however, did the party adopt a program of its own, drawn up by Danielsson, who on the basis of the Erfurt program of 1891 worked out wholly independent formulae. Being something of a Bohemian Danielsson did not always come up to the requirements of the dominant forces in the party and too often met with misunderstanding and hostility. But he was idolized by the working class. He early attained a maturity of mind that

would have borne him forward as party leader and representative in the Riksdag if his life had not been cut short. He established for himself a permanent name in the Swedish social democratic and labor movement.

GERHARD MAGNUSSON

Works: *Ur kapitalets verld* (Malmö 1888); *Genom gallret* (Stockholm 1889); *Socialismens hörntsen* (Stockholm 1889); *Socialdemokratien, dess uppkomst och utveckling* (Stockholm 1893); *Social självhjälp* (Stockholm 1898).

Consult: Brunte, Erik, "Der Sozialismus in Schweden" in *Neue Zeit*, vol. xviii, pt. ii (1900) 792–98; Magnusson, G., *Socialdemokratien i Sverige*, 3 vols. (Stockholm 1920–24) vol. i, p. 145–220; *Svenskt biografiskt handlexikon*, ed. by H. Hofberg, vol. i (Stockholm 1906) p. 220–21.

DANILEVSKY, NIKOLAY YAKOVLEVICH (1822–85), Russian scientist and journalist. Danilevsky was a student of ichthyology and made outstanding contributions to Russian legislation on fisheries. His *Darvinizm* (2 vols., St. Petersburg 1885–89) summarized the anti-evolutionist arguments known at the time and met with a painstaking refutation at the hands of several Russian scientists. In the work for which he is best known, *Rossiya i Evropa* (appeared in 1869 as a series of articles in *Zaria*; published in book form in St. Petersburg 1871, 5th ed. 1895; tr. by K. Nötzel as *Russland und Europa*, Stuttgart 1920), he developed a theory of cultural-historical types, first formulated by the German historian Heinrich Rückert and resembling the later theories of Oswald Spengler in *Untergang des Abendlandes*. A cultural-historical type, according to Danilevsky, is a race or family of nations, closely related by obvious linguistic ties, which has so rich a spiritual endowment that it can maintain an independent historical existence; such types, the number of which he set at ten, are sharply differentiated and remain absolutely independent of one another. The important thesis of the work is that the last of these types, the Slavic, offers a striking contrast in every conceivable way to the Romance-Germanic type of western Europe. The Slavs are the power of the future; only they are capable of developing a civilization in which the four essential aspects of culture—the religious, spiritual-cultural, political and social-economic—are harmoniously blended. The political hegemony of the Slavs will be achieved with the formation of a pan-Slav federation under the leadership of Russia; the federation would include also a number of non-Slavic east European nationalities such as the Greeks, Magyars and Rumanians and have its headquarters in Constantinople. Danilevsky's system, marking a break in Slavophile theory with that philosophy of history which conceived of nations as carriers of the universal historical spirit, was favorably received in Russian Slavophile and nationalist circles and by some groups of western and southern Slavs. On the other hand, it was severely criticized by liberal and radical writers, who scored Danilevsky for preaching an unbridled racial egotism.

N. KAREYEV

Consult: Soloviov, V. S., "Rossiya i Europa" in *Sobranie sochineny* (Collected works), 10 vols. (2nd ed. St. Petersburg 1911–14) vol. v, p. 82–147, tr. by Harry Köhler as *Russland und Europa* (Jena 1917); Miliukov, P. N., *Iz istorii russkoy intelligentsii* (2nd ed. St. Petersburg 1903), tr. by J. W. Bienstock as *Le mouvement intellectuel russe* (Paris 1918) p. 377–439; Kareiev, N. I., "Teoriya kulturno-istoricheskikh tipov" (Theory of cultural-historical types) in *Istoriko filosofskie i sotsiologicheskie etudi* (2nd ed. St. Petersburg 1899) p. 426–69; Hecker, Julius, *Russian Sociology*, Columbia University Studies in History, Economics and Public Law, no. 161 (New York 1915) p. 46–52; Fischel, Alfred, *Der Panslawismus bis zum Weltkrieg* (Stuttgart 1919) p. 395–99.

DANTE ALIGHIERI (1265–1321). Dante's political significance may be viewed under three aspects. First, as a statesman he participated in the public life of Florence between 1295 and 1301. During these years his voice was heard in the councils of the *comune*, of the *popolo* and of the *arti*, and he occupied such varied offices as *priore* for two months in 1300, superintendent of public works and ambassador. Although allied with the Guelphian Bianchi and the family of the Cerchi, Dante belonged to the group of Florentines who strove to curb internal feuds and was conspicuous among those who resisted the efforts of Boniface VIII to extend papal dominion to Florence. The triumph of the pope and the Guelphian Neri in 1301, following the arrival of Charles of Valois, therefore signified Dante's downfall. Sentenced to exile under pain of death he entered upon those wanderings from which he was never to be liberated. Once in the company of other exiles he tried to force his way into Florence; but later he withdrew from the Bianchi, definitely abandoning all political activity. Until his death, however, he continued to cherish hopes—sometimes, as upon the occasion of Henry VII's incursion into Italy, eager and confident hopes—that strife might end in Florence and he might return to his native city.

Judging from the opinions of his contemporaries and from the documents of the time, Dante the statesman was an undistinguished figure fluctuating between corporate and solitary endeavor. Second, as a political ideologist Dante saw the sole salvation for human society in the restoration of the empire. Of all institutions the empire alone, by establishing peace and justice throughout the world wide extent of its power, could initiate earthly happiness; it alone could preserve the church of Rome from corruption and thus assure the spiritual efficiency of that other supreme authority. This ideology, in which can be seen the reflection of Dante's political experience and suffering, took form in the works of his exile, culminating in the *Divina commedia* and receiving doctrinal expression in the *De monarchia*. Since it was in disaccord with actual political trends of the time and ignored the complete decadence of both church and empire in the face of the emerging national states, Dante must be considered under this second aspect as a utopian of no practical significance. Third, as a political philosopher Dante held that divine origin sanctioned the existence of the empire, that is, of the state, no less than of the church. Thus, although only through the erroneous dualistic doctrine of two powers, he gave ethical justification to the history of pagan Rome and ascribed moral worth to civil governments outside the pale of the Catholic church. In this rather unorthodox doctrine may be perceived an unconscious trend toward that progressive liberation which continued to gather force in the Renaissance and the modern world out of the mysticism, the asceticism and the contemplative ideal of the Middle Ages.

But the Dante who has endured as a living force through the centuries of Italian history was neither the statesman nor the political ideologist nor the political philosopher but the man himself, as he was mirrored in his *canzoni* and illumined by the radiance of the *Divina commedia*. Virile, austere, impassioned, uncompromising, receptive to everything lofty, shunning the base and mean, this "disdainful soul," as he once called himself, has been and remains an ideal figure in whom his countrymen have found in their time of trial an example, an inspiration, a comfort and a stern prophet. What all the noblest spirits of Italy have felt Michelangelo thus expressed:

> Fuss'io pur lui! ch'a tal fortuna nato,
> Per l'aspro esilio suo con la virtute
> Darei del mondo il più felice stato.

That such an ideal should become distorted into a myth was natural; and later centuries have from time to time attributed to Dante their own multitudinous aspirations. Phrases like "Ah, servile Italy, hostel of grief" (*Purgatorio* VI: 76) and "Ah, Constantine, of how great ill was mother . . . that dowry which the first rich father received from thee" (*Inferno* XIX: 115) have been adopted as watchwords not only against the temporal power of the papacy but in the cause of national unity and independence. At the heart of the Dantean myth as of all myths lies the psychological truth that a moral force possesses infinite power of expansion and lends itself to the performance of all the moral duties which time gradually discloses. Nevertheless, the interpretations given to Dante's words by the divers parties who have drawn upon his support have impeded and continue to impede a critical estimate of his significance.

The work of restoring the historical truth concerning Dante's political thought was begun in the first half of the nineteenth century by the liberal Catholic or neo-Guelphian historians. Possessing a different conception of the function performed by the papacy and of the struggle between church and empire these historians demonstrated that Dante's Ghibelline ideal ran counter to the course of the history of the commune and therefore of Italian civilization, and would have denied to his own Florence all the commercial, political and artistic eminence which she enjoyed during the two hundred years after his death. Later in the nineteenth century the democrat Carducci exclaimed in a sonnet dedicated to Dante:

> Odio il tuo santo impero; e la corona
> Divelto con la spada avrei di testa
> Al tuo buon Federico in Val d'Olona.

But such protests as these are still in the realm of political polemics. The best modern criticism, confining Dante's political significance within due bounds, has resumed the more fitting task of explaining and interpreting the sublime poem in which his soul lives eternally, not alone for the Italians but for all humanity.

BENEDETTO CROCE

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Florence 1930), and by H. W. Longfellow (ed. by C. Welsh, 4 vols., New York 1909). A standard prose translation is that of C. E. Norton, 3 vols. (new ed. Boston 1920). An edition of the Italian texts by A. J. Butler is accompanied by an excellent English prose version (3 vols., London 1880–92). The best complete translation of the *De monarchia* is by F. J. Church (in Church, R. W., *Dante: an Essay*, London 1878, p. 175–304).

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